

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

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No. 05-3083

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

**CITY OF WINCHESTER, KY.; CITY OF MT.
STERLING, KY.,**)

Petitioners,)

v.)

**FEDERAL COMMUNICATIONS
COMMISSION, UNITED STATES OF
AMERICA,**)

Respondents.)

ON APPEAL FROM THE
F E D E R A L
C O M M U N I C A T I O N S
C O M M I S S I O N

**MEMORANDUM
OPINION**

BEFORE: BATCHELDER, CLAY, and McKEAGUE, Circuit Judges.

PER CURIAM. Petitioners City of Winchester, Kentucky, and City of Mt. Sterling, Kentucky, petition for judicial review of a final decision of the Federal Communications Commission, issued November 15, 2004. The decision resolved a dispute between the two Cities and their respective franchised television cable operators, Frontiervision Operating Partners and Frontiervision Operating Partners, L.P., d/b/a Adelphia Communications Corporation. The two cable operators are collectively referred to as “Adelphia.” The FCC’s decision has the effect of (1) upholding basic service tier (“BST”) rate increases charged by Adelphia to consumers in 2003, and (2) invalidating rate orders issued by the Cities which required Adelphia to reduce its BST rates and

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refund any overcharges collected. In their petition for judicial review, petitioners contend the “FCC erred in its analysis of FCC rules and federal law.”

The parties have waived their right to oral argument on the petition for review. Having carefully considered the FCC’s memorandum opinion and order in light of the parties’ briefs and the applicable law, we find no error. Because we find the reasoning that supports the FCC’s ruling in favor of Adelphia (1) has been correctly articulated by the FCC, (2) has not been shown to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, and (3) properly addresses the issues now raised by petitioners, we conclude that issuance of a detailed written opinion by this court would be duplicative and serve no useful purpose. Accordingly, the final decision of the FCC is hereby **AFFIRMED** on the basis of the analysis contained in its memorandum opinion and order issued on November 15, 2004, and petitioners’ petition for judicial review is **DENIED**.