

L/CAD/afm

Decision 91-05-030 May 8, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Atlantic Cellular)
Company, L.P., a Delaware limited)
partnership, doing business as)
Mountain Cellular, for a)
certificate of public convenience)
and necessity to construct and)
operate a domestic public land)
cellular radiotelephone system in)
El Dorado County, California.)

ORIGINAL

Application No. 89-05-060
(Filed May 26, 1989)
amended December 21, 1989
and June 15, 1990)

ORDER DENYING REHEARING AND MODIFYING D.91-01-035

DEBI K. DRAKE (Drake) and PETER N. MAURER (Maurer) (collectively, Applicants) have filed an application for rehearing of Decision (D.) 91-01-035. We have considered all the allegations of error in the application and are of the opinion that good cause for rehearing has not been shown. However, the application for rehearing has alerted us to a needed modification in the decision.

In D.91-01-035 we found, based on the environmental impact report (EIR) prepared by our Advisory and Compliance Division, that the project would have significant visual impact at the Coon Hollow site in Placerville, and that this impact would remain significant despite the measures recommended in the EIR to reduce it. We made this measure ("an enclosure of tasteful design and appropriate landscaping") a condition of our granting final authority for the project.

Upon taking a second look at this issue, we realize that the City of Placerville is a much better arbiter of what its citizens would consider "tasteful" and "appropriate" than we are.

Under Public Resources Code § 21081.6, however, our making the enclosure a condition of the authority removes these matters of taste from the local jurisdiction and places them in ours. We are accordingly convinced that, while we would like to see Atlantic Cellular Company take such steps to improve the appearance of the tower site, we should not make them a condition of the grant of authority.

Therefore,

IT IS ORDERED that:

1. Rehearing of D.91-01-035 is hereby denied.
 2. D.91-01-035 is hereby modified as follows:
 - a. The second and third sentences of the second full paragraph on p. 3 are deleted.
 - b. After the first sentence of the second full paragraph on p. 3, the following language is inserted: "However, as such an enclosure would not reduce the visual effects below the level of significance, we will not require it as a condition of final authority. Whether the City of Placerville chooses to require it, or specify its design, under its land use authority, is a matter for the local citizens to decide."
 - c. Ordering Paragraph 3 is deleted.
- This order is effective today.
Dated May 8, 1991, at San Francisco, California.

PATRICIA M. ECKERT
President
G. MITCHELL WILK
JOHN B. OHANIAN
DANIEL Wm. FESSLER
NORMAN D. SHUMWAY
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY

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NEAL J. SHULMAN, Executive Director
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