

ORAL ARGUMENT HELD MARCH 17, 2017

Nos. 15-1158, 15-1247 (consolidated)

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

CITY OF PHOENIX, ARIZONA, *et al.*
Petitioners

v.

MICHAEL P. HUERTA, in his official capacity as
Administrator, Federal Aviation Administration, *et al.*,
Federal Respondents

On Petition for Review of a Decision
By the Federal Aviation Administration

**FEDERAL RESPONDENTS' MOTION TO EXTEND THE
DEADLINE FOR PETITIONS FOR REHEARING**

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The Federal Respondents respectfully move this Court for a 30-day extension of the deadline for parties to seek rehearing. The Petitioners in No. 15-1247 (the “neighborhood Petitioners”) do not oppose this relief. Petitioner City of Phoenix has agreed to provide a position on this motion by October 10, 2017. Petitions for rehearing are currently due on October 13, 2017. If this Court grants the motion, petitions for rehearing would be due on or before November 16, 2017.

In support of this motion, Respondent Federal Aviation Administration (“FAA”) states:

1. These consolidated petitions for review challenged the FAA’s September 18, 2014, order implementing new flight routes and procedures at Phoenix SkyHarbor International Airport.

2. On August 29, 2017, this Court issued an opinion and order vacating the FAA’s order. Petitions for rehearing are due on October 13, 2017. Fed. R. App. P. 35.

3. *Vacatur* of the agency’s order on the date this Court issues its mandate will create extraordinary problems for management of the airspace in and around Phoenix, Arizona. Invalidation of all procedures authorized by that order would remove the current departure and arrival procedures for most commercial passenger aircraft operating at the Phoenix Airport, and no comparable substitute procedures are available that could immediately become effective to replace them.

The Federal Aviation Administration has been working diligently to address this potential scenario, but requires additional time to develop a means to comply with this Court's order while still safely managing air traffic at one of the nation's ten busiest airports. The agency anticipates petitioning for panel rehearing regarding the appropriate remedy in this case, and believes this Court would be better served by a petition that more clearly identifies potential solutions and explains what approaches the agency has available to it. An additional 30 days' time is necessary to fully develop this information.

4. While the Petitioners have not agreed with FAA's assessment of its ability to implement this Court's August 29, 2017, opinion, the parties have recently held preliminary discussions about the possibility of a mutually-agreeable solution. An additional 30 days' time would permit the parties to continue those discussions.

5. Counsel for the neighborhood Petitioners has informed the FAA that they do not oppose a 30-day extension of time for the filing of any petition for rehearing. Counsel for Petitioner City of Phoenix has been consulted, and has agreed to provide the City's position on this motion on Tuesday, October 10, 2017.

For the foregoing reasons, the Federal Respondents respectfully request that this motion be granted.

Respectfully submitted,

s/ LANE N. MCFADDEN

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CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing Motion on all counsel of record by use of the DC Circuit's CM/ECF system on October 6, 2017.

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CERTIFICATE OF COMPLIANCE

I hereby certify that the preceding motion complies with the formatting and type-volume restrictions of the rules of the D.C. Circuit. The motion was prepared in 14-point, double-spaced, Times New Roman font, using Microsoft Word 2013, pursuant to Fed. R. App. P. 32(a)(5) and Fed. R. App. P. 32(a)(6). This motion contains 420 words, and complies with Fed. R. App. P. 27(d)(2)(A).

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