

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

MCI TELECOMMUNICATIONS CORP. v. AMERICAN TELEPHONE & TELEGRAPH CO.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 93-356. Argued March 21, 1994—Decided June 17, 1994¹

Title 47 U. S. C. §203(a) requires communications common carriers to file tariffs with the Federal Communications Commission, and §203(b)(2) authorizes the Commission to “modify any requirement made by or under . . . this section” Relying on the latter provision, the Commission issued an order determining that its earlier decision to make tariff filing optional for all nondominant long distance carriers was within its authority to “modify.” American Telephone and Telegraph Co., the only dominant long distance carrier, filed a motion with the Court of Appeals seeking summary reversal of the Commission’s order. The motion was granted on the basis of that court’s prior decision determining that the Commission’s authorization of permissive detariffing violated §203(a).

Held: The Commission’s permissive detariffing policy is not a valid exercise of its §203(b)(2) authority to “modify any requirement.” Because virtually every dictionary in use now and at the time the statute was enacted defines “to modify” as meaning to change moderately or in minor fashion, the word “modify” must be seen to have a connotation of increment or limitation. That §203(b)(2) does not contemplate basic or fundamental changes is also demonstrated by the fact that the only exception to it deals with a very minor matter: The Commission may not require the period for giving notice of tariff changes to exceed 120 days. The Commission’s permissive

¹Together with No. 93-521, *United States et al. v. American Telephone & Telegraph Co. et al.*, also on certiorari to the same court.

detariffing policy cannot be justified as a nonfundamental ``modification." The tariff-filing requirement is the heart of the common carrier subchapter of the Communications Act of 1934, and the policy eliminates that requirement entirely for all except one firm in the long-distance sector, and for 40% of all consumers in that sector. Moreover, it is hard to imagine that a condition shared by so many affected parties qualifies as ``special" under §203(b)(2)'s requirement that when the Commission proceeds ``by general order" to make a modification, the order can only apply ``to special circumstances or conditions." The Commission's interpretation of the statute is therefore not entitled to deference, since it goes beyond the meaning that the statute can bear. That Congress seemed to manifest agreement with the parties' respective interpretations in later legislation is irrelevant; there has been no consistent history of legislation to which one or the other interpretation is essential. Finally, petitioners' argument that their interpretation better serves the Act's broad purpose of promoting efficient telephone service should be addressed to Congress. Pp. 5-16.

Affirmed.

SCALIA, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and KENNEDY, THOMAS, and GINSBURG, JJ., joined. STEVENS, J., filed a dissenting opinion, in which BLACKMUN and SOUTER, JJ., joined. O'CONNOR, J., took no part in the consideration or decision of the cases.