

FEDERAL COMMUNICATIONS COMMISSION

Part 1—Practice and Procedure

(December 1955 Edition.)

TITLE 47—TELECOMMUNICATION

Chapter 1—Federal Communications Commission

PART 1—PRACTICE AND PROCEDURE RECAPITULATION

Because of the number of outstanding amendments to Part 1 since it was last recapitulated in the FEDERAL REGISTER (April 7, 1950, at page 1978), Part 1 is recapitulated as of December 1, 1955, to read as set forth herein

FEDERAL COMMUNICATIONS
COMMISSION,
(SEAL) MARY JANE MORRIS,
Secretary.

Subpart A [Reserved]

Subpart B [Reserved]

Subpart C [Reserved]

Subpart D—Rules Relating to Applications and Proceedings Affecting Radio Licenses Under Title III of the Communications Act

GENERAL REQUIREMENTS AS TO APPLICATIONS

- Sec.
1.301 Applications required.
1.302 Place of filing and number of copies.
1.303 Subscription and verification of applications.
1.304 Contents of applications.
1.305 Full disclosures.
1.306 Additional statements.
1.307 Form of amendments to applications
1.308 Amendments of applications ordered

RULES RELATING TO FILING OF APPLICATIONS AND DESCRIPTION OF APPLICATION FORMS

- 1.309 Special forms.
1.310 FCC Form 410, Application of Canadian Radio Station Licensees for Registration and Permit to Operate in the United States.
1.311 Application forms for authority to construct a new station or make changes in an existing station: broadcast services.
1.312 Application forms for construction permit or modification thereof: radio services other than broadcast.
1.313 Installation or removal of apparatus: broadcast and nonbroadcast.
1.314 Application for extension of construction permit or for construction permit to replace expired construction permit (broadcast); application for extension of construction permit (nonbroadcast).
1.315 Application for equipment tests or for service or program tests: broadcast and nonbroadcast.
1.317 Application for license following construction permit.

- Sec.
1.318 Application for station license where no construction permit is required.
1.319 Application for modification of license: broadcast and nonbroadcast.
1.320 Application for renewal of license: broadcast and nonbroadcast.
1.321 Application for voluntary assignment or transfer of control: broadcast.
1.322 Application for voluntary assignment or transfer of control: nonbroadcast.
1.323 Application for involuntary assignment or transfer of control: broadcast and nonbroadcast.
1.324 Application for special temporary authorization.
1.325 Application for special service authorization: broadcast.
1.326 Application for standard broadcast station experimental operation.
1.327 Application concerning programs to be transmitted to foreign radio stations.
1.328 Application to determine operating power by direct measurement of antenna power.
1.329 Application for radio operator license.
1.330 Application for ship radio inspection or periodical survey of ships subject to compulsory radio requirements.
1.331 Applications for exemption from compulsory ship radio requirements.
1.332 Informal applications.
1.333 Construction permits.
1.334 Applications for permission to use lesser grade operators at aural broadcast stations than required by Commission rules.
1.335 FCC Form 482, "Certification of Civil Defense Radio Officer."

RULES RELATING TO OTHER FORMS AND INFORMATION TO BE FILED WITH THE COMMISSION

- 1.341 Financial report, broadcast licensees and permittees.
1.342 Filing of contracts, broadcast licensees and permittees.
1.343 Ownership reports, broadcast licensees and permittees.
1.344 Definitions of terms used in §§ 1.341-1.343.
1.346 Reports in connection with certain fixed public radio service operations.
1.347 Reports to be filed by international and coastal radiotelegraph carriers.

RULES RELATING TO ACCEPTANCE, AMENDMENT, OR DISMISSAL OF APPLICATION

- 1.361 Defective applications.
1.362 Inconsistent or conflicting applications.
1.363 Repetitious applications.
1.364 Multiple applications; broadcast service.
1.365 Amendments of applications.
1.366 Dismissal of applications.

THE MANNER IN WHICH APPLICATIONS ARE PROCESSED

- 1.371 Acceptance of applications.

- Sec.
1.372 Staff consideration of applications which receive action by the Commission.
1.373 Procedure with respect to processing of standard broadcast applications.
1.374 Staff consideration of applications which do not require action by the Commission.
1.375 Procedure with respect to amateur and commercial radio operator licenses.
1.376 Procedure with respect to applications for ship radio inspection or periodical survey.
1.377 Procedures for handling applications requiring special aeronautical consideration.
1.378 Procedure for processing applications for television broadcast stations.
ACTION ON APPLICATIONS
1.381 Failure to prosecute applications.
1.382 Grants without a hearing.
1.383 Partial grants.
1.384 Operation pending action on renewal application.
1.385 Designation for hearing.
1.386 Petition for reconsideration and grant without hearing.
1.387 Procedure when case is designated for hearing.
1.388 Petitions to Intervene.
1.389 Motions to enlarge or change the issues.
1.390 Petitions for reconsideration or for re-hearing.
1.391 Special waiver procedure relative to broadcast applications.

PROCEDURE WITH RESPECT TO REVOCATION AND MODIFICATION OF STATION AUTHORIZATIONS, ISSUANCE OF CEASE AND DESIST ORDERS, AND SUSPENSION OF RADIO OPERATOR'S LICENSE

- 1.401 Notice of violations.
1.402 Revocation of station licenses and construction permits and issuance of cease and desist orders.
1.403 Modification of licenses.
1.404 Suspension of operator licenses.

FORFEITURES AGAINST SHIPS AND SHIP MASTERS

- 1.410 Forfeitures against ships and ship masters.

Subpart E—Rules Relating to Applications, Reports, and Proceedings Affecting Common Carriers Under Title II of the Communications Act

- GENERAL RULES RELATING TO APPLICATIONS**
1.501 Subscription and verification of applications.
1.502 Full disclosures.
1.503 Additional statements.
1.504 Form of amendments to applications.
1.505 Amendments of applications ordered.
1.506 Defective applications.
1.507 Amendments and dismissals of applications.
1.508 Failure to prosecute applications.
1.509 Partial grants.
1.510 Inconsistent or conflicting applications.

FILING AND PROCESSING OF APPLICATIONS

Sec.	
1.521	Filing and routing of applications.
1.522	Application for extension of time in which to file financial reports.
1.523	Application for special tariff permission; procedure and application form.
1.524	Application for holding interlocking offices or directorates; procedure and application form.
1.525	Application for lines.
1.526	Application for discontinuance, reduction, or impairment of service.
1.527	Application for consolidation of telephone companies.
1.528	Application for consolidation of domestic telegraph carriers.
1.529	Application with respect to disposition of debit amounts in account 100.4, "Telephone plant acquisition adjustment," for class A and class B telephone companies and in account 1200, "Plant adjustments" for class C telephone companies.

TARIFFS, REPORTS, AND OTHER MATERIAL REQUIRED TO BE SUBMITTED BY CARRIERS

1.541	Tariffs to be filed.
1.543	Contracts to be filed.
1.544	Annual financial reports.
1.545	Monthly financial reports.
1.547	Reports to be filed under Part 31 of this chapter.
1.548	Reports to be filed under Part 33 of this chapter.
1.549	Reports to be filed under Part 34 of this chapter.
1.550	Reports to be filed under Part 35 of this chapter.
1.551	Reports of proposed changes in depreciation rates.
1.552	Reports regarding premature destruction of records.
1.553	Reports regarding pensions and benefits.
1.554	Reports regarding division of international telegraph communication charges.
1.555	Reports regarding telegraph carrier services.
1.556	Reports of negotiations regarding foreign communication matters.
1.557	Reports on traffic.
1.558	Reports under § 63.04 of this chapter.
1.559	Reports to be filed regarding lines.
1.560	Reports to be furnished regarding domestic telegraph speed of service.

RULES RELATING TO COMPLAINTS

1.571	Formal or informal complaints.
1.572	Informal complaints.
1.573	Action on informal complaints.
1.574	Resubmission; 6 months' rule.
1.576	Formal complaints; requirements.
1.576	Statement of issues; joinder of causes of complaint.
1.577	Notice of complaints.
1.578	Charges, etc.; specific references.
1.579	Separate statement of each provision violated.
1.580	Allegations; certainty.
1.581	Challenge of general rate adjustments; reparation.
1.582	Discrimination specified.
1.583	Preference or prejudice.
1.584	Reparation; prayer for.
1.585	Limitations; damages pendente lite.
1.586	Supplemental complaints.
1.587	Cross complaints.
1.588	Answers to complaints and petitions.
1.588	Answers to petitions or amended complaints.
1.590	Requests for suspension of tariff schedules.

RULES CONCERNING SHOW CAUSE ORDERS AND TENTATIVE VALUATIONS

1.591	Order to show cause.
1.592	Protests of tentative valuations.

Subpart F—General Rules of Practice and Procedure

Sec.	
1.701	Suspension, amendment or waiver of rules.
1.702	Petition for amendment or waiver of rules.
1.703	Computation of time
PERSONAL APPEARANCES; PRACTITIONERS	
1.711	Appearances.
1.712	Authority for representation.
1.713	Persons who may be admitted to practice.
1.714	Suspension or disbarment of attorneys.
1.715	Former employees.
1.716	Appearance blanks.

PETITIONS AND OTHER REQUESTS FOR COMMISSION ACTION

1.721	General.
1.722	Petitions to intervene.
1.723	Request by nonparties to participate in hearings; communications relating to applications.
1.724	Petitions to consolidate.
1.725	Motions to enlarge or change the issues.
1.726	Reconsideration or rehearing.
1.727	Complaints.
1.728	Declaratory rulings.
1.729	Adverse rulings on petitions.
1.730	Oppositions and replies to oppositions.

MOTIONS DOCKET

1.741	Action by Commission.
1.742	Action by Motions Commissioner or Commissioner designated to preside at a hearing.
1.743	Action by Hearing Examiner.
1.744	Motions calendar: Time of calling and place; continuances.
1.745	Time for filing motions.
1.746	Oppositions.
1.747	Procedure in Motions calendar.
1.748	Number of copies.
1.749	Rulings.
1.750	Review of adverse ruling.
1.751	Limitation on length of pleadings in adjudicatory proceedings.

