

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Nova Cellular West, Inc.,
Petitioner,
v.
AirTouch Cellular,
Respondent.
File No. EB-00-MD-022

ORDER

Adopted: November 5, 2002

Released: November 6, 2002

By the Chief, Market Disputes Resolution Division, Enforcement Bureau:

1. On August 26, 2002, Nova Cellular West, Inc. d/b/a San Diego Wireless ("Nova"), pursuant to section 405 of the Communications Act of 1934, as amended ("Act") and section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, filed a Petition for Reconsideration of the Commission's Memorandum Opinion and Order in the above captioned matter.

2. On October 22, 2002, the parties filed a Joint Motion for Withdrawal and Dismissal with Prejudice of Pending Petition for Reconsideration, Opposition and Reply in which they state that they have reached a mutually acceptable settlement of all issues raised in this proceeding. Their Joint Motion withdraws the Petition for Reconsideration, Opposition to Petition for Reconsideration, and Reply filed

1 47 U.S.C. §405.

2 Petition For Reconsideration of Nova Cellular West, Inc. d/b/a San Diego Wireless Communications, Nova Cellular West, Inc. d/b/a San Diego Wireless v. AirTouch Cellular, File No. EB-00-MD-022 (filed Aug. 26, 2002) ("Petition for Reconsideration" or "Petition").

3 Nova Cellular West, Inc. d/b/a San Diego Wireless v. AirTouch Cellular, Memorandum Opinion and Order, 17 FCC Rcd. 15,026 (2002).

4 Joint Motion for Withdrawal and Dismissal With Prejudice of Pending Petition for Reconsideration, Opposition and Reply, Nova Cellular West, Inc. d/b/a San Diego Wireless v. AirTouch Cellular, File No. EB-00-MD-022 (filed Oct. 22, 2002).

5 Opposition of AirTouch Cellular to Petition for Reconsideration, Nova Cellular West, Inc. d/b/a San Diego Wireless v. AirTouch Cellular, File No. EB-00-MD-022 (filed Sept. 6, 2002).

in this proceeding, and moves the Commission to dismiss the matter with prejudice.

3. We are satisfied that dismissing the Petition will serve the public interest by promoting the private resolution of disputes and by eliminating the need for further litigation and the expenditure of additional time and resources of the parties and this Commission.

4. Accordingly, IT IS ORDERED, pursuant to sections 4(i), 4(j), 208, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 208, and 405, and section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, and the authority delegated in sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311, that the joint motion to dismiss the above-captioned Petition with prejudice IS GRANTED.

5. IT IS FURTHER ORDERED, pursuant to sections 4(i), 4(j), 208 and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 208, and 405, and section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, and the authority delegated in sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311, that Nova's Petition for Reconsideration IS DISMISSED WITH PREJUDICE and this proceeding is TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

Alexander P. Starr
Chief, Market Disputes Resolution Division
Enforcement Bureau

⁶ Nova Cellular West, Inc d/b/a San Diego Wireless Communications Reply to AirTouch Cellular Opposition to Petition for Reconsideration of FCC 02-217, *Nova Cellular West, Inc. d/b/a San Diego Wireless v. AirTouch Cellular*, File No. EB-00-MD-022 (filed Sept 16, 2002).