

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 05-1248

September Term, 2005

Filed On: November 15, 2005

[932017]

Nuvio Corporation,
Petitioner

v.

Federal Communications Commission and United
States of America,
Respondents

Verizon Telephone Companies and AT&T Corporation,
Intervenors

Consolidated with 05-1345, 05-1346, 05-1347

BEFORE: Rogers, Tatel, and Griffith, Circuit Judges

ORDER

Upon consideration of the emergency motion for stay pending review, the opposition thereto, and the reply; and the motion for leave to file an *amicus curiae* brief in support of the emergency motion for stay pending review, it is

ORDERED that the motion for leave to file an *amicus curiae* brief be granted. It is

FURTHER ORDERED that the motion for stay be denied. Respondents have assured the court they will not require Voice over Internet Protocol providers that have not achieved full compliance with the challenged order by November 28, 2005, to discontinue service to current customers. See Opp. at 17-18, quoting 11/7/05 Public Notice. In light of this representation, and given the lack of substantiation for petitioners' contention that they will suffer irreparable harm in the event they are prohibited from accepting new customers in certain areas after November 28, 2005, petitioners have not demonstrated the irreparable injury requisite for the issuance of a stay pending review. See Wisconsin Gas Co. v. FERC, 758 F.2d 669, 674 (D. C. Cir. 1985) (per curiam).

Per Curiam