SPECIFICATIONS AND SERVICE OF PLEADINGS AND OTHER PAPERS

1.761	Cross reference.
1.762	Specifications as to pleadings and documents.
1.763	Briefs.
1.764	Number of copies.
1.765	Subscription and verification.
1.766	Amendments to pleadings.
1.767	Service of documents and proof of service.
1.768	Withdrawal of papers.

Subpart G—Rules Relating to Hearings and Decisions

1.801	Informal hearings.
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FORMAL HEARINGS

1.802	Official reporter; transcript.
1.803	Notice of hearing.

CONTINUANCES AND PREHEARING CONFERENCES

1.811	Continuances and extensions.
1.812	Postponement or change of place.
1.813	Prehearing conferences.

DEPOSITIONS

1.821	Depositions on notice.
1.822	Persons before whom depositions may be taken.
1.823	Submission to witness; changes; signing.
1.824	Certification and filing by officer; copies.
1.825	Inclusion in the record; objections
1.826	Inclusion in record.

SUBPENAS

Sec.	
1.831	Who may sign and issue.
1.832	Requests; verification and content.
1.833	Witness fees.
1.834	Service of subpoenas; return.

HEARINGS AND DECISIONS

1.840	Applicability.
1.841	Exchange of exhibits and information; commencement of hearing procedure in cases involving broadcast applications for authority to construct broadcast facilities.
1.842	Order of procedure.
1.843	Designation of presiding officers.
1.844	Authority of presiding officers.
1.845	Hearing before more than one person.
1.846	Closing of the hearing.
1.847	Certification of transcript.
1.848	Corrections to transcripts.
1.849	Proposed findings and conclusions.
1.850	Contents of findings of fact and conclusions.
1.851	Initial and recommended decisions.
1.852	Waiver of initial or recommended decision.
1.853	Appeal and review of initial decision.
1.854	Exceptions; oral arguments.
1.855	Limitation of matters to be reviewed.
1.856	Number of copies.
1.857	Final decision of the Commission.
1.858	Separation of functions.
1.859	The record.

EVIDENCE

1.871	Rules of evidence.
1.872	Cumulative evidence.
1.873	Further evidence during hearing.
1.874	Documents containing matter not material.
1.875	Documents in foreign language.
1.876	Copies of exhibits.
1.877	Mechanical reproductions as evidence.
1.878	Tariffs as evidence.
1.879	Proof of official record; authentication of copy.
1.880	Proof of lack of record.
1.881	Other proof of official record.

REMARKS

1.891	Cross reference.
1.892	Who may file.
1.893	Contents; relief requested.
1.894	Time for filing.
1.895	Opposition.
1.896	Special calendar when granted.

Appendix 1—Applications under the Cable Landing Licenses Act and Executive Order No. 10530.

Appendix 2—A plan of cooperative procedure in matters and cases under the provisions of section 410 of the Communications Act of 1934.

AUTHORITY: §§ 1.301 to 1.896 issued under sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Statutory provisions interpreted or applied are cited to text in parentheses.

Table showing forms currently in effect and where they are referred to in Part 1 of this chapter.

Form No.:	Section
301.....	1.311 (a), 1.319 (b) (1).
301-A.....	1.309 (n).
302.....	1.317 (b) (1), 1.318 (b) (1), 1.328.
303.....	1.320 (c) (1).
308.....	1.327.
309.....	1.311 (b), 1.319 (b) (2).
310.....	1.317 (b) (2).
311.....	1.320 (c) (2).
313.....	1.311 (c), 1.317 (b) (3), 1.319 (b) (3), 1.320 (c) (3).
314.....	1.321 (a).
315.....	1.321 (a).
316.....	1.321 (a) and (b), footnote 6 to 1.343 (a) (2).

Form No.:	Section
317	1.325 (b).
318	1.309 (b).
321	1.314 (c).
323	1.343 (a) and (b)
324	1.341.
336	1.347, 1.557 (a).
337	1.347, 1.557 (a).
338-A	1.560.
338-B	1.560.
340	1.311 (d), 1.319 (b) (4).
341	1.317 (b) (4), 1.318 (b) (2).
342	1.320 (c) (4).
400	1.312 (a), 1.317 (b) (5), 1.319 (b) (5), 1.322 (b) (1).
400-A	1.312 (b), 1.314 (b), 1.319 (b) (6).
401	1.312 (c).
401-A	1.312 (d).
403	1.317 (b) (6), 1.319 (b) (7).
404	1.318 (b) (3), 1.319 (b) (8).
405	1.320 (c) (5).
405-A	1.320 (c) (6).
408	1.324 (c) (1).
410	1.310.
453-B	1.324 (d).
480	1.312 (e).
481	1.318 (b) (5).
481-1	1.320 (c) (7).
482	1.335.
501	1.318 (b) (6), 1.319 (b) (9).
501-A	1.318 (b) (7), 1.319 (b) (10).
505	1.318 (b) (8), 1.319 (b) (11).
525	1.318 (b) (9), 1.319 (b) (12).
602	1.318 (b) (10), 1.319 (b) (13).
610	1.318 (b) (11), 1.319 (b) (14).
701	1.314 (b).
702	1.322 (b) (2).
703	1.322 (b) (3).
753-1	1.329 (a).
756	1.329 (a).
759	1.329 (c).
786	1.713 (a).
801	1.330 (a).
808	1.330 (c).
809	1.330 (b).
820	1.331.
820-A	1.331.
901	1.545.
903	1.545.
905	1.545.
H	1.544 (a) (1).
L	1.544 (a) (6).
M	1.544 (a) (2) and (6).
O	1.544 (a) (3).
R	1.544 (a) (4).

SUBPART A [RESERVED]

SUBPART B [RESERVED]

SUBPART C [RESERVED]

SUBPART D—RULES RELATING TO APPLICATIONS AND PROCEEDINGS AFFECTING RADIO LICENSES UNDER TITLE III OF THE COMMUNICATIONS ACT¹

¹ Special provisions respecting procedure for consideration of applications for standard broadcast station assignments pending action with respect to ratification and entry into force of the North American Regional Broadcasting Agreement (NARBA), Washington, 1950, and in the light of the existing relationship in the field of standard broadcasting between the United States and other North American countries.

1. The special procedural provisions set out below with respect to the consideration of applications for standard broadcasting

station assignments are adopted in order to take into account the policy set out in the note to § 3.28 (b) of this chapter. That note has reference to consideration by the Commission of applications for standard broadcast station assignments in the light of provisions of the North American Regional Broadcasting Agreement, Washington, 1950, referred to herein as NARBA, and the existing relationship in the field of standard broadcasting between the United States and other North American countries. The procedure set forth below is applicable to all applications before the Commission for standard broadcast station assignments except those already being held in a pending status in connection with Dockets Nos. 6741 and 8333.

APPLICATIONS INCONSISTENT WITH NARBA OR WHICH WOULD CAUSE OBJECTIONABLE INTERFERENCE TO STATIONS IN NORTH AMERICAN COUNTRIES NOT SIGNATORY TO THE NARBA

2. *Applications not in hearing status.* (a) Whenever it appears with respect to an application not in hearing status that a grant thereof would be inconsistent with the NARBA or that the operation proposed therein would cause objectionable interference to a station in a North American country not signatory to the NARBA, such application shall, by action of the Secretary upon advice of the Chief of the Broadcast Bureau, be placed in the pending file and, except as provided herein, shall not receive further consideration or action pending modification of the policy set forth in the above-mentioned note to § 3.28 (b) of this chapter. Where it appears that any such application is mutually exclusive with an application or applications, the grant of which would not be inconsistent with the NARBA and would not result in objectionable interference to any station in a North American country not signatory to the NARBA, such application will be designated for hearing in consolidation with the application or applications with which it is in conflict. In such cases, the question of consistency with the NARBA or objectionable interference to stations in North American countries not signatory to the NARBA shall be made a matter of issue in the hearing.

3. *Applications in hearing status.* (a) Whenever it appears with respect to any application which has been designated for hearing by itself or with respect to all of the applications in any consolidated proceeding that a grant of the application or applications involved would be inconsistent with the NARBA or would result in objectionable interference to a station in a North American country, not signatory to the NARBA, and where the hearing involved has not been commenced, such application or applications will be removed from the hearing docket and placed in the pending file. Where the hearing involved has been commenced, such application or applications will be placed in the pending file, but will not be removed from the hearing docket. Such action shall be by order and may be taken by the Commission upon its own motion or by the Motions Commissioner upon motion of any party to the proceeding or of the Chief of the Broadcast Bureau.

(b) Whenever it appears with respect to one or more but not all of the applications in any consolidated proceeding that a grant of such application or applications would be inconsistent with the NARBA or would result in objectionable interference with stations in a North American country not signatory to the NARBA and where consistency with the NARBA or interference to foreign stations is not already a matter at issue in the proceeding, the notice of hearing will be amended to include an appropriate issue and if the record has been closed it will be reopened for the purpose of taking testimony with respect to such issue. Such ac-

tion will be taken by the Commission upon its own motion or upon motion of any party to the proceeding or the Chief of the Broadcast Bureau.

(c) In any proceeding in which after the hearing has commenced it becomes necessary to place the applications involved in the pending file or to add, with respect to any application or applications, an issue concerning consistency with the NARBA or interference to foreign stations the applicants concerned will, notwithstanding the status of the proceeding and the provisions of § 1.365 (a), be afforded a reasonable opportunity to amend for the purpose of achieving consistency with the NARBA and eliminating interference to foreign stations.

(d) In any proceeding in which there is an issue concerning consistency with the NARBA or interference to foreign stations the presiding officer will include in his decision a finding upon this issue. However, neither the presiding officer nor the Commission will take this factor into account in arriving at a determination whether the grant of any application in the proceeding would serve the public interest. The presiding officer and the Commission will adhere to the policy outlined below in taking final or intermediate action upon the applications involved in such proceedings.

(1) Applications will be granted where such action would not be inconsistent with the NARBA, would not result in interference to a station in a North American country not signatory to the NARBA, and would otherwise be in the public interest.

(11) Applications will be denied (a) which are mutually exclusive with an application granted in accordance with (1) above; and (b) where a denial is required for reasons independent of the question whether grant of application would be consistent with the NARBA or would result in objectionable interference to a station in a North American country not signatory to the NARBA.

