

24-422 SHLB COALITION V. CONSUMERS' RESEARCH

DECISION BELOW: 109 F.4th 743

LOWER COURT CASE NUMBER: 22-60008

QUESTION PRESENTED:

In the Telecommunications Act of 1996, Congress required the FCC to update existing subsidy mechanisms in order to promote "universal service," supported by statutorily required contributions from carriers offering interstate telecommunications service. Congress defined universal service and adopted specific, detailed principles to guide and cabin the FCC's exercise of delegated authority. See 47 U.S.C. §§ 254(b), (c), (h).

Following Congress's directive in Section 254, the FCC has administered the Universal Service Fund ("USF" or "the Fund") for decades, with support from the Universal Service Administrative Company ("USAC"). The FCC's rules limit USAC's role to administrative matters, prohibit USAC from making policy decisions, and provide for de novo FCC review of any USAC decision upon request.

The questions presented are:

1. Whether Congress violated the nondelegation doctrine by authorizing the Commission to determine, within the limits set forth in Section 254, the amount that providers must contribute to the Fund.

2. Whether the Commission violated the nondelegation doctrine by using USAC's financial projections in computing universal service contribution rates.

3. Whether the combination of Congress's conferral of authority on the Commission and the Commission's delegation of administrative responsibilities to USAC violates the nondelegation doctrine.

CONSOLIDATED WITH 24-354 FOR ONE HOUR ORAL ARGUMENT.

IN ADDITION TO THE QUESTIONS PRESENTED BY THE PETITIONS, THE PARTIES ARE DIRECTED TO BRIEF AND ARGUE THE FOLLOWING QUESTION: WHETHER THIS CASE IS MOOT IN LIGHT OF THE CHALLENGERS' FAILURE TO SEEK PRELIMINARY RELIEF BEFORE THE FIFTH CIRCUIT.

CERT. GRANTED 11/22/2024