

**IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

CONSUMERS' RESEARCH, et al.,)	
)	
Petitioners,)	
)	
v.)	No. 25-60357
)	
FEDERAL COMMUNICATIONS)	
COMMISSION, UNITED STATES OF)	
AMERICA,)	
)	
Respondents.)	

UNOPPOSED MOTION TO HOLD IN ABEYANCE

CERTIFICATE OF INTERESTED PERSONS

Consumers' Research et al. v. Federal Communications Commission et al.
No. 25-60357

The undersigned counsel of record certifies that the following listed persons and entities as described in the fourth sentence of Fifth Circuit Local Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

Petitioners

1. Consumers' Research. It has no parent corporation, and no publicly held corporation owns 10% or more of its stock.

2. Cause Based Commerce, Incorporated. It has no parent corporation, and no publicly held corporation owns 10% or more of its stock.

3. Edward J. Blum

4. Kersten Conway

5. Suzanne Bettac

6. Robert Kull

7. Kwang Ja Kirby

8. Tom Kirby

9. Joseph Bayly

10. Jeremy Roth

11. Deanna Roth

12. Lynn Gibbs
13. Paul Gibbs
14. Rhonda Thomas
15. James Romeo
16. Cody Carnett

Respondents

17. Federal Communications Commission
18. United States of America

Intervenors

19. Benton Institute for Broadband & Society
20. National Digital Inclusion Alliance
21. Center for Media Justice (d/b/a MediaJustice)
22. Schools, Health & Libraries Broadband Coalition

Counsel

23. Boyden Gray PLLC: R. Trent McCotter, Jonathan Berry, Michael Buschbacher, and Jared M. Kelson are counsel for Petitioners.

24. Federal Communications Commission: James M. Carr is counsel for Respondent FCC.

25. United States Department of Justice: Caroline W. Tan is counsel for Respondent United States of America.

26. Andrew Jay Schwartzman is counsel for Intervenor Benton Institute for Broadband & Society, National Digital Inclusion Alliance, and Center for Media Justice (d/b/a MediaJustice).

27. Harris, Wiltshire & Grannis, LLP (HWG LLP): Jason Neal and Sean Lev are counsel for Intervenor Schools, Health & Libraries Broadband Coalition.

/s/ R. Trent McCotter
R. Trent McCotter
Counsel of Record for Petitioners

ARGUMENT

Petitioners move to hold this case in abeyance pending resolution of a closely related matter that is on remand from the Supreme Court. No party opposes this relief.

In *Consumers' Research v. FCC*, 109 F.4th 743 (5th Cir. 2024), this Court, sitting *en banc*, held that certain mechanisms for raising funds for the FCC's Universal Service Fund (USF) violated the nondelegation doctrine. The Supreme Court recently reversed that decision and "remand[ed] for further proceedings." *FCC v. Consumers' Rsch.*, 145 S. Ct. 2482, 2491 (2025).

In the remand proceedings, Petitioners have requested leave to submit supplemental briefing to address a specific issue left open by the Supreme Court. That motion remains pending.

That case addresses the First Quarter 2022 USF contribution factor. Petitioners have lodged Petitions challenging each subsequent quarterly contribution factor, and those cases have all been stayed by the Court pending resolution of the lead case. *See Consumers' Rsch. v. FCC*, Nos. 22-60195, 22-60363, 23-60359, 23-60525, 24-600006, 24-60160, 24-60330, 24-60494, 24-60667, 25-60164 (5th Cir.).

The Court should stay this case, too, given that it raises similar issues as the lead case now pending before the *en banc* Court. Petitioners' opening brief in this new action is otherwise due September 22, 2025.

August 15, 2025

Respectfully submitted,

/s/ R. Trent McCotter

R. Trent McCotter

Counsel of Record

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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the type-volume limitations of Fifth Circuit Rule 27.4 and Federal Rule of Appellate Procedure 27(d)(2) because it contains 203 words, excluding the portions exempted by Rule 27(a)(2)(B). This brief complies with the typeface and type style requirements of Federal Rule of Appellate Procedure Rule 32(a)(5)–(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word in Times New Roman and 14-point font.

Respectfully submitted,

/s/ R. Trent McCotter

Counsel for Petitioners

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who have consented to electronic service are being served today with a copy of this document via the Court's CM/ECF. All parties in this case are represented by counsel consenting to electronic service.

Respectfully submitted,

/s/ R. Trent McCotter

Counsel for Petitioners