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Federal Communications Commission
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FCC DENIES NEXTWAVE PETITION FOR RECONSIDERATION

Washington, DC – The Federal Communications Commission has denied a Petition for Reconsideration filed by NextWave Personal Communications Inc. and NextWave Power Partners Inc. (NextWave). NextWave had requested that the FCC review the Wireless Telecommunications Bureau's January 12, 2000 Public Notice, which announced an auction of C and F block Personal Communications Service spectrum licenses, including spectrum covered by 63 C and 27 F block licenses previously licensed to NextWave.

In denying the petition, the Commission emphasized that enforcement of the full and timely payment condition is essential to the integrity of the auction and licensing process, because it ensures that applicants have the necessary financial qualifications to hold licenses, that spectrum is awarded to those qualified bidders who value the spectrum the most, as contemplated by Congress, and that the process is fair to all auction participants.

NextWave's Petition challenged the Wireless Bureau's announcement of an auction including cancelled licenses formerly held by NextWave. The FCC denied NextWave's Petition for several reasons, including:

- Automatic cancellation of licenses is fully consistent with the FCC's Congressional mandate as well as with its regulations and precedent.
- Cancellation of NextWave's licenses is fully consistent with the FCC's treatment of similarly situated C block licensees.
- NextWave's argument that cancellation was prevented by provisions of the Bankruptcy Code has been decided by the Second Circuit Court of Appeals. The FCC does not agree that the policies underlying those Code provisions should lead it to decline to apply its rules in this situation. License conditions which are essential to the Commission's regulatory scheme cannot be avoided in bankruptcy.

Action by the Commission by Order on Reconsideration, August 31, 2000 (FCC 00-335). Chairman Kennard, Commissioners Ness, Furchtgott-Roth, Powell and Tristani, with Commissioner Furchtgott-Roth issuing a separate statement.

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