

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

OHIO TELECOM ASSOCIATION; TEXAS
ASSOCIATION OF BUSINESS; CTIA – THE
WIRELESS ASSOCIATION; NCTA – THE
INTERNET & TELEVISION ASSOCIATION;
USTELECOM – THE BROADBAND
ASSOCIATION,

Petitioners,

HAMILTON RELAY, INC.,

Intervenor,

v.

FEDERAL COMMUNICATIONS COMMISSION
and UNITED STATES OF AMERICA,

Respondents.

Nos. 24-3133, 24-3206,
24-3252

On Petitions for Review of an Order of
the Federal Communications Commission

**RESPONDENT FEDERAL COMMUNICATIONS COMMISSION'S
UNOPPOSED MOTION TO HOLD CASE IN ABEYANCE**

Pursuant to Federal Rule of Appellate Procedure 27, Respondent Federal Communications Commission hereby moves the Court to hold this case in abeyance pending the Commission's review of the challenged order.

On December 21, 2023, the Commission issued an order amending its rules governing the breach notification obligations of telecommunications carriers and relay service providers. *See In the Matter of Data Breach Reporting Requirements*, 38 FCC Rcd. 12523 (2023) (“Order”).

In March 2024, the Judicial Panel on Multidistrict Litigation consolidated in this circuit petitions for review challenging the Order. *See Ohio Telecom v. FCC*, No. 24-3133, Dkt. 8. Briefing concluded on August 26, 2024, the panel heard oral argument on December 12, 2024, and it issued a decision denying the petitions on August 13, 2025. *Ohio Telecom Ass’n v. FCC*, No. 24-3133, --- F.4th ----, 2025 WL 2331753 (6th Cir. Aug. 13, 2025).

The Commission now has three sitting members, only one of whom (Commissioner Gomez) voted to approve the Order, and is in the process of evaluating the agency’s past actions, including the Order challenged here. Accordingly, the Commission respectfully submits that an order holding this case in abeyance is an appropriate and efficient step in consideration of the agency’s ongoing internal review. *See Teledesic LLC v. FCC*, 275 F.3d 75, 83 (D.C. Cir. 2001) (courts “often hold a petition for review in abeyance pending the FCC’s further proceedings”); *see, e.g.,*

Molak v. FCC, No. 23-60641, Dkt. 187 (5th Cir. July 10, 2025) (granting motion to stay proceeding pending FCC internal review); *AT&T Inc. v. FCC*, No. 15–1038, Dkt. No. 1571313 (D.C. Cir. Sept. 3, 2015) (per curiam order) (granting FCC-requested abeyance while subject of litigation was under agency review).

Should the Court agree and enter an order holding the case in abeyance, the Commission would propose to file status reports 90 days from the date of the order and every 90 days thereafter until such time as the order is lifted.

Counsel for Petitioners, Intervenor, and Respondent United States of America have indicated that they do not oppose the motion.

CONCLUSION

The motion to hold the case in abeyance should be granted.

Dated: September 29, 2025

Respectfully submitted,

/s/ Adam L. Sorensen

D. Adam Candeub
General Counsel

Bradley Craigmyle
Deputy General Counsel

Jacob M. Lewis
Associate General Counsel

Adam L. Sorensen
Counsel

FEDERAL COMMUNICATIONS
COMMISSION

45 L Street NE
Washington, DC 20554
(202) 418-1740
fcclitigation@fcc.gov

*Counsel for Respondent Federal
Communications Commission*

CERTIFICATE OF COMPLIANCE

Certificate of Compliance With Type-Volume Limitation, Typeface Requirements and Type Style Requirements

1. This document complies with the type-volume limit of Fed. R. App. P. 27(d)(2) because, excluding the parts of the document exempted by Fed. R. App. P. 32(f):
 - ☒ this document contains 355 words, *or*
 - ☐ this document uses a monospaced typeface and contains _____ lines of text.
2. This document complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because:
 - ☒ this document has been prepared in a proportionally spaced typeface using Microsoft Word for Office 365 in 14-point Century Schoolbook, *or*
 - ☐ this document has been prepared in a monospaced spaced typeface using _____ with _____.

/s/ Adam L. Sorensen
Adam L. Sorensen
Counsel for Respondent
Federal Communications Commission

CERTIFICATE OF FILING AND SERVICE

I, Adam L. Sorensen, hereby certify that on September 29, 2025, I filed the foregoing Unopposed Motion to Hold Case in Abeyance with the Clerk of the Court for the United States Court of Appeals for the Sixth Circuit using the electronic CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

/s/ Adam L. Sorensen

Adam L. Sorensen
Counsel

Federal Communications
Commission
Washington, D.C. 20554
(202) 418-1740