



**U.S. Department of Justice**

Antitrust Division

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*RFK Main Justice Building*

*950 Pennsylvania Avenue, N.W.  
Washington, DC 20530-0001*

December 31, 2018

Elisabeth Shumaker, Clerk of Court  
U.S. Court of Appeals for the Tenth Circuit  
Byron White U.S. Courthouse  
1823 Stout Street  
Denver, CO 80257-1823  
(303) 844-3157

Re: *City of San Jose v. FCC*, No. 18-9568 (MCP No. 155),  
*City of Seattle v. FCC*, No. 18-9571 (MCP No. 155),  
*City of Huntington Beach v. FCC*, No. 18-9572 (MCP No. 155)

Dear Ms. Shumaker:

Respondent United States of America takes no position on the motion for stay pending appeal in the three above-captioned petitions for review. At this preliminary stage, the United States has not conducted the extensive consultative and deliberative process within the Executive Branch that would be necessary to state a position for the United States with respect to the underlying FCC order.

Respectfully submitted,

/s/ Robert B. Nicholson  
Robert B. Nicholson  
Antitrust Division, Appellate Section  
U.S. Department of Justice

cc: all CM/ECF users, including all counsel of record

**CERTIFICATE OF DIGITAL SUBMISSION AND PRIVACY  
REDACTIONS**

I, Robert B. Nicholson, hereby certify that with respect to the foregoing:

- (1) all required privacy redactions have been made per 10th Cir. R. 25.5;
- (2) if required to file additional hard copies, the ECF submission is an exact copy of those documents; and
- (3) the digital submission has been scanned for viruses with Symantec Endpoint Protection Version 12.1.6 build 7004 (12.1.7004.6500) with current protection definitions, dated December 31, 2018, and according to the program is free of viruses.

/s/ Robert B. Nicholson  
*Counsel for United States of America*

**CERTIFICATE OF SERVICE**

I hereby certify that on December 31, 2018, I electronically filed the foregoing with the Clerk of Court through this Court's CM/ECF system, which sends notice of such filing to all registered CM/ECF users in these cases, including all counsel of record.

/s/ Robert B. Nicholson  
*Counsel for United States of America*