

ORAL ARGUMENT SCHEDULED FOR SEPTEMBER 17, 2021

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

AT&T SERVICES, INC.,)	
)	
Petitioner)	Case No. 20-1190
)	
v.)	<i>(Consolidated with Case Nos. 20-</i>
)	<i>1216, 20-1272, 20-1274, 20-1281,</i>
FEDERAL COMMUNICATIONS)	<i>and 20-12-84)</i>
COMMISSION; UNITED STATES)	
OF AMERICA,)	
Respondents)	

MOTION TO DIVIDE ARGUMENT

Petitioner Association of Public-Safety Communications Officials International, Inc., (“APCO”) requests that the Court divide the time allotted to Petitioners for oral argument and allocate five minutes to APCO so that it may present its unique position to the Court. Prior to filing this motion, APCO sought the consent of the Petitioners, but received a response from at least one Petitioner on September 3, 2021, indicating that consent would not be forthcoming in a timely manner, if at all.

On September 3, 2021, the Court entered an order allocating 15 minutes of argument time to each side and directing one counsel per side to argue the consolidated cases. *See Order, AT&T Services Inc. v. FCC*, No. 20-1190, Doc. No. 1912797 (D.C. Cir. Sept. 3, 2021). Hours later, AT&T Services, Inc., filed a

Form 72 indicating its ostensible intent to argue on behalf of all Petitioners; APCO did not consent to such an arrangement.

Apportioning 15 minutes between AT&T and APCO is warranted given the number of issues before the Court and the separate and substantively nonoverlapping arguments raised by AT&T and APCO. AT&T and APCO represent different interests and are affected by the Federal Communications Commission's ("FCC") action under review in different ways. *See Order, O.A. et al. v. Biden*, No. 19-5275, Doc. No. 1873251 (D.C. Cir. Nov. 25, 2020) (granting motion to allow two parties to argue in light of the differences among appellees). As one example, AT&T is a large telecommunications company whose argument is limited to only a portion of the order under review and, accordingly, did not join the full Petitioners' brief. On the other hand, APCO raises concerns on the basis of public safety operations and on behalf of public safety communications professionals. APCO also intends to ask the Court to remand the entire order under review based on the FCC's statutory duty to consider public safety issues—an argument that AT&T did not join. As confirmation of the fact that APCO and AT&T's arguments are entirely distinct, AT&T and Petitioner Lumen Technologies, Inc., clarify that they do not join in APCO's section of Petitioners' Final Brief. Pet'r's Final Br. 31 n. 13 ("AT&T and Lumen do not join Section VI.A.").

CONCLUSION

For the foregoing reasons, APCO respectfully asks the Court to grant the motion, apportion 10 minutes to issues common among the Petitioners, and apportion the remaining 5 minutes to APCO. These allocations will provide sufficient time for each set of Petitioners to present their substantially distinct cases.¹

Respectfully submitted,

/s/ Mark S. Reddish

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¹ In the alternative, if the Court declines to permit Petitioners to divide their allotted 15 minutes, APCO does not oppose enlarging the parties' argument time to 20 minutes per side, with five minutes apportioned to APCO.

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of September, 2021, a copy of the foregoing was filed via CM/ECF and was served on all parties or their counsel of record through that system.

/s/ Mark S. Reddish
Mark S. Reddish

CERTIFICATE OF COMPLIANCE

I certify that the foregoing motion complies with the requirements of Fed. R. App. P. 27(d)(1) because it has been prepared in 14-point Times New Roman font. I further certify that the foregoing motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2) because it contains 410 words according to the word-count feature of Microsoft Word.

/s/ Mark S. Reddish
Mark S. Reddish