

ORIGINAL

Decision No. 81970

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Suspension and  
Investigation on the Commission's own  
motion of tariffs filed under Advice  
Letter No. 4 by Atlas Radiophone.

Case No. 9480  
(Filed December 5, 1972)

ORDER OF DISCONTINUANCE

Atlas Radiophone (Atlas) filed on November 14, 1972, under Advice Letter No. 4, certain tariff sheets providing for an increase in two-way radio telephone coverage as shown on a proposed Service Area Map. On November 22, 1972 a protest was received from Intrastate Radio Telephone Inc. (Intrastate) pointing out certain claimed errors in Atlas' filing. On November 29, 1972 a protest was received from Tel-Page, Inc. claiming Atlas' filing, if approved, would result in an invasion of its territory. On December 9, 1972 a protest was received from National Communications Systems, Inc. (National) claiming that Atlas' filing, if approved, would duplicate service in its service area and would cause irreparable harm and economic injury to National.

On December 5, 1972 the Commission instituted Case No. 9480. By Decision No. 81226 dated April 3, 1973 the period of suspension was extended to October 14, 1973. By letter dated April 5, 1973 Intrastate withdrew its protest. By letter dated April 9, 1973 Tel-Page, Inc. withdrew its protest.

After the staff of this Commission took issue with certain facets of Atlas' filing, by notice mailed June 6, 1973, hearing was set for July 23, 1973. By letter dated July 16, 1973 National withdrew its protest. By letter dated July 17, 1973 Atlas requested a 30-day continuance. Such continuance was granted and the matter reset for August 20, 1973. On August 10, 1973 Atlas filed a "Motion To Dismiss Protest of National Communications System, Inc." This

motion is moot as National had already withdrawn its protest. By letter dated August 17, 1973 Atlas outlined its understanding of how it could resolve its differences with the staff. The letter is received as Exhibit 1.

It appears desirable to settle this matter in the manner shown in Exhibit 1. We caution Atlas and the staff, however, that our action is based upon the representations contained in Exhibit 1 only, and in no manner is it to be held by anyone that the Commission has established policy for any other utility under our jurisdiction.

Exhibit 1 states:

"ATLAS RADIOPHONE  
2171 Ralph Avenue  
Stockton, California 95206

August 17, 1973

Secretary  
Public Utilities Commission  
350 McAllister Street  
San Francisco, California 94102  
Re: KMM-630

Dear Sir:

This is in reference to the various conversations Mr. Popenoe of the staff and I have had over the past few weeks wherein we have endeavored to resolve the differences existing between the staff and myself relating to the Advice Letter #4 recently filed with the PUC.

In working these matters out, it is my understanding that the staff will agree to accept the contours labeled 2, 3, and 4 on an amended map. These contours are to be filed with a solid line. It is noted that the contours are already granted by the FCC, that contour #2 is in fact in operation, and that contour #3 will be in operation early this fall. Contour #4 is acknowledged to be the subject of an FCC application to be filed within 120 days. No frequency conflicts are known to exist, and all surrounding carriers have consented in writing to the PUC to this

new expansion. In fact, the contour does also comply with the provisions of Sec. 1001 of the Utilities Code allowing expansion into adjacent unoccupied territory.

Atlas agrees to meet the objection of the staff to the location of the contour lines of contour #1. The contour will be redrawn to conform to the Carey report.

It is the desire of Atlas to have the Commission order these things done so that the redrawn contours will not be the subject of new objections from other carriers. Atlas' has the desire to settle this proceeding and terminate the entire matter."

IT IS ORDERED that:

1. The tariff sheets filed under Atlas' Advice Letter No. 4 are permanently suspended.
2. Atlas shall, within ninety days after the effective date of this order, file with this Commission a service area map or maps prepared in conformance with the agreements set forth in Exhibit 1.
3. A copy of the filing with this Commission shall be served upon Intrastate Radio Telephone, Inc., National Communication System, Inc., and Tel-Page, Inc. by Atlas.
4. The investigation in Case No. 9480 is discontinued.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this

10<sup>th</sup> day of OCTOBER, 1973.

William Lyman President  
William L. Sturgeon  
William L. Sturgeon  
William L. Sturgeon Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.