

10-329 ISIOGU V. MI BELL TELEPHONE CO.

DECISION BELOW: 597 F.3d 370

LOWER COURT CASE NUMBER: 07-2469, 07-2473

QUESTION PRESENTED:

To promote competition for local telephone service, the Telecommunications Act of 1996 (Act) requires incumbent telephone companies to make entrance facilities available to competitors (1) for network interconnection at cost-based rates, and (2) as unbundled network elements. In the *Triennial Review Remand Order (TRRO)*, the Federal Communications Commission (FCC) maintained the incumbent local telephone company's obligation to provide entrance facilities, which allow for interconnection, at cost-based rates, but found that competitors could effectively compete without access to entrance facilities as unbundled network elements. The questions presented are:

I. Whether the Sixth Circuit erred by determining that the Act and TRRO permit incumbent local telephone companies to charge competing telephone companies competitive rates - which is more than cost-based rates - for entrance facilities used for interconnection, thereby creating a conflict with the Seventh, Eighth, and Ninth Circuits.

II. Whether the Sixth Circuit erred by disregarding the FCC's interpretation of its regulations, contrary to the deference standard established by this Court in *Auer v. Robbins*, thereby creating a conflict with the Ninth Circuit.

CONSOLIDATED WITH 10-313 FOR ONE HOUR ORAL ARGUMENT.
JUSTICE KAGAN TOOK NO PART.

CERT. GRANTED 12/10/2010