

No. 25-567

In the Supreme Court of the United States

VERIZON COMMUNICATIONS INC., PETITIONER,

v.

FEDERAL COMMUNICATIONS COMMISSION AND
UNITED STATES OF AMERICA

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

**PETITION FOR REHEARING
OF VERIZON COMMUNICATIONS INC.**

SCOTT H. ANGSTREICH
KELLOGG, HANSEN, TODD,
FIGEL & FREDERICK,
P.L.L.C.
1615 M Street NW
Suite 400
Washington, DC 20036

JEFFREY B. WALL
Counsel of Record
MORGAN L. RATNER
BRANTON J. NESTOR
GIBSON, DUNN & CRUTCHER LLP
1700 M Street NW
Washington, DC 20036
(202) 955-8500
jwall@gibsondunn.com

Counsel for Verizon Communications Inc.

DISCLOSURE STATEMENT

Verizon Communications Inc. (VZ) certifies that it is a publicly traded corporation and it has no corporate parent. No publicly held corporation owns 10% or more of Verizon Communications Inc.'s stock.

TABLE OF CONTENTS

	Page
Grounds for rehearing	1
I. This Court left open whether the FCC's orders were unlawful	3
II. This Court should remand the Second Circuit's judgment for further proceedings	6
Conclusion	9
Certificate of counsel	10

TABLE OF AUTHORITIES

	Page(s)
Cases:	
<i>Christian Legal Society v. Martinez</i> , 561 U.S. 661 (2010).....	8
<i>FCC v. AT&T, Inc.</i> , 146 S. Ct. 1418 (2026)	2, 3, 4, 5, 6, 7
<i>Taylor v. McKeithen</i> , 407 U.S. 191 (1972).....	8
<i>Zubik v. Burwell</i> , 578 U.S. 403 (2016).....	8
Regulations and administrative materials:	
47 C.F.R. § 1.80(g)(4).....	5
<i>In re Verizon Commc’ns</i> , Notice of Apparent Liability for Forfeiture and Admonishment, 35 FCC Rcd. 1698 (2020)	4
<i>In re Verizon Commc’ns</i> , Forfeiture Order, 39 FCC Rcd. 4259 (2024)	4
Other authorities:	
<i>Sprint & T-Mobile v. FCC</i> , (No. 25-1422).....	3, 7
Transcript of Oral Argument, <i>AT&T v. FCC</i> (Nos. 25-406, 25-567).....	2, 5

In the Supreme Court of the United States

No. 25-567

VERIZON COMMUNICATIONS INC., PETITIONER,

v.

FEDERAL COMMUNICATIONS COMMISSION, ET AL.

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

**PETITION FOR REHEARING
OF VERIZON COMMUNICATIONS INC.**

Pursuant to Rule 44.1 of this Court, petitioner Verizon respectfully petitions for rehearing of this Court's June 4, 2026 judgment in this case.

GROUND FOR REHEARING

This is *not* a request for the Court to reconsider its June 4 opinion in this case. This *is* a request for the Court to make a small change to the bottom-line judgment at the end of its opinion, which currently strips Verizon of the options that the body of the opinion purports to leave open.

The FCC conducted a jury-free administrative proceeding and ordered Verizon to pay a \$47 million forfeiture penalty. Verizon complied with that order and paid (under protest) while pursuing an appeal. Before this Court, however, the government changed course and argued that its monetary forfeiture orders are not really orders at all because they do not legally compel carriers to pay. This Court accepted the government's

argument and rejected Verizon’s argument that it was entitled to a jury trial before the agency imposed these monetary forfeiture orders. *See FCC v. AT&T, Inc.*, 146 S. Ct. 1418, 1427 (2026).

That raised an important question: what to do with the underlying order that did not purport to be optional, but instead “**ORDERED**” that Verizon “**IS LIABLE FOR A MONETARY FORFEITURE**” and that payment “shall be made . . . within thirty (30) calendar days.” Pet. App. 138a-139a. The government told this Court that “if you do have concerns” about whether a carrier “was misled” by that language into making that payment, the Court should “leave for remand disputes about whether [a] particular waiver of the jury trial right was knowing and voluntary,” and whether the carrier was “misled.” Tr. of Oral Arg. 75. The Court accepted that course in footnote 5. It recognized that Verizon had argued that “the specific forfeiture order[] in this case misled [it] into paying, and that a refund is therefore appropriate.” *FCC*, 146 S. Ct. at 1432 n.5. And the Court memorialized the government’s concession that agencies “‘cannot mislead someone into waiving his jury trial rights.’” *Ibid.* (quoting Tr. of Oral Arg. 75). But the Court “express[ed] no view on the merits of this argument, what relief may be available to [Verizon], or in what proceeding.” *Ibid.* Justice Thomas would have reached the issue. He wrote separately that Verizon was entitled to relief for “complying with a government order that [it] in good faith believed was obligatory.” *Id.* at 1435 (Thomas, J., dissenting).

