

**UNITED STATES COURT OF APPEALS**

**MAR 4 2003**

**TENTH CIRCUIT**

**PATRICK FISHER**  
Clerk

In re: KANSAS PERSONAL  
COMMUNICATIONS SERVICES,  
LTD.,

Debtor.

UNITED STATES OF AMERICA, on  
behalf of the Federal  
Communications Commission,

Appellee,

v.

KANSAS PERSONAL  
COMMUNICATIONS SERVICES,  
LTD.,

Appellant.

No. 01-3042  
(D.C. No. 00-CV-2392-JWL)  
(D. Kansas)

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**ORDER AND JUDGMENT\***

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Before **SEYMOUR** and **PORFILIO**, Circuit Judges, and **STAGG**,\*\* District Judge.

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\* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. This court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

\*\* The Honorable Tom Stagg, District Judge for the United States District Court Western District of Louisiana, sitting by designation.

This appeal has been abated pending resolution of *Federal Communications Commission v. Nextwave Personal Communications, et al.*, in the Supreme Court of the United States. At issue in *Nextwave* was a question which dominates this case: whether an FCC license holder who has filed a petition for relief under Chapter 11 of the Bankruptcy Code is protected by the provisions of 11 U.S.C. §§ 362 and 525 from cancellation of the license for non-payment of license fees. The Supreme Court has answered that question in the affirmative, 537 U.S. \_\_\_\_, 123 S.Ct. 832 (2003).

We issued an order directing the parties to state their positions on the effect of *Nextwave* in this appeal. Both have responded agreeing the decision leaves nothing for this court to decide.

*Nextwave* makes clear the district court's decision in this matter was erroneous. The Chapter 11 filing barred the FCC from taking any action against the license of Kansas Personal Communication Services, Ltd. without first obtaining authority to do so from the bankruptcy court. Consequently, the judgment of the district court is **REVERSED** and the matter **REMANDED WITH DIRECTIONS** to remand the case to the bankruptcy court for further proceedings.

ENTERED FOR THE COURT

John C. Porfilio  
Senior Circuit Judge