

United States Court of Appeals For the First Circuit

No. 24-8028

In Re: MCP 191

No. 24-1969

PAY TEL COMMUNICATIONS, INC.,

Petitioner,

v.

FEDERAL COMMUNICATIONS COMMISSION; UNITED STATES,

Respondents,

PENNSYLVANIA PRISON SOCIETY; DIRECT ACTION FOR RIGHTS AND EQUALITY,
INC.; OFFICE OF COMMUNICATION OF THE UNITED CHURCH OF CHRIST, INC.,

Intervenors.

Before

Barron, Chief Judge,
Gelpí and Aframe, Circuit Judges.

ORDER OF COURT

Entered: November 18, 2024

The above-captioned proceedings concern petitions for review of agency action by the Federal Communications Commission ("FCC"). Petitioner Pay Tel Communications, Inc. ("Pay Tel"), has filed in Appeals 24-8028 and 24-1969 a motion for stay pending judicial review. The motion has seen full briefing, and we have considered all relevant papers, including the opposition filed by an organization the court has permitted to intervene.

To start, we address procedural matters. There are several unopposed motions to file under seal the unredacted versions of the motion, the oppositions, and the replies, along with associated exhibits. These motions to file under seal are granted, and the tendered unredacted versions of these filings are accepted for filing under seal.

We turn now to the merits of Pay Tel's motion for stay. When resolving a request for a stay pending judicial review of agency action, the court considers the four traditional stay factors. See Ohio v. Env't Prot. Agency, 144 S. Ct. 2040, 2052 (2024). Thus, this court considers "(1) whether the applicant is likely to succeed on the merits, (2) whether it will suffer irreparable injury without a stay, (3) whether the stay will substantially injure the other parties interested in the proceedings, and (4) where the public interest lies." Id. The burden to demonstrate that stay relief is in order resides with the party seeking a stay. Nken v. Holder, 556 U.S. 418, 433-34 (2009) ("The party requesting a stay bears the burden of showing that the circumstances justify an exercise of that discretion.").

Having carefully reviewed the specific arguments Pay Tel offers in favor of a stay, the motion is hereby denied, without prejudice to later revisitation of relevant points in briefing and during merits review.

By the Court:

Anastasia Dubrovsky, Clerk

cc:

Jessica Ring Amunson, Jacob Matthew Lewis, Matthew J. Dunne, P. Michele Ellison, Merrick B. Garland, Sarah E. Citrin, Robert B. Nicholson, Robert J. Wiggers, Amy Elizabeth Potter, Aliza Kaplan, Scott H. Angstreich, Michael H. Pryor, Justin B. Berg, Jordan Reinold Garcia Gonzalez, Andrew Schwartzman, Elizabeth B. Murrill, J. Benjamin Aginaga, Kelsey L. Smith, Justin L. Matheny, Lynn Fitch, Erik Stallman, Cheryl A. Leanza, Lanora Christine Pettit, Kenneth Paxton Jr., Brent Webster, Amanda Hawkins, Marcus Trathen, Christopher B. Dodd, Joshua J David, Nicholas J. Bronni, David Andrew Bydalek, Dylan L. Jacobs, Edmund G. LaCour, Henry Charles Whitaker, Stephen John Petrany, Alan M. Hurst, Sean M. Corkery, Eric H. Wessan, Dominic X. Barceleau, Joshua Divine, T. Elliot Gaiser, Mathura Sridharan, Joseph David Spate, Ryan McFall, Whitney D. Hermandorfer, Stanford Purser, Kevin Michael Gallagher, Landis C. Best, Cherie R. Kiser, Angela F. Collins, Craig E. Frosch, Shannon Dirmann, Mary Erlington