(111) Applications will be placed in the pending file without removal from the hearing docket (a) where a grant would be inconsistent with the NARBA or would result in interference to a station in a North American country not signatory to the NARBA but would otherwise be in the public interest; and (b) where a denial would be based upon comparative consideration with an application placed in the pending file in accordance with the immediately preceding subdivision (11) (a).

4. *General provisions with respect to applications placed in the pending file.* (a) whenever any application is placed in the pending file pursuant to paragraphs 2 or 3 above, the applicant concerned will be notified and public notice of the action will be given at the offices of the Commission in Washington, D. C. The Commission will maintain a list of all applications placed in the pending file which list will be available for public inspection. Any interested applicant who believes that an application has been erroneously placed in the pending file may petition the Commission for a review of its action or the Secretary's action. Petitions requesting that an application be placed in the pending file will also be entertained. All petitions filed pursuant to this paragraph must be filed in quintuplicate and be accompanied by an affidavit of a qualified radio engineer setting forth the engineering basis for the petition. Upon receipt of a petition filed in accordance with this paragraph, the Commission will review the action to which the petition is directed and provide opportunity for the submission by interested parties of any further data that may be required for full consideration of the matter.

5. *Applications consistent with the NARBA.* As a matter of general practice, except as provided in the procedure set out above, applications consistent with the NARBA which do

GENERAL REQUIREMENTS AS TO APPLICATIONS

§ 1.301 *Applications required.*² (a) Construction permits, modifications of construction permits, operator and station licenses, renewal of operator and station licenses, modification of station licenses, special temporary authorizations, special service authorizations, assignment of construction permits or licenses and consent to transfer control of a corporation holding a construction permit or license, shall be granted only upon written, subscribed, and verified application upon forms prescribed by the Commission. A separate application shall be filed for each instrument of authorization requested. In cases arising in services other than broadcast, however, where a licensee holds several licenses which are identical in terms, or which are identical with the exception of station locality, and in other cases in the discretion of the Commission, a single application may be filed for renewal or modification of such licenses, provided such single application sets forth in detail an accurate description of the individual licenses sought to be renewed or modified. In cases of emergency, the Commission may issue, for a period not in excess of three months, licenses, renewal of licenses or modification of licenses for stations on vessels or aircraft of the United States, without a formal application. In case of vessels at sea, the Commission may issue, by cable, telegraph, or radio, a permit for the operation of a station until the vessel returns to a port of the continental United States.

(b) Canadian licensees desiring to operate in the United States under the terms of Articles 2 and 3 of the Treaty between United States and Canada, effective May 15, 1952, are required to register and obtain a permit.

§ 1.302 *Place of filing and number of copies.* For places where applications must be filed and number of copies to be filed, see sections 0.409 through 0.414 of the Statement of Organization, Delegations of Authority and Other Information.

§ 1.303 *Subscription and verification of applications.* Each application or amendment thereto shall be personally subscribed and verified or affirmed according to law: (a) By the party filing such application or amendment, or by one of the parties, if there be more than one; (b) by an officer of the party filing the application or amendment if the

not propose operations which would cause interference to stations in North American countries not signatory to the NARBA will be considered and acted upon by the Commission in accordance with its established procedure, even though the NARBA may not yet have entered into force. In particular cases involving applications consistent with the NARBA but in which special considerations of an international nature require that a different procedure be followed, the applicant or applicants involved will be formally advised to that effect.

² For additional information relative to applications see the respective rules relating to each service.

party be a corporation: *Provided, however,* That subscription and verification may be made by the attorney for the party (1) in case of physical disability of the party, or (2) his absence from the continental United States. If it be made by a person other than the party, he must set forth in the verification the grounds of his belief as to all matters not stated upon his knowledge and the reason why it is not made by the party. Where more than one copy of an application is required to be filed with the Commission, only the original need be signed and verified; the copies may be conformed.

§ 1.304 *Contents of applications.* Each application (unless otherwise directed) shall be specific with regard to frequency or frequencies, power, hours of operation, equipment, location of the station, and other information required by the application forms.³ An application for broadcast facilities in the standard, FM, or television bands shall be limited to one frequency and an application for radio station construction permit or license requesting alternate facilities will not be accepted. An application for a television broadcast station must request a specific channel provided for in table of assignments (§ 3.606 of this chapter) for the city in which the applicant proposes to construct a station.

§ 1.305 *Full disclosures.* Each application shall contain full and complete disclosures with regard to the real party or parties in interest, and their legal, technical, financial, and other qualifications, and as to all matters and things required to be disclosed by the application forms

§ 1.306 *Additional statements.* The Commission may require an applicant to submit such documents and written statements of fact, under oath, as in its judgment may be necessary.

§ 1.307 *Form of amendments to applications.* Any amendment to an application shall be subscribed, verified, and submitted in the same manner, and with the same number of copies, as was the original application.

§ 1.308 *Amendments of applications ordered.* The Commission may, upon its own motion or upon motion of any party to a proceeding, order the applicant to amend his application so as to make the same more definite and certain.

RULES RELATING TO FILING OF APPLICATIONS AND DESCRIPTION OF APPLICATION FORMS

§ 1.309 *Special forms.* (a) FCC Form 301-A, "Request for Modification of Broadcast Station Authorization (Remote Control)." For use by existing broadcast licensees or permittees applying for permit to operate a standard or FM broadcast station from a remote control point.

(b) FCC Form 318, "Request For Subsidiary Communications Authorizations." For use by existing FM broadcast licensees applying for permit to

³ Applications for FM facilities filed before July 1, 1947, need not specify a particular frequency unless the applicants are directed to do so by the Commission.

establish a SCA service, modification of SCA, renewal of SCA, and assignment and transfer of SCA.

§ 1.310 *FCC Form 110, Application of Canadian Radio Station Licensees for Registration and Permit to Operate in the United States.* For use of Canadian licensees applying for a permit for operation in the United States in accordance with the terms of the treaty between the United States and Canada relating to mutual recognition of certain radio station and operator licenses issued by either country.

§ 1.311 *Application forms for authority to construct a new station or make changes in an existing station; broadcast services.* Applications for new facilities or modification of existing facilities in the broadcast services including standard, FM, television, international, experimental (experimental television, experimental facsimile and developmental), and auxiliary (remote pickup broadcast, broadcast STL, FM inter-city relay, television pickup, television STL and television inter-city relay) shall be made on the following forms:

(a) FCC Form 301 "Application for Authority to Construct a New Broadcast Station or Make Changes in an Existing Broadcast Station."

(b) FCC Form 309, "Application for Authority to Construct or Make Changes in an Existing International, Experimental Television, Experimental Facsimile, or a Developmental Broadcast Station."

(c) FCC Form 313, "Application for Authorization in the Auxiliary Broadcast Services."

(d) FCC Form 340, "Application for Authority To Construct or Make Changes in a Noncommercial Educational FM Broadcast Station."

§ 1.312 *Application forms for construction permit or modification thereof; radio services other than broadcast.* Applications for new facilities or modifications thereof in the Fixed Public Radio Services, Experimental Radio Services, Coastal and Marine Relay Services, Aviation Services, Public Safety Radio Services, Industrial Radio Services, Land Transportation Radio Services, and Radio Stations in Alaska shall be made on the following forms except as noted:

(a) FCC Form 400 "Application for Radio Station Authorization in Public Safety, Industrial and Land Transportation Radio Services." This form is used in these services for New Station, Modification, Renewal, Assignment of Authorization, or License to cover Construction Permit.

(b) FCC Form 400-A "Request for Amendment of Radio Station Authorization." This form may be used when requesting certain amendments to an existing radio station authorization, in the Public Safety, Industrial and Land Transportation Radio Services, as enumerated on the form and specified in the rules for the particular service.

(c) FCC Form 401 "Application for new or modified Radio Station Construction Permit (other than Broadcast, Pub-

lic Safety, Industrial, or Land Transportation Radio Services)."

(d) FCC Form 401-A, "Description of Proposed Antenna Structure(s) (services other than Broadcast)."

(e) FCC Form 480, "Application for Civil Air Patrol Radio Station Construction Permit and License."

§ 1.313 *Installation or removal of apparatus; broadcast and nonbroadcast.* Application for construction permit or modification thereof involving the installation of new transmitting apparatus shall be filed at least sixty days prior to the contemplated installation.

NOTE: In the Public Safety, Industrial, and Land Transportation Radio Services replacement of transmitting equipment may be made without prior authorization provided the replacement transmitters appear on the Commission's "List of Equipments Acceptable for Licensing" and designated for use in the Public Safety, Industrial and Land Transportation Radio Services and provided the substitute equipment employs the same type of emission and does not exceed the power limitations as set forth in the station authorization.

§ 1.314 *Application for extension of construction permit or for construction permit to replace expired construction permit (broadcast); application for extension of construction permit (non-broadcast).* (a) A construction permit shall be automatically forfeited if the station is not ready for operation within the time specified therein or within such further time as the Commission may have allowed for completion, and a notation of the forfeiture of any construction permit under this provision will be placed in the records of the Commission as of the expiration date.

(b) Application for extension of time within which to construct a station shall be filed on FCC Form 701, except in the Public Safety, Industrial, and Land Transportation Radio Services when FCC Form 400-A shall be used. Such application shall be filed at least 30 days prior to the expiration date of the construction permit if the facts supporting such application for extension are known to the applicant in time to permit such filing. In other cases such applications will be accepted upon a showing satisfactory to the Commission of sufficient reasons for filing within less than 30 days prior to the expiration date. Such applications will be granted upon a specific and detailed showing that the failure to complete was due to causes not under the control of the grantee, or upon a specific and detailed showing of other matters sufficient to justify the extension.

(c) In the broadcast services, when it is desired to replace an expired construction permit, application shall be made on FCC Form 321, "Application for Construction Permit to Replace Expired Permit."

§ 1.315 *Application for equipment tests or for service or program tests; broadcast and nonbroadcast.* Where the rules applicable to the particular service concerned require the filing of an application for authority to conduct equipment tests or service or program tests

or notification to any office of the Commission of the commencement of such tests, such application or notification may be informal.

