

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 10-1020

September Term, 2010

ALPINE PCS, INC.,

FILED ON: DECEMBER 21, 2010

APPELLANT

v.

FEDERAL COMMUNICATIONS COMMISSION,

APPELLEE

Appeal of an Order of the Federal Communications Commission

Before: GINSBURG and KAVANAUGH, *Circuit Judges*, and RANDOLPH, *Senior Circuit Judge*

J U D G M E N T

This appeal was considered on the record from the Commission and on the briefs and the oral arguments of the parties. Although the issues presented occasion no need for a published opinion, they have been accorded full consideration by the Court. See Fed. R. App. P. 36; D.C. Cir. Rule 36(d). For the reasons stated below, it is

ORDERED and **ADJUDGED** that the Order of the Commission denying the appellant's Petition for Reconsideration be affirmed for the reasons stated therein.

Insofar as the appellant argues the Order violated § 362 of the Bankruptcy Code, that argument is not properly before this court because it was "not put before the Commission," *U.S. Airwaves, Inc. v. FCC*, 232 F.3d 227, 236 (D.C. Cir. 2000). In any event, the argument fails because the licenses had been cancelled in 2002, well before the bankruptcy filing in 2008. Therefore, the licenses were not part of the bankruptcy estate.

The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

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FOR THE COURT:
Mark J. Langer, Clerk

By: /s/
MaryAnne Lister
Deputy Clerk