The other three carriers that the FCC fined at the same time as Verizon have an available course to challenge their specific forfeiture orders. *AT&T* (No. 25-

406) will be remanded to the Fifth Circuit, and AT&T can challenge its specific forfeiture order there. *T-Mobile* and *Sprint* (No. 25-1422) have come to this Court from the D.C. Circuit. T-Mobile and Sprint have asked this Court to grant, vacate, and remand, permitting them to challenge their specific forfeiture orders on remand, in light of the government’s change of position before this Court and this Court’s ruling. But because this Court “affirmed” the Second Circuit’s judgment—without saying more—Verizon does not have a path to ask any court to consider its challenge to its “specific forfeiture order[,]” short of asking the Second Circuit to recall its mandate. *FCC*, 146 S. Ct. at 1432 n.5.

A tiny dispositional change—affirming, but with a remand—would put Verizon on equal footing with AT&T, T-Mobile, and Sprint, and permit Verizon to ask the Second Circuit to take up the issue that this Court purported to leave open (and that the government itself told this Court would be appropriate for a remand). Accordingly, Verizon respectfully requests that this Court grant the petition for rehearing and modify its disposition from “affirm” in No. 25-567 to “affirm and remand for proceedings consistent with this opinion.” This revised disposition would ensure that Verizon has the opportunity to ask the Second Circuit to consider whether the “specific forfeiture order[] in this case misled [Verizon] into paying, and [whether] a refund is therefore appropriate.” *FCC*, 146 S. Ct. at 1432 n.5.

I. This Court Left Open Whether The FCC’s Orders Were Unlawful.

A. The “specific forfeiture order[]” in this case “misled” Verizon into paying, and Verizon is entitled to a refund. *FCC*, 146 S. Ct. at 1432 n.5. In 2020, the FCC

initiated administrative proceedings against four carriers (Verizon, AT&T, Sprint, and T-Mobile) over alleged violations of the Federal Communications Act. The FCC first issued each carrier a “notice of apparent liability.” *See, e.g., In re Verizon Commc’ns*, 35 FCC Rcd. 1698 (2020). The FCC then issued each carrier a final “forfeiture order.” *See, e.g., In re Verizon Commc’ns*, 39 FCC Rcd. 4259 (2024).

The specific forfeiture order against Verizon (like the orders against the other three carriers) unambiguously purported to impose an immediate and binding legal obligation to pay a “monetary forfeiture.” Pet. App. 138a-139a. Its “ordering clauses” were clear:

IT IS ORDERED that . . . Verizon Communications **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of [\$46,901,250] for willfully and repeatedly violating section 222 of the [Communications] Act. . . . Payment of the forfeiture shall be made . . . within thirty (30) calendar days.

Ibid. The order further instructed that Verizon “shall send electronic notification of [the] payment” and specified how and where to send the money. Pet. App. 139a.

Verizon took the FCC at its word and paid under protest—a step that prevailing appellate precedent treated as a necessary precondition to obtaining Hobbs Act review. *See FCC*, 146 S. Ct. at 1431 n.4 (leaving open whether that precedent remains “sound”); *see also* Dkt. 1.1 at 1, *Verizon Commc’ns Inc. v. FCC*, No. 24-1733 (2d Cir. June 25, 2024). No ordinary citizen (or responsible company) would read the express

language in the ordering clauses as a friendly invitation to pay—totally optional, totally voluntary.

There were other reasons, too, that Verizon should not “have known that [this] order[] w[as] nonbinding.” *FCC*, 146 S. Ct. at 1435 (Thomas, J., dissenting). The ordering clauses were consistent with FCC regulations in place since 1978. Under those regulations, forfeiture orders “requir[e] that [the forfeiture] be paid in full and stat[e] the date by which the forfeiture must be paid.” 47 C.F.R. § 1.80(g)(4). And when the FCC issued the order, it “took the position that . . . such orders could be imposed, from start to finish, without the involvement of Article III courts.” *FCC*, 146 S. Ct. at 1435 (Thomas, J., dissenting) (quotation marks omitted).

The FCC retreated over the course of this proceeding, changing positions and ultimately telling this Court that FCC forfeiture orders do not “compel payment,” and that “[i]f a particular order purports” to do so, it “exceeds the FCC’s authority under the [FCA].” U.S. Br. 17-18.

During oral argument before this Court, the government was asked to address the “concern” about “how this case proceeded and that the [carriers] were misled . . . into paying the money without realizing that [the FCC] would switch positions years later and say, oh, by the way, you didn’t have to pay, you could have just waited for the charges to be brought.” Tr. of Oral Arg. 73 (Kavanaugh, J.). The government responded “that the Court should rule for us on the question presented, which is just about the statute, and then leave for remand disputes about whether this particular waiver of the jury trial right was knowing and voluntary or whether [the carrier] was misled.” *Id.* at 75. In

short, the government acknowledged that remand would be appropriate if questions remained over particular forfeiture orders.