§ 1.317 *Application for license following construction permit.* (a) In all cases where a construction permit is required for the construction of a station, the application for station license (or for station license or modification thereof, if for station other than broadcast) shall be filed by permittee prior to service or program tests.

(b) The following application forms shall be used:

(1) FCC Form 302, "Application for New Broadcast Station License."

(2) FCC Form 310, "Application for an International, Experimental Television, Experimental Facsimile, or a Developmental Broadcast Station License."

(3) FCC Form 313, "Application for Authorization in the Auxiliary Broadcast Services."

(4) FCC Form 341, "Application for Noncommercial Educational FM Broadcast Station License."

(5) FCC Form 400 "Application for Radio Station Authorization in the Public Safety, Industrial and Land Transportation Radio Services." Check Item 16 to indicate application is for License to cover Construction Permit.

(6) FCC Form 403, "Application for Radio Station License or Modification Thereof (other than broadcasting, amateur, ship, and aircraft)."

§ 1.318 *Application for station license where no construction permit is required.* (a) Where a construction permit is not required by the Communications Act or the applicable rules and regulations of the Commission, an application for a new station license shall be filed at least 60 days prior to the contemplated operation of the station. In emergency and for good cause shown, the Commission may waive the requirements of this section.

(b) The following application forms should be used:

(1) FCC Form 302, "Application for broadcast station license." To be used for all applications for license to use the former main transmitter as the auxiliary transmitter when no new construction is involved, and for regular authorization covering special experimental authorization.

(2) FCC Form 341 "Application for Noncommercial Educational FM Broadcast Station License." To be used for all applications for license to use the former main transmitter as the auxiliary transmitter when no new construction is involved.

(3) FCC Form 404, "Application for Aircraft Radio Station License."

(4) [Reserved.]

(5) FCC Form 481, "Application for Authority to Operate a Station in the Radio Amateur Civil Emergency Service."

(6) FCC Form 501, "Application for Ship Radio Station Licenses."

* Applications for amateur station license need not be filed 60 days prior to the contemplated operation of the station.

(7) FCC Form 501-A, "Application for Ship Radiotelephone Station License."

(8) FCC Form 505, "Application for Citizens Radio Station Construction Permit and License."

(9) FCC Form 525, "Application for Disaster Communications Radio Station Construction Permit and License."

(10) FCC Form 602, "Application for Amateur Station License (under special provisions of Section 12.61 of the Commission's Rules)"—to be used for a station of amateurs in the armed forces when located in approved public quarters but not operated by the United States Government.

(11) FCC Form 610, "Application for Amateur Radio Operator and/or Station License."

§ 1.319 *Application for modification of license; broadcast and nonbroadcast.*

(a) An application for modification of license, except amateur, and except as otherwise provided by regulations in this part, may be filed for change in frequency, change in operating power where no construction is necessary, change in hours of operation, and for change in name of licensee where no change in ownership or control is involved. In case of a broadcast station, an application for modification of license may be filed for change in location of main studio. In case of all stations other than broadcast, an application for modification of license may be filed for change in points of communication, change in nature of authorized service, and to cover an outstanding construction permit where the station is already licensed. Except when filed to cover construction permit, each application for modification of license shall be filed at least 60 days prior to the contemplated modification of license: *Provided, however,* That in emergencies and for good cause shown, the requirements hereof may be waived insofar as time for filing is concerned.

(b) The following application forms should be used:

(1) FCC Form 301, "Application for Authority to Construct a New Broadcast Station or Make Changes in an Existing Broadcast Station." To be used for all applications for modification of any term of an existing authorization of a broadcast station (except in the International, Facsimile, Experimental, or Auxiliary Broadcast Services).

(2) FCC Form 309, "Application for Authority to Construct or Make Changes in an Existing International, Experimental Television, Experimental Facsimile, or a Developmental Broadcast Station."

(3) FCC Form 313, "Application for Authorization in the Auxiliary Radio Broadcast Services."

(4) FCC Form 340, "Application for Authority to Construct or make Changes in a Noncommercial Educational FM Broadcast Station." To be used for all applications for modification of any term of an existing authorization for a non-commercial educational FM broadcast station.

(5) FCC Form 400, "Application for Radio Station Authorization in the Public Safety, Industrial, and Land Transportation Radio Services." Check Item 16 to indicate application is for Modification.

(6) FCC Form 400-A, "Request for Amendment of Radio Station Authorization."

(7) FCC Form 403, "Application for Radio Station License or Modification Thereof (other than broadcasting, amateur ship, or aircraft)."

(8) FCC Form 404, "Application for Aircraft Radio Station License."

(9) FCC Form 501, "Application for Ship Radio Station Licenses."

(10) FCC Form 501-A, "Application for Ship Radiotelephone Station License."

(11) FCC Form 505, "Application for Citizens Radio Station Construction Permit and License."

(12) FCC Form 525, "Application for Disaster Communications Radio Station Construction Permit and License."

(13) FCC Form 602, "Application for Amateur Station License (under special provisions of Section 12.61 of the Commission's Rules)"—To be used for a station of amateurs in the armed forces when located in approved public quarters but not operated by the United States Government.

(14) FCC Form 610, "Application for Amateur Radio Operator and/or Station License."

§ 1.320 *Application for renewal of license; broadcast and nonbroadcast.*

(a) Unless otherwise directed by the Commission each application for renewal of license of a standard broadcast, FM broadcast, noncommercial educational FM broadcast, television broadcast station and an auxiliary broadcast station (remote pickup broadcast, broadcast STL, television pickup, television STL and television inter-city relay) shall be filed at least 90 days prior to the expiration date of the license sought to be renewed; and each application for renewal of license of a non-broadcast station shall be filed at least 60 days prior to the expiration date of the license sought to be renewed. No application for renewal of license of a broadcast station² will be considered unless there is on file with the Commission the information currently required by §§ 1.341 to 1.344 reference to which by date and file number shall be included in the application.

(b) Whenever the Commission regards an application for a renewal of license as essential to the proper conduct of a hearing or investigation, and specifically directs that it be filed by a date certain, such application shall be filed within the time thus specified. If the licensee fails to file such application within the prescribed time, the hearing or investigation shall proceed as if such renewal application had been received.

² The 60-day requirement does not apply to amateurs.

³ This requirement does not apply to non-commercial educational FM broadcast stations.

(c) The following application forms should be used:

(1) FCC Form 303, "Application for renewal of broadcast station license."

(2) FCC Form 311, "Application for Renewal of an International, Experimental Television, Experimental Broadcast, Facsimile, or a Developmental Broadcast Station License." To be used for all applications for renewal of licenses of International, Experimental Television, Experimental Facsimile, and Developmental Broadcast stations.

(3) FCC Form 313, "Application for Authorization in the Auxiliary Broadcast Services." To be used for all applications for renewal of regular licenses of auxiliary (remote pick-up and ST) radio broadcasting stations.

(4) FCC Form 342, "Application for Renewal of Noncommercial Educational FM Broadcast Station License."

(5) "FCC Form 405, Application for Renewal of Radio Station License." To be used for requesting renewal of license for those stations authorized under Parts 5 and 6 of this chapter.

(6) "FCC Form 405-A, Application for Renewal of Radio License (Short Form)." To be used for requesting renewal of those licenses issued under Parts 7, 8, 9, 10, 11, 12, 14, 16, 19, and 20 of this chapter.

(7) FCC Form 481-1, "Application for Authority to Operate a Station in the Radio Amateur Civil Emergency Service." To be used for all applications for renewal of authorizations of radio amateur civil emergency stations.

§ 1.321 *Application for voluntary assignment or transfer of control; broadcast.*

(a) Applications for consent to the assignment of construction permit or license for an AM, FM, television or other broadcast station or for consent to the transfer of control of a corporation holding such a construction permit or license shall be filed with the Commission on FCC Form No. 314 (Assignment of License), FCC Form No. 315 (Transfer of Control), or FCC Form 316 (Short Form). Such applications shall be filed with the Commission at least 60 days prior to contemplated effective date of assignment or transfer of control.

(b) Pro forma assignment or transfer applications shall be filed on FCC Form 316. Such cases are defined as cases in which:

(1) There is an assignment from an individual or individuals (including partnerships) to a corporation owned and controlled by such individuals or partnerships without any substantial change in their relative interests;

(2) There is an assignment from a corporation to its individual stockholders without effecting any substantial change in the disposition of their interests;

(3) There is an assignment or transfer by which certain partners or stockholders retire but no new ones are brought in, provided that the interest transferred is not a controlling one;

(4) There is a corporate reorganization which involves no substantial change in the beneficial ownership of the corporation;

(5) There is an involuntary transfer to an Executor, Administrator or other court appointed officer caused by death or legal disability except that this form does not cover assignments (or transfers) from the Executor, Administrator or other court appointed officers to the ultimate beneficiary;

(6) There is an assignment or transfer from a corporation to a wholly owned subsidiary thereof or vice versa, or where there is an assignment from a corporation to a corporation owned or controlled by the assignor stockholders without substantial change in their interests.

(7) There is an assignment of less than a controlling interest in a partnership.

§ 1.322 *Application for voluntary assignment or transfer of control; non-broadcast.* (a) Application for consent to voluntary assignment of a construction permit or license or for consent to voluntary transfer of control of a corporation holding a construction permit or license shall be filed with the Commission at least 60 days prior to the contemplated effective date of assignment or transfer of control.

(b) The following application forms should be used:

(1) FCC Form 400, "Application for Radio Station Authorization in the Public Safety, Industrial, and Land Transportation Radio Services" may be used for application for assignment of station authorization. Attached thereto shall be a notarized letter from proposed assignor stating his desire to assign his current authorization in accordance with the rules governing the particular service involved.

(2) FCC Form 702, "Application for Consent to Assignment of Radio Station Construction Permit or License (for stations in services other than Standard Broadcast)."

(3) FCC Form 703, "Application for Consent to Transfer of Control of Corporation Holding Construction Permit or Station License (for stations in services other than Standard Broadcast)."

