

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

March 8, 2012

No. 08-41133

Lyle W. Cayce
Clerk

INTEGRITY COMMUNICATIONS LTD,

Plaintiff-Appellant

v.

UNIVERSAL SERVICE ADMINISTRATIVE COMPANY,

Defendant-Appellee

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 1:08-CV-29

Before OWEN and SOUTHWICK, Circuit Judges.*

PER CURIAM:**

Integrity Communications brought suit in state district court in Cameron County, Texas against the Universal Service Administrative Company. The

* Judge Garwood was a member of the panel at the time of oral arguments. His death on July 14, 2011, causes us to decide this case by a quorum. 28 U.S.C. § 46(d).

** Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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defendant USAC is a non-profit corporation authorized by regulations of the Federal Communication Commission to administer what is called the E-Rate Program. The lawsuit claimed USAC had erroneously determined that Integrity was not in compliance with the program, notified Integrity's present and prospective clients of that determination, and stopped payments to Integrity. The suit requested a declaratory judgment, an injunction, and other relief. Integrity simultaneously sought review of USAC's actions by the FCC. The state court suit was removed to the United States District Court for the Southern District of Texas. The district court dismissed on the basis that Integrity had not exhausted the administrative process at the FCC. Integrity appealed.

On August 28, 2008, three days before oral arguments in this court, the FCC released its initial decision. After oral argument, we placed further proceedings in this court in abeyance until completion of the FCC's review. On January 10, 2012, the FCC issued its final order in this case and ruled in favor of USAC. On February 15, 2012, Integrity informed us that it would not petition for review of the FCC's order.

Both parties agree that at most, all that is left in the case are the state law claims. Although USAC urges us to resolve Integrity's state law claims now, we decline. Because the district court has not yet ruled on them, we vacate and remand for further proceedings.

VACATED and REMANDED.