B. This Court proceeded to leave open the issue of what to do about these specific forfeiture orders. It held that the FCC could issue forfeiture orders “without the involvement of a jury” because forfeiture orders “do not definitively resolve the parties’ legal obligations.” *FCC*, 146 S. Ct. at 1427. But it declined to decide whether “the specific forfeiture orders in this case misled [the carriers] into paying, and [whether] a refund is therefore appropriate.” *Id.* at 1432 n.5 (citing Reply Br. 17-19). It “express[ed] no view on the merits of this argument, what relief may be available to the carriers, or in what proceeding.” *Ibid.* (citing *id.* at 1433, 1435 (Thomas, J., dissenting)).

II. This Court Should Remand The Second Circuit’s Judgment For Further Proceedings.

For Verizon only, this Court’s disposition threatens to foreclose the very question that it purported to leave open. The other three carriers that are subject to nearly verbatim FCC orders, all issued simultaneously, each have paths to argue the question that this Court “express[ed] no view on” in footnote 5 of its opinion. But short of extraordinary relief like recalling the Second Circuit’s mandate, Verizon alone will be out of luck. This Court should amend its disposition to avoid that result.

A. The four affected carriers were all issued FCC monetary forfeiture orders telling them to pay millions. Each order “ordered” the carriers to pay “monetary forfeitures.” Pet. App. 138a-139a. Each order was *ultra vires*, including under “the government’s

newly adopted view” in this case. Reply Br. 17. Verizon, for its part, paid only “under protest.” Dkt. 1.1 at 1, *Verizon*, No. 24-1733. But Verizon (unlike AT&T and Sprint and T-Mobile) may be precluded from challenging the “specific forfeiture order[]” that “misled” it into paying. *FCC*, 146 S. Ct. at 1432 n.5. AT&T can make its case to the Fifth Circuit. Because this Court “reversed” the Fifth Circuit, and “remanded for further proceedings consistent with this opinion,” AT&T will be able to challenge, among other things, the specific order it faced. *Id.* at 1432 (reversing and remanding in *AT&T*, No. 25-406). Sprint and T-Mobile have brought their own challenges, seeking GVR relief that will let them do the same in the D.C. Circuit. See *Sprint & T-Mobile v. FCC*, No. 25-1422. But Verizon is not assured a similar opportunity because the Second Circuit was simply “affirmed”—without clarification from this Court that Verizon could challenge its “specific forfeiture order[]” on remand. *FCC*, 146 S. Ct. at 1432 & n.5 (affirming in *Verizon*, No. 25-567). The result is that Verizon (unlike the three other identically positioned carriers) may be stuck without an obvious avenue to challenge the improper FCC order that told it to pay.

B. This Court can easily fix that disparity. Verizon respectfully requests that this Court modify its disposition so that it remands Verizon’s case to the Second Circuit to consider whether “the specific forfeiture order[] in this case misled [Verizon] into paying, and [whether] a refund is therefore appropriate.” *FCC*, 146 S. Ct. at 1432 n.5. This Court’s current disposition—a flat “affirm[]” (*id.* at 1432)—risks obstructing Verizon from raising the very issue this Court left open.

Making that minor modification is consistent with the Court’s practices. First, this Court often vacates and remands when a lower court judgment requires reconsideration, including where (as here) the government modifies its position or the lower court fails to fully grapple with a critical issue. *See, e.g., Zubik v. Burwell*, 578 U.S. 403, 408-410 (2016) (vacating and remanding in light of new government position); *Taylor v. McKeithen*, 407 U.S. 191, 194 (1972) (vacating and remanding in light of insufficient lower-court explanation). Second, when this Court affirms but additional issues remain open, it sometimes remands for further proceedings. *See, e.g., Christian Legal Society v. Martinez*, 561 U.S. 661, 697-698 (2010) (affirming and remanding for consideration of open issue). Modifying this Court’s disposition from “affirm” in No. 25-567 to “affirm and remand for proceedings consistent with this opinion” will ensure that Verizon has the ability to even argue that the specific order here was unlawful.

CONCLUSION

The petition for rehearing should be granted. The disposition in No. 25-567 should be modified so that the case is remanded for further proceedings consistent with the Court's opinion.

Respectfully submitted.

SCOTT H. ANGSTREICH
KELLOGG, HANSEN, TODD,
FIGEL & FREDERICK,
P.L.L.C.
1615 M Street NW
Suite 400
Washington, DC 20036

JEFFREY B. WALL
Counsel of Record
MORGAN L. RATNER
BRANTON J. NESTOR
GIBSON, DUNN & CRUTCHER LLP
1700 M Street NW
Washington, DC 20036
(202) 955-8500
jwall@gibsondunn.com

Counsel for Verizon Communications Inc.

JUNE 29, 2026

CERTIFICATE OF COUNSEL

I hereby certify that this petition for rehearing is presented in good faith and not for delay.

/s/ Jeffrey B. Wall
Jeffrey B. Wall