§ 1.323 *Application for involuntary assignment or transfer of control; broadcast and nonbroadcast.*

In the event of a death or legal disability of a permittee or licensee, or a member of a partnership, or a person directly or indirectly in control of a corporation, which is a permittee or licensee:

(a) The Commission shall be notified in writing promptly of the occurrence of such death or legal disability, and

(b) Within 30 days after the occurrence of such death or legal disability (except in the case of a ship or amateur station), application shall be filed for consent to involuntary assignment of such permit or license or for involuntary transfer of control of such corporation to a person or entity legally qualified to succeed to the foregoing interests under the laws of the place having jurisdiction over the estate involved. The procedure and forms to be followed are the same as those specified in §§ 1.321 and 1.322. In the case of ship and amateur stations, involuntary assignment of licenses will

not be made; such licenses shall be surrendered for cancellation upon the death or legal disability of the licensee.

§ 1.324 *Application for special temporary authorization.* (a) Special temporary authority may be granted for the operation of a station (other than a standard broadcast station) for a limited time, or in a manner and to an extent or for service other or beyond that authorized in an existing license upon proper application therefor. No such request will be considered unless full particulars as to the purpose for which the request is made are stated and unless the request is received by the Commission at least 10 days previous to the date of proposed operation. A request received within less than 10 days may be accepted upon due showing of sufficient reasons for the delay in submitting such request.

(b) No application by a standard broadcast station for special temporary authority will be accepted by the Commission.

(c) The following application forms should be used:

(1) FCC Form No. 408, Application for Experimental or Special Temporary Authorization (fixed public radio services only), shall be used for new application and for extension or modification of existing authorization.

(2) In all other cases, informal application may be used.

(d) The purchasers of a new aircraft with factory-installed radio equipment may operate the radio station on their aircraft for a period of 30 days under Special Temporary Authority evidenced by a copy of a certificate (F. C. C. Form No. 453B) executed by the manufacturer, dealer or distributor, the original of which has been mailed to the Commission with the formal application for station license.

§ 1.325 *Application for special service authorization; broadcast.* (a) Special service authority may be issued to the licensee of a standard broadcast station or, in connection with the furnishing of facilities for service to the United States Government, to the licensee of an international broadcast station, for a service other or beyond that authorized in its existing license for a period not exceeding that of its existing license.

(b) Application for special service authorization must be made by formal application on FCC Form No. 317—"Application for Standard Broadcast Station Special Service Authorization or Extension Thereof"—and a satisfactory showing must be made in regard to the following, among others:

(1) That the requested operation may not be granted on a regular basis under the existing rules governing the operation of standard broadcast stations;

(2) That experimental operation is not involved as provided for by § 3.32 of this chapter;

(3) That public interest, convenience, and necessity will be served by the authorization requested.

§ 1.326 *Application for standard broadcast station experimental opera-*

tion. Special experimental authorization may be issued in accordance with § 3.32 of this chapter to the licensee of a standard broadcast station in addition to the regular license. An informal application should be used in applying for such authorization.

§ 1.327 *Application concerning programs to be transmitted to foreign radio stations.* Application under section 325 (b) of the Communications Act for authority to locate, use or maintain a radio broadcast studio in connection with a foreign radio station should be made on FCC Form 308, entitled "Application for permit to locate, maintain, or use studio or apparatus for production of programs to be transmitted or delivered to foreign radio station": *Provided*, That licensees or permittees of broadcast stations need not file applications on FCC Form 308 in those cases where the programs to be transmitted or delivered to a foreign radio station has been, is being, or will be broadcast in the United States by said licensee or permittee, but may make informal application for the authority sought.

§ 1.328 *Application to determine operating power by direct measurement of antenna power.* Application to determine operating power of broadcast stations by direct measurement of antenna power shall be made on FCC Form 302, "Application for New Broadcast Station License."

§ 1.329 *Application for radio operator license.* (a) Application for a new, renewed, replacement or duplicate commercial radio operator license or for an endorsement thereon, or for a verification card, shall be filed on FCC Form No. 756, entitled "Application for Commercial Radio Operator License or Permit": *Provided*, That application for a new restricted radiotelephone operator permit may be filed on FCC Form No. 753-1, entitled "Application for Restricted Radiotelephone Operator Permit by Declaration".

(b) Application for an amateur radio operator license is included with the application for station license. (See § 1.318.)

(c) FCC Form No. 759 should be used for filing statement relative to the posting of operator license.

§ 1.330 *Application for ship radio inspection or periodical survey of ships subject to compulsory radio requirements.* (a) Applications for ship radio inspection and certification of the ship radio license in accordance with the requirements of section 360 (b) of the Communications Act, and/or issuance of a Safety Convention certificate in accordance with the terms of Regulations 11 and 12, Chapter I, of the Safety Convention, should be submitted on FCC Form No. 801, entitled "Application for Ship Radio Inspection". This form should be forwarded to the radio district office nearest the desired port of inspection (see section 0.49 of the Statement of Organization, Delegations of Authority and Other Information).

(b) Applications for periodical survey as required by Article 11 of the Great

Lakes Agreement and certification prescribed by Article 12 thereof, should be submitted on FCC Form 809 "Application for Periodical Survey (Great Lakes Agreement)". This form should be forwarded to the radio district office nearest the desired place of survey (see section 0.49 of the Statement of Organization, Delegations of Authority and Other Information).

(c) Applications for inspection of ship radio equipment and apparatus for the purposes of Part II of Title III of the Communications Act of 1934, as amended, on a Sunday or a national holiday or during other than the established working hours on any other day, should be submitted on FCC Form 808, entitled "Application for and Certificate of Over-time Service Involving Inspection of Radio Equipment". This form should be forwarded to the radio district office nearest the desired port of inspection (see section 0.49 of the Statement of Organization, Delegations of Authority and Other Information).

§ 1.331 *Applications for exemption from compulsory ship radio requirements.* Applications for exemption filed under the provisions of section 352 (b) of the Communications Act of 1934, as amended, and Regulations 5 or 6, Chapter IV, of the Safety of Life at Sea Convention, London, 1948, shall be submitted on FCC Form 820, entitled "Application for Exemption". Applications for exemption filed under the provisions of Article 6 of the Great Lakes Agreement shall be submitted on FCC Form 820-A, entitled "Application for Exemption (Great Lakes Agreement)".

§ 1.332 *Informal applications.* (a) Whenever Commission authorization is required by the Communications Act or the Commission's rules and regulations in connection with any matter under title III of the act and no application form is specified in this subpart, informal application may be utilized.

(b) A partial list of some of the matters concerning standard broadcast operation as to which informal request may be made is given below:

- (1) To operate additional time.
- (2) To discontinue operation or services not covered by § 3.71 of this chapter.
- (3) To operate with additional power.
- (4) To operate with reduced power not covered by § 3.57 of this chapter.
- (5) To operate for test purposes (to determine site, etc.).
- (6) To rebroadcast programs of stations of other classes.
- (7) Other special temporary operation beyond terms of existing license.
- (8) Temporary operation without specified items of equipment or with auxiliary equipment:
 - (i) Operation without thermometer in automatic temperature control chamber.
 - (ii) Operation with temporary antenna system.
 - (iii) Operation with auxiliary transmitter as main transmitter.
 - (9) Operation with new or modified equipment pending repair of existing equipment, or pending receipt and action upon a formal application.

(10) Where formal application is not required, application for new or modified equipment or antenna system.

(11) Change of specifications for painting and lighting antenna towers where formal application is not required.

(12) Relocation of transmitter in same building.

(13) Operations with reduced power or time under §§ 3.57 and 3.71 of this chapter.

(14) Approval of types of equipment as to compliance with outstanding rules or standards.

(15) All authorizations for equipment and program tests, or extensions thereof, where it appears that compliance has been had with the terms of the construction permit.

(16) Extensions of time within which to comply with technical requirements specified in authorizations, orders, and rules or releases of the Commission.

(17) Representations of compliance with technical requirements specified in authorizations, orders, rules, or releases (except formal applications).

(18) Operation with licensed, new, or modified equipment at a temporary location with a temporary antenna system in case of an emergency when, due to causes beyond the control of the licensee, it becomes impossible to continue operating at the licensed location.

(c) Requests for type approval of equipment should be made by informal application. Arrangements should be made through the Bureau of Engineering for inspection and examination of the equipment in question.

(d) Requests from broadcast stations for extension of authority to operate without any of the following indicating instruments should be made by informal application to the Engineer in Charge of the radio district in which the station is located. Such requests must contain information as to when and what steps were taken to repair or replace the defective instrument.

(1) Frequency monitor.

(2) Modulation monitor.

(3) Plate ammeter or voltmeter.

(4) Base current meter or common point meter.

(5) Transmission line meter for FM and television stations.

§ 1.333 *Construction permits.* No construction permit is required for any class of station in the Maritime, Aviation, Public Safety, Industrial, Land Transportation, Citizens Radio, Disaster Communications, and Amateur Services except as follows: A construction permit is required for—

(a) All operational fixed stations;

(b) Land radiopositioning stations in the industrial radiolocation service;

(c) Public coast stations and limited Class I and Class II coast stations;

(d) Shore radiolocation, shore radio-navigation, and shore radar stations;

(e) Alaskan public fixed stations; and

(f) Any station involving the erection of a new antenna or changes in an existing antenna if

(1) The antenna structure proposed to be erected will exceed an overall height of 170 feet above ground level,

except in the case where the antenna is mounted on top of an existing man-made structure and does not increase the overall height of such man-made structure by more than 20 feet, or

(2) The antenna structure proposed to be erected will exceed an overall height of one foot above the established elevation of any landing area for each 200 feet of distance, or fraction thereof, from the nearest boundary of such landing area, except in the case where the antenna structure does not exceed 20 feet above the ground or is mounted on top of an existing man-made structure or natural formation and does not increase the overall height of such man-made structure or natural formation by more than 20 feet as a result of such mounting.

§ 1.334 *Applications for permission to use lesser grade operators at aural broadcast stations than required by Commission rules.* (a) Applications for temporary permission to operate standard and FM broadcast stations with licensed operators of a lesser grade than normally required by the Commission's rules shall be submitted to the Engineer in Charge of the Commission's district headquarters field office in the area where the station is located. Such permission will be granted for periods of not to exceed 120 days if a proper showing is made, as set forth in this section, and may be renewed upon request only upon the making of an adequate similar showing. Within 60 days of receiving an authorization for a longer period, a written report shall be submitted on behalf of the station setting forth what continuing efforts have been made to obtain licensed operators of a grade normally required by the Commission's rules. The Engineer in Charge may terminate this permission in the absence of a satisfactory showing in the written report that adequate efforts have been made to obtain such operators, or for other good reason in the judgment of the Engineer in Charge.

