AT&T Inc v. FCC Doc. 52

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

| AT&T INC., | |
|---|-------------|
| Petitioner, | |
| v.) | No. 08-4024 |
| FEDERAL COMMUNICATIONS COMMISSION) and UNITED STATES OF AMERICA,) | |
| Respondents. | |

RESPONDENT FEDERAL COMMUNICATIONS COMMISSION'S RESPONSE TO INTERVENOR COMPTEL'S MOTION TO PRESENT ORAL ARGUMENT

The Federal Communications Commission respectfully responds to the March 2, 2009 "Motion of Intervenor COMPTEL To Present Oral Argument." CompTel requests five minutes to present oral argument that this Court lacks subject-matter jurisdiction over this case based upon its belief that the FCC Order at issue in this proceeding "was not an order under the Communications Act, but an order under FOIA." *See* Motion at 2-3. The Commission objects to ceding any of its allotted time to CompTel because it disagrees with that position and believes that jurisdiction is proper in this Court. The Commission has no objection to CompTel presenting oral

argument, provided that any time that the Court may allot to CompTel does not detract from the Commission's time.

Respectfully submitted,

P. Michele Ellison Acting General Counsel

Daniel M. Armstrong Associate General Counsel

/s/ Michael A. Krasnow Michael A. Krasnow Counsel

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March 3, 2009

IN THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

AT&T, Inc, Petitioner,

V.

Federal Communications Commission and the United States of America, Respondents.

Certificate of Service

I, Michael A. Krasnow, hereby certify that on the 3rd day of March, 2009 the foregoing "Response to Intervenor CompTel's Motion to Present Oral Argument" was served electronically by the Third Circuit Court of Appeal's Notice of Docket Activity on the following Filing Users:

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