

IN THE SUPREME COURT OF THE UNITED STATES

No. 24-354

FEDERAL COMMUNICATIONS COMMISSION, ET AL., PETITIONERS

v.

CONSUMERS' RESEARCH, ET AL.

No. 24-422

SCHOOLS, HEALTH & LIBRARIES BROADBAND COALITION, ET AL.,
PETITIONERS

v.

CONSUMERS' RESEARCH, ET AL.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

MOTION OF THE FEDERAL PETITIONERS
FOR DIVIDED ARGUMENT

Pursuant to Rule 28.4 of the Rules of this Court, the Acting Solicitor General, on behalf of the federal petitioners, respectfully moves to divide the oral argument for petitioners in these consolidated cases. We request that oral argument be divided as

follows: 20 minutes for the petitioners in No. 24-354 (federal petitioners) and 10 minutes for petitioners in No. 24-422 (private petitioners). We also request that the federal petitioners be allowed to open the argument and to present rebuttal. Counsel for the private petitioners has authorized us to state that the private petitioners agree to this motion.

In 47 U.S.C. 254, Congress directed the Federal Communications Commission (FCC or Commission) to operate the Universal Service Fund using mandatory contributions from telecommunications carriers. The Commission has appointed a private company as the programs' Administrator, authorizing that company to perform administrative tasks such as sending out bills, collecting contributions, and disbursing funds to beneficiaries.

Respondents filed a petition for review in the Fifth Circuit, challenging an FCC order governing quarterly contribution amounts on the ground that the regulatory scheme violated the nondelegation doctrine. See Pet. App. 11a. Private petitioners -- groups of Universal Service Fund beneficiaries -- intervened in support of the government. See Gov't Br. 8. The en banc court of appeals held that the combination of Congress's conferral of authority upon the FCC and the FCC's conferral of responsibility upon the Administrator violates the nondelegation doctrine. See Pet. App. 1a-124a.

The federal petitioners and private petitioners filed separate petitions for writs of certiorari seeking review of the court

of appeals' judgment. This Court granted certiorari and consolidated the cases.

Dividing the argument time for petitioners would be of material assistance to this Court because the petitioners represent distinct interests. The federal petitioners have a significant interest in defending the constitutionality of the applicable statute and FCC rules, as well as in the scope of the nondelegation doctrine more generally. The private petitioners have a significant interest in the continued operation of the Universal Service Fund in particular and are well positioned to explain the effects of the court of appeals' judgment on the Fund's beneficiaries. See, e.g., Competitive Carriers Ass'n et al. Br. 49-53.

Respectfully submitted.

SARAH M. HARRIS
Acting Solicitor General
Counsel of Record

FEBRUARY 2025