(b) Such applications or reports are not required to be submitted on any numbered or prescribed form. However, the request or report shall be in writing, signed by the licensee, if the licensee is an individual; by a partner, if the licensee is a partnership; or by an officer of the corporation, if the licensee is a corporation.

(c) A specific request for permission to use operators of lesser grade than required by the Commission's rules shall be included and the following information shall be furnished:

(1) Call letters of the station;

(2) Name of licensee;

(3) The number of persons holding radiotelephone first class operator licenses that will be employed as full-time operators at the station, (this does not include part-time employees and persons only available on call in case of emergencies);

(4) A showing that at least one first class operator will be employed full time at the station and will be available on call at all times in the event of equipment failure;

(5) A statement that the additional licensed radiotelephone first class operators required for maintaining the normal schedule of operation could not be obtained for employment at the station or in the event an operator of the required grade will not accept employment at the station or was rejected by the station, a statement showing the reason for the failure to employ such operators.

(6) A showing that all known sources of broadcast operators within a reasonable distance have been exhausted. Names and addresses of sources contacted and the date of such contact shall be stated.

(d) The chief operator holding a radiotelephone first class operator license at a station to which temporary permission has been granted shall mail to the Engineer in Charge of the area from whom permission is received, within three days after employment of a lesser grade operator, a written certification setting forth the name and operator license number of the lesser grade operator employed and stating that the operator has the ability to perform the normal operation of the station.

§ 1.335 *FCC Form 482, "Certification of Civil Defense Radio Officer."* To be used by the local Civil Defense Official when certifying as to the loyalty, integrity, and the technical and administrative qualifications of the Radio Officer.

RULES RELATING TO OTHER FORMS AND INFORMATION TO BE FILED WITH THE COMMISSION

§ 1.341 *Financial report, broadcast licensees and permittees.* Each licensee of a broadcast station (standard, FM, television and international) and each permittee of a broadcast station engaged in interim operation shall file with the Commission on or before April 1 of each year on Form 324 broadcast revenue and expense statements for the preceding calendar year together with a statement as to investment in tangible broadcast property as of December 31 of such calendar year.

§ 1.342 *Filing of contracts, broadcast licensees and permittees.* Each licensee or permittee of a standard, FM, television or international broadcast station shall file with the Commission within 30 days of execution thereof copies of the following contracts, instruments and documents, together with amendments, supplements and cancellations. The term "contract" as used in this section includes any contract, express or implied, oral or written. The substance of oral contracts shall be reported in writing:

(a) Contracts relating to network service. This provision does not require the filing of transcription agreements or contracts for the supplying of film for television stations which do not specify option time, contracts granting the right to broadcast music such as ASCAP, BMI, or SESAC agreements. Transcription agreements or contracts for the supplying of film for television stations which do specify option time must be filed.

(b) Contracts, instruments or documents relating to the present or future ownership or control of the licensee or permittee, or of the licensee's or permittee's stock, rights or interests therein, or relating to changes in such ownership or control. All contracts, instruments and documents exempted from the requirements of § 1.343 are similarly exempted in this section. The term "stock" includes any interest in legal or beneficial, right or privilege in connection with stock. The terms "officers" and "directors" include the comparable officials of unincorporated associations. This provision is limited to the following:

(1) Articles of partnership, association and incorporation and changes in such instruments.

(2) Bylaws and any instruments affecting changes in such bylaws.

(3) Any agreement, document or instrument affecting, directly or indirectly, the ownership or voting rights of the licensee's or permittee's stock (common or preferred, voting or non-voting stock), such as (i) agreements for transfer of stock, (ii) instruments for the issuance of new stock, (iii) or agreements for the acquisition of licensee's or permittee's stock by the issuing licensee or permittee corporation. Options to purchase stock, pledges, trusts agreements, and other executory agreements are required to be filed.

(4) Proxies with respect to the licensee's or permittee's stock running for a period in excess of one year; and all proxies, whether or not running for a period of one year, given without full and detailed instructions binding the recipient to act in a specified manner. With respect to the latter proxies given without full and detailed instructions, a statement showing the number of such proxies, by whom given and received, and the percentage of outstanding stock represented by each proxy shall be submitted by the licensee or permittee within 30 days after the stockholders' meeting in which the stock covered by such proxies has been voted: *Provided, however*, That when the permittee or licensee is a corporation having more than 50 stockholders, such complete information need be filed only with respect to proxies given by stockholders who are officers or directors or who have one percent or more of the corporation's stock. In cases where the permittee or licensee is a corporation having more than 50 stockholders and the stockholders giving the proxies are neither officers or directors nor hold one percent or more of the corporation's stock, the only information required to be filed is the name of any person voting one percent or more of the stock by proxy, the number of shares voted by proxy by such person, and the total number of shares voted at the particular stockholders' meeting in which the aforesaid shares were voted by proxy.

(5) Mortgage or loan agreements containing provisions restricting the licensee's or permittee's freedom of operation, such as those specifying or limiting the amount of dividends payable, the purchase of new equipment,

the maintenance of current assets, etc.

(6) Any agreement reflecting a change in the officers, directors, or stockholders of a corporation other than the licensee or permittee having an interest, direct or indirect, in the licensee or permittee as specified by § 1.343.

(c) Contracts relating to the sale of broadcast time to "time brokers" for resale.

(d) Contracts relating to functional music operations such as "storecasting", "transitcasting", "background music", and similar services. This provision does not require the filing of contracts granting functional music licensees or permittees the right to broadcast copyright music.

(e) Time sales contracts with the same sponsor for 4 or more hours per day, unless the length of the events broadcast pursuant to the contract is not under control of the station, such as athletic contests, musical programs and special events.

(f) Contracts relating to the utilization in a management capacity of any person other than an officer, director, or regular employee of the licensee or permittee station, and management contracts with any persons, whether or not officers, directors, or regular employees which provide for both a percentage of profits and a sharing in losses. With the above exceptions, this provision does not require the filing of agreements with persons regularly employed as general or station managers or salesmen, contracts with program managers or program personnel, contracts with Chief Engineers or other engineering personnel, contracts with consulting radio engineers, attorneys, or accountants, contracts with performers, contracts with station representatives, contracts with labor unions, or any similar agreements. It does require the filing of management consultant agreements with independent contractors.

§ 1.343 *Ownership reports, broadcast licensees and permittees.* (a) The licensee of each broadcast station shall file an Ownership Report (FCC Form 323) at the time the application for renewal of station license is required to be filed: *Provided, however*, That licensees owning more than one Standard, FM or Television broadcast station shall file the Ownership Report together with the first application for renewal of station license filed on or after February 1, 1954, and at three-year intervals thereafter. Ownership Reports shall give the following information as of a date not more than 30 days prior to the filing of the Ownership Report:

(1) In the case of an individual, the name of such individual.

(2) In the case of a partnership, the names of the partners and the interests of each partner.⁴

⁴ Any change in partners or in their rights will require prior consent of the Commission upon an application for consent to assignment of license or permit. If such change involves less than a controlling interest, the application for Commission consent to such change may be made upon FCC Form No. 316 (Short Form).

(3) In the case of a corporation or association: (i) Capitalization, with a description of the classes and voting power of stock authorized and the shares of each class issued and outstanding; (ii) the name, residence, citizenship, and stockholdings of officers and directors, and stockholders; (iii) full information with respect to the interest and identity of any person whether or not a stockholder of record, having any interest direct or indirect, in the licensee or any of its stock;

For example:

(a) Where A is the beneficial owner or votes stock held by B, the same information should be furnished for A as is required for B.

(b) Where X corporation controls the licensee, or holds 25 percent or more of the stock of the licensee, the same information should be furnished with respect to X corporation (its capitalization, officers, directors, and stockholders and the amount of stock in X held by each) as is required in the case of the licensee, together with full information as to the identity and citizenship of the person authorized to vote licensee's stock.

(c) The same information should be furnished as to Y corporation if it controls X corporation or holds 25 percent or more of the stock of X, and as to Z corporation if it controls Y corporation or holds 25 percent or more of the stock of Y and so on back to natural persons.

(iv) Full information as to family relationship or business association between two or more officials and/or stockholders.

(4) In the case of all licensees (i) a list of all contracts still in effect required to be filed with the Commission by § 1.342 showing the date of execution and expiration of each contract; (ii) any interest which the licensee may have in any other broadcast station.

(b) A supplemental Ownership Report (FCC Form 323) shall be filed by each licensee or permittee within 30 days after any change⁵ occurs in the information required by the Ownership Report (the application or construction permit in the case of a permittee who has not filed an ownership report) from that previously reported. Such report shall include without limitation:

(1) Any change in capitalization or organization.

(2) Any change in officers and directors.

(3) Any transaction affecting the ownership, direct or indirect, or voting rights of licensee's or permittee's stock, such as (i) a transfer of stock, (ii) issuance of new stock or disposition of treasury stock, (iii) acquisition of licensee's or permittee's stock by the issuing corporation.

(4) Any change in the officers, directors, or stockholders of a corporation other than the licensee or permittee such as X, Y, or Z corporation described in the example in paragraph (a) (3) of

⁵ Before any change is made in the organization, capitalization, officers, directors, or stockholders of a corporation other than licensee or permittee, which results in a change in the control of the licensee or permittee, prior Commission consent must be received under section 310 (b) of the Communications Act and § 1.321.

this section: *Provided, however*, That in the case of a change in the officers, directors, or stockholders of a corporation other than the licensee or permittee (such as X, Y, or Z corporation described in the example in paragraph (a) (3) of this section), such change need not be reported in the supplemental report unless that corporation directly or indirectly owns 25 percent or more of the voting stock in the licensee or permittee.

(c) Exceptions: Where information is required under paragraphs (a) or (b) of this section with respect to a corporation having more than 50 stockholders, such information need be filed only with respect to stockholders who are officers or directors of the corporation, or of other stockholders who have 1 percent or more of the stock of the corporation.

