

Litigation Update

United Keetoowah et al. v. FCC, No. 18-1129 (D.C. Cir. 2018)

Timeline So Far

May 3	FCC's Second Report and Order published in the Federal Register
May 9	Appeal filed in D.C. Circuit Court of Appeals
May 31 – June 4	Petitions for Reconsideration filed by Apache, NATOA, PTA-FLA, and Ed Myers
July 2	FCC moves to have case held in abeyance pending petitions for reconsideration
July 11–19	Petitioners file oppositions to abeyance motion
July 17–18	Apache and Ed Myers withdraw reconsideration petitions
July 17–18	Petitioners file motion for stay
July 25	FCC withdraws abeyance motion
August 15	D.C. Circuit Court of Appeals denies stay motion

Parties

Petitioners

- United Keetoowah, Osage, Shawnee, Ponca, Delaware, Otoe-Missouria, Pawnee
- Natural Resources Defense Council
- Crow Creek and Omaha
- Seminole of Florida
- Blackfeet

Respondents

- FCC & USA

Intervenors for Petitioners

- NATHPO
- National Trust for Historic Preservation
- Alabama-Quassarte, Cheyenne, Arapaho, Mescalero, Peoria, Tonkawa

Intervenors for Respondents

- CTIA
- Sprint

Summary of Issues

- FCC redefinition of “undertaking” and “major federal action”
- FCC elimination of Tribal review and associated fees through administrative order
- Lack of government-to-government consultation
- Administrative Procedure Act, NHPA, and NEPA

What's Next

- Sept. 17: Briefing proposal(s) due
- Briefing schedule: TBD, but probably through the end of the year
- Oral arguments: 2019