

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT
ECO-023-E

Nos. 17-1107 & 18-1092

Prometheus Radio Project et al.

v.

Federal Communications Commission

No. **18-1167**

In re: Prometheus Radio Project and
Media Mobilizing Project,
Petitioners

(Related to Agency Nos. FCC 16-107 and 17-156)

Present: AMBRO, SCIRICA and FUENTES, Circuit Judges

1. Emergency Petition for Writ of Mandamus to Enforce the Court's Mandates and for Other Relief
2. Opposition of the Federal Communications Commission to Petition for Writ of Mandamus

ORDER

The emergency petition for writ of mandamus is denied as Petitioners have not satisfied the exacting standard for obtaining such relief. *See In re: Howmedica Osteonics Corp.*, 867 F.3d 390, 401 (3d Cir. 2017) (observing that a writ of mandamus "may issue only if the petitioner shows (1) a clear and indisputable abuse of discretion or [] error of law, (2) a lack of an alternate avenue for adequate relief, and (3) a likelihood of irreparable injury.") (citation and internal quotation marks omitted).

The Court notes that the exact design of the FCC's new incubator program is subject to public comment through April 9, 2018. As such, the petitions for review pending at Nos. 17-1107 and 18-1092 shall be stayed for a period of 6 months from the date of

this Order. The FCC is hereby directed to file a report on or before August 6, 2018 regarding the status of the incubator program.

By the Court,

s/ Thomas L. Ambro
Circuit Judge

Dated: February 7, 2018
MB/cc: All Counsel of Record



Patricia S. Dodszeit

Patricia S. Dodszeit, Clerk