§ 1.344 *Definitions of terms used in §§ 1.341-1.343.* As used in §§ 1.341-1.343:

(a) "Stock" shall include any interest, legal or beneficial in, or right or privilege in connection with stock.

(b) "Officer" and "director" shall include the comparable officials in unincorporated associations.

(c) "Contract" shall include any agreement (including, without limitation, an option, trust, or pledge) or any modification thereof, express or implied, oral or written.

§ 1.346 *Reports in connection with certain fixed public radio service operations.* Monthly and quarterly reports must be filed with the Commission in connection with certain fixed public radio service operations. No form is prescribed. A complete description of the contents of these reports is contained in §§ 6.41 and 6.53 of this chapter.

§ 1.347 *Reports to be filed by international and coastal radiotelegraph carriers.* Commission Orders Nos. 85 and 86 require international telegraph carriers to file on FCC Form No. 336 and common carriers engaged in radiotelegraph communication with maritime mobile stations (with certain exceptions) to file on FCC Form No. 337 certain traffic information at periodic intervals. A complete description of these reports is set forth in Orders Nos. 85 and 86.

RULES RELATING TO ACCEPTANCE, AMENDMENT, OR DISMISSAL OF APPLICATION

§ 1.361 *Defective applications.* (a) Applications which are defective with respect to completeness of answers to required questions, execution or other matters of a purely formal character will not be received for filing by the Commission, unless the Commission shall otherwise direct, and will be returned to the applicant with a brief statement as to the omissions.

(b) If an applicant is requested by the Commission to file any documents or information not included in the prescribed application form, a failure to comply with such request will constitute a defect in the application.

(c) Applications which, because of the nature of the particular rule, regulation, or requirement involved, are patently not in accordance with the Commission's rules, regulations, or other requirements

will be considered defective and will be dismissed unless accompanied by a request of the applicant for waiver of, or exception to, any rule, regulation, or requirement with which the application requirement with which the application is in conflict. Such requests shall show the nature of the waiver or exception desired and set forth the reasons in support thereof.

(d) Applications found to be complete are accepted for filing and are given a file number. Public notice of broadcast applications accepted for filing is given at regular intervals.

§ 1.362 *Inconsistent or conflicting applications.* When an applicant has an application pending and undecided, no other inconsistent or conflicting application filed by the same applicant, his successor or assignee, or on behalf or for the benefit of said applicant, will be considered by the Commission.

§ 1.363 *Repetitious applications.* (a) Where the Commission has, for any reason, denied an application for a new station, or for any modification of services or facilities, or dismissed such application with prejudice, the Commission will not consider a like application involving service of the same kind to substantially the same area by substantially the same applicant, or by its successor or assignee, or on behalf of or for the benefit of the original parties in interest, until after the lapse of 12 months from the effective date of the Commission's order. The Commission may, for good cause shown, waive the requirements of this section.

(b) Where an appeal has been taken from the action of the Commission in denying a particular application, another application for the same class of broadcast station and for the same area, in whole or in part, filed by the same applicant or by his successor or assignee, or on behalf of or for the benefit of the original parties in interest, will not be considered until the final disposition of such appeal.

§ 1.364 *Multiple applications; broadcast service.* In the broadcast service, while there is one application for new or additional facilities pending for a standard, international, television, facsimile, FM, or experimental broadcast station, the Commission will not accept another application for new or additional facilities for a station of the same class (as given above) to serve the same community, by the same applicant or by his successor or assignee, or on behalf or for the benefit of the original parties in interest. Two such applications may not be filed simultaneously.

§ 1.365 *Amendments of applications.* (a) Any application may be amended as a matter of right prior to the designation of such application for hearing merely by

³ This paragraph shall not apply to applications filed prior to its effective date (November 13, 1953); such applications, though could be accepted for filing even Commission's rules, regulations, or other requirements if accompanied by an appropriate rule-making petition, will remain on

filing the appropriate number of copies of the amendments in question duly executed. Requests to amend an application after it has been designated for hearing will be considered only upon written petition properly served upon the parties of record, and will be granted only for good cause shown. Such a petition which requests either a change in frequency or power must be accompanied by the affidavit of a person with knowledge of facts as to whether or not consideration has been promised to or received by petitioner, directly or indirectly, in connection with the filing of such petition for amendment. If such consideration has been promised or received, the affidavit shall set forth in full detail all the relevant facts. A petition to amend an application will not be accepted (other than an amendment which is merely corrective in nature such as the removal of a named person because of death) if it is filed after public notice has been given of the issuance of a proposed decision with respect to such application, or of a recommended or an initial decision, as the case may be, where no proposed decision is to be issued.

(b) When leave to amend has been granted after an application has been designated for hearing, the application will not be removed from the hearing docket unless the Motions Commissioner shall determine that the proposed amendment substantially affects the issues upon which the application has been designated for hearing and orders that the application shall be removed from the hearing docket. An amended application which has been removed from the hearing docket will be reexamined by the Commission and when necessary will be redesignated for hearing at a subsequent time.

(c) When a broadcast applicant seeks removal from the hearing docket by proposing an amendment as to frequency or other matter substantially affecting the issues in the proceeding in which he is involved, and is unable concurrently to specify and submit the desired amendment, his application shall be dismissed without prejudice, subject to the right of reinstatement within a reasonable time. In any proper case of this kind where dismissal without prejudice has been allowed, the application involved will be reinstated upon the filing of a proper petition, accompanied by the amendment necessary to complete the application.

§ 1.366 *Dismissal of applications.* Any application may be dismissed without prejudice as a matter of right prior to the designation of such application for hearing. Requests to dismiss an application without prejudice after it has been designated for hearing will be considered only upon written petition properly served upon all parties of record. Such petition must be accompanied by the affidavit of a person with knowledge of the facts as to whether or not consideration has been promised to or received by petitioner, directly or indirectly, in connection with the filing of such petition for dismissal of the application.

Petitions to dismiss an application without prejudice will be granted only for good cause shown, but will in no event be granted after public notice has been given by the Commission of the issuance of a proposed decision proposing to deny the application in question.

THE MANNER IN WHICH APPLICATIONS ARE PROCESSED⁹

§ 1.371 *Acceptance of applications.*^{10a, 10b} All applications, other than amateur, operator and ship radio inspection, which are tendered for filing by mail are dated upon receipt by Mail and Files Branch of the Bureau of the Secretary and are forwarded to Broadcast License Branch if a broadcast application; otherwise, to Commercial License Branch.¹¹ Applications tendered for filing, in person, in the Bureau of the Secretary are dated and forwarded to

the Broadcast or Commercial License Branch. An administrative examination is made of all applications by the Broadcast or Commercial License Branch to ascertain whether the application is complete. If found to be complete it is accepted and is then routed to the other Bureaus of the Commission.

§ 1.372 *Staff consideration of applications which receive action by the Commission.*¹² (a) Upon acceptance of an application, the complete file is routed to the appropriate Division of the Bureau of Engineering. The application is there reviewed from an engineering standpoint. A draft report containing the recommendations of the Bureau of Engineering is prepared. In cases where no engineering problems are involved, the report contains no recommendations as to disposition.

(b) The complete file is then routed to the appropriate Division of the Bureau of Accounting where it is reviewed from an accounting standpoint. A draft report containing the recommendations of the Bureau of Accounting is prepared. In cases where no accounting problems are involved the report contains no recommendations as to disposition.

(c) The complete file is then routed to the appropriate Division of the Bureau of Law where it is reviewed to determine whether the authorization requested will be in accordance with the Commission's policies, rules and regulations and any other requirements imposed by law. A joint report containing the recommendations of the Bureau of Law and the other Bureaus and any other documents required is prepared and the entire file routed to the Minute Branch of the Bureau of the Secretary which records, mimeographs, and distributes necessary papers to the members of the Commission, heads of Bureaus and other interested staff members, and places the matter on the Commission's agenda.

§ 1.373 *Procedure with respect to processing of standard broadcast applications.* (a) When an application for the construction of a new broadcast station, or for a change in the facilities of an existing station, is received in the Commission it is immediately referred to the Broadcast License Branch which examines the application to determine whether it is sufficiently complete to permit the Commission to process it. If it is found to be sufficiently complete to be processed—even though it is incomplete in certain minor particulars—it is immediately given a file number and a letter is sent to the applicant requesting the correction of any minor defects that may have been disclosed by the examination. If the examination by the Broadcast License Branch discloses that the application is incomplete in major particulars which makes it impossible to

process it, the Broadcast License Branch then with the advice and concurrence of the Offices of the General Counsel and the Chief Engineer returns the application to the applicant with a statement that it cannot be accepted. The reasons for its rejection are specified in the letter returned with the application.

(b) There shall be only one processing line and all applications, subject to the exceptions noted in succeeding paragraphs of this section, will be processed in the order of filing with the Commission. Once an application has been given a file number it is referred to a member of the Office of the Chief Engineer to determine whether it is one which must obviously go to hearing. For example, if the application seeks to use 1240 kilocycles in a particular town and there is already pending an application for that same frequency in that same town, then the two obviously must be consolidated for hearing and steps are set in motion at this stage looking toward an order designating the two applications for a consolidated hearing. At this stage, however, only those cases which are obvious conflicts are sifted out and put into hearing. If an engineering study is necessary in order to determine whether the case must go to hearing, the application is not set for hearing at this stage but is put in line for processing by the Office of the Chief Engineer and is set for hearing after the engineering study is completed (provided that such a study discloses an engineering conflict requiring a hearing). In view of this, it is to the advantage of an applicant who knows that his case does present a conflict requiring a hearing promptly to point that fact out to the Commission—preferably at the time the application is filed—so that it will be immediately recognized as a hearing case. This will result in getting the application immediately into line awaiting the assignment of a date on the hearing calendar instead of having the case remain in line awaiting processing by the Office of the Chief Engineer with the result that some weeks or months later it will be recognized as a hearing case and then put in the hearing line.

(c) (1) Where the application is for modification of a construction permit filed because of conditions imposed by the Commission at the time of the original grant, such as conditions with respect to the approval of transmitter site and antenna system, it will be referred to the Civil Aeronautics Administration upon its receipt and will be acted on by the Commission as soon as approval by the Civil Aeronautics Administration is received without reference to the processing line.

