

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 09-5293

September Term, 2010

IN THE MATTER OF: ALPINE PCS, INC.,

FILED ON: DECEMBER 21, 2010

ALPINE PCS, INC.,

APPELLANT

v.

FEDERAL COMMUNICATIONS COMMISSION,

APPELLEE

Appeal from the United States District Court
for the District of Columbia
(No. 1:08-cv-02055)

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 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 judgment of the district court be affirmed.

To the extent issues raised here were raised before the district and bankruptcy courts, we affirm the judgment of the district court for the reasons stated in the opinion of the bankruptcy court. Insofar as the appellant argues its request for debt restructuring suspended the automatic cancellation rule, 47 C.F.R. § 1.2110(g)(4)(iv), that argument is not properly before us because the appellant did not argue it until the reply brief. *See MBI Group, Inc. v. Credit Foncier Du Cameroun*, 616 F.3d 568, 575 (D.C. Cir. 2010). Insofar as the appellant claims a right to offset its debt owed to the Commission from proceeds obtained in the auction for new licenses to use the same spectrum, we have no occasion to resolve that issue because there are as of yet no such proceeds.

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.

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
MaryAnne Lister
Deputy Clerk