(2) Where the application is for minor changes in the construction permit, such as specification of new equipment or very slight changes in the directional antenna pattern, effort will be made to handle these cases promptly upon their receipt without placing them in the processing line.

(3) Where an application for modification of a construction permit involves major changes in the original proposal

⁹ This description is applicable to all applications filed under title III. However, some of the detailed provisions governing processing are applicable only to applications which are tendered for filing in Washington. Operator and ship radio inspection applications are filed in the field. Their processing in general is substantially similar to that accorded applications filed in Washington.

^{10a} Pending Commission review of the eligibility requirements of the citizens radio service, applications for citizens radio authorization which are eligible under the rules governing some other service shall not, except for good cause shown, be acted upon by the Commission, but shall be placed in the pending files.

^{10b} Pending conclusion of the proceeding in Docket No. 8333 action will be withheld on the following:

(1) Applications proposing daytime or limited time assignments on any of the frequencies specified in § 3.25 (a) and (b) of this chapter;

(2) Applications from existing daytime or limited time stations presently assigned to any of the frequencies specified in § 3.25 (a) and (b), of this chapter, proposing (a) a change in operation resulting in an increase in radiation towards the normally protected contour of a United States Class I station on the channel; or (b) proposing a change in transmitter location resulting in a material reduction in the distance from that station to the normally protected contour of a United States Class I station on the channel;

(3) Applications for new stations, and those for changes in frequency assignment, proposing unlimited time Class II assignments on any of the frequencies specified in § 3.25 (b) of this chapter, which would operate differently during the day than at night;

(4) Applications for changes, other than frequency, of unlimited time Class II stations on any of the frequencies specified in § 3.25 (b), of this chapter, where the resulting daytime and nighttime operations are different; and either

(a) It is proposed to change daytime operation resulting in an increase in radiation towards the normally protected contour of a United States Class I station on the channel; or

(b) It is proposed to change transmitter location resulting in a material reduction in the distance from that station to the normally protected contour of a United States Class I station on the channel.

¹¹ Applications for Alaskan stations tendered for filing with the engineer in charge of Radio District 14, Seattle, Wash., are forwarded to Washington, D. C., for processing.

¹² Applications filed by the fixed public and fixed public press international radio carriers for the assignment of additional frequencies not already assigned to a station of the licensee at some other location may be acted on by the Commission upon the recommendation of the Bureau of Engineering only.

requiring engineering study and such application is required by the terms of the original grant, such applications will be placed at the head of the construction permit processing line. However, whenever major changes in the original proposal are initiated by the applicant, these applications will be placed in the processing line in accordance with the file number of the original application for the construction permit which is sought to be modified.

(d) Applications take their places on the processing line in proper order according to file number. The oldest (lowest file number) is at the front of the line and the newest (highest file number) is at the back of the line. Cases are drawn by engineers in order of file number. Thus, the file number strictly determines the order in which the staff's work is begun on a particular application. There is one exception to this. The Aural Broadcast Division of the Office of the Chief Engineer is authorized to group together for study, cases which involve interference conflicts where it appears that by making a simultaneous study of such conflicting applications rather than individual studies of separate applications, a substantial amount of the staff's time can be saved. Further, such cases would ordinarily require simultaneous consideration by the Commission and preparation of simultaneous reports is, therefore, necessary.

(e) It takes longer to process some applications than it does others. Also it frequently occurs that when the processing of an application is begun it is discovered that additional information is needed and the staff's work cannot be completed until further word is received from the applicant. Thus, there will be cases where the processing of a particular application may be completed and ready for Commission action prior to another application even though the processing of the latter application began at an earlier date. However, every effort is made, once the processing of an application has begun, to carry its processing through to completion at the earliest possible date in the light of the circumstances involved in the particular case. The Offices of the General Counsel and Chief Accountant, by keeping track of the cases which will be reached next in the processing line, are in position to plan their work so that they will be writing reports on the same applications that are being studied by the Office of the Chief Engineer.

(f) If, as a result of the study by the Offices of the General Counsel, Chief Engineer and Chief Accountant and by the Commission it appears that the application is satisfactory in all respects, it can be granted without a hearing. If, on the other hand, the complete study by the staff and the Commission indicates that a hearing is required, then the application will be designated for hearing.

(g) Frequently, when two cases are designated for hearing because they are mutually exclusive, one of the applicants amends and removes the conflict. Where this occurs the appropriate procedure is

to petition for leave to amend and remove from the hearing docket. Such motions will be considered promptly and if it appears that the conflict which caused the case originally to be set for hearing has been removed and there is no other obvious conflict, the two cases will be removed from the hearing docket and placed back in their proper position (as determined by the file numbers) in the processing line. Petitions for amendment, removal from the hearing docket, and grant will not be entertained insofar as they request a grant. The Examiner, or Motions Commissioner if an Examiner has not yet been designated, in acting on such petitions, will dismiss the request for a grant. In such a case the matter will simply be put back in its proper place in line.

(h) An application will continue to be carried under the same file number unless major amendment is made which really involves the substitution of a different application. Amendments simply changing the frequency and/or power or changing from full time to daytime only will be accepted without changing the file number.

(i) Sometimes it occurs that when an application is reached for processing it is necessary for the staff or the Commission itself to address a letter to the applicant asking further information. If the application cannot be processed until the information requested is received, then the application is placed in the pending file to await the applicant's response. Also it sometimes occurs that a particular category of cases is placed in the pending file by Commission action. In such cases the Commission makes a public announcement of its policy and notifies the individual applicant as to why his application is being placed in the pending file.

§ 1.374 *Staff consideration of applications which do not require action by the Commission.* Those applications which do not require action by the Commission but which, pursuant to the delegation of authority contained in sections 0.201 to 0.341 of the Statement of Organization, Delegations of Authority and Other Information, may be acted upon by employees designated in that statement, are forwarded to the appropriate heads of Bureaus for necessary action. In those cases where the Secretary may act after securing the approval of the various Bureaus, the applications are forwarded to such appropriate Bureaus. If the application is granted, it is returned to the appropriate License Branch for issuance of the formal authorization. In cases where the Secretary acts by himself the appropriate License Branch reviews the applications before final decision is made and the authorization issued if the application is granted. In any case where it is recommended that it be set down for hearing, where a novel question of policy is presented or where the employee to whom authority is delegated desires instructions from the Commission, the file with necessary recommendations is forwarded to the Minute Branch to be

placed on the Commission agenda for action by the Commission.

§ 1.375 *Procedure with respect to amateur and commercial radio operator licenses.* (a) After an application for an amateur radio license is accepted for filing and an examination is conducted in accordance with Part 12 of this chapter, the examination is sent to Washington where it is graded by the Inspection and Operator Examination Branch of the Bureau of Engineering, and if the applicant passes, a license is issued by the Amateur License Section of the Commercial License Branch of the Bureau of the Secretary.

(b) After an application for a commercial radio operator license is accepted for filing, and an examination conducted in accordance with Part 13 of this chapter, the examination papers are graded by the office supervising the examination which also issues a license, if the applicant is successful.

§ 1.376 *Procedure with respect to applications for ship radio inspection or periodical survey.* After the following applications are accepted for filing, the district engineer to whom application is made makes the necessary examination and issues the appropriate certification:

(a) Application for ship radio inspection and certification of the ship radio license, pursuant to the requirements of section 360 (b) of the Communications Act, as amended;

(b) Application for a Safety Convention certificate in accordance with the terms of Regulations 11 and 12, Chapter I, of the Safety Convention;

(c) Application for periodical survey as required by Article 11 of the Great Lakes Agreement and certification prescribed by Article 12 thereof.

§ 1.377 *Procedures for handling applications requiring special aeronautical consideration.* (a) All antenna surveys are conducted by the Antenna Survey Branch of the Office of the Chief Engineer.

(b) Each operating bureau or office which is responsible for processing applications for radio facilities examine those applications for which it is responsible to ascertain whether or not special antenna consideration is required. If such consideration is required the operating bureau or office routes the appropriate antenna data to the antenna survey branch of the Office of the Chief Engineer.

(c) The Antenna Survey Branch then ascertains whether a special aeronautical study is required.

(d) If no special aeronautical study is required the application is returned to the appropriate operating division with the required antenna lighting and painting specifications for such further action as might be necessary.

(e) If a special aeronautical study is required the antenna specifications are forwarded to the appropriate regional airspace subcommittee for consideration and the operating bureau concerned advised of this action.

(f) Upon receipt of a report of the airspace subcommittee the Antenna Survey Branch forwards this informa-

tion to the appropriate operating bureau where appropriate action may be taken.

§ 1.378 *Procedure for processing applications for television broadcast stations.* The following procedures shall apply with respect to the processing of applications for television broadcast stations and for the designation for hearing of such mutually exclusive applications.

(a) Applications for television stations will be processed in the order in which they are accepted for filing.

(b) Regardless of the number of applications filed for channels in a city or the number of assignments available in that city, those applications which are mutually exclusive, i. e., which request the same channel, will be designated for hearing. All other applications for channels will, if the applicants are duly qualified, receive grants. For example, if Channels 6, 13, 47, and 53 have been assigned to City X and there are pending two applications for Channel 6 and one application for each of the remaining channels, the latter three applications will be considered for grants without hearing and the two mutually exclusive applications requesting Channel 6 will be designated for hearing. If there are two pending applications for Channel 6 and two applications for Channel 13, separate hearings will be held.

(c) Where applications are mutually exclusive because the distance between their respective proposed transmitter sites is contrary to the station separation requirements set forth in § 3.610 of this chapter, said applications will be processed and designated for hearing at the time the application with the lower file number is processed. If the question concerning transmitter sites is resolved before a decision is rendered in the matter, the application with the higher file number will be returned to its appropriate place on the processing line. In order to be considered mutually exclusive with a lower file number application, the higher file number must have been accepted for filing at least one day before the lower file number application has been acted upon by the Commission. If the lower file number application is in hearing status at the time the higher file number application is accepted for filing, the 60-day cut-off date specified in § 1.387 (b) (3) will be applicable.

(d) Where a mutually exclusive application on file becomes unopposed, or where an amended application or a new application is filed in place of the several competing applications and the applicant formed by such a merger is completely or substantially the same parties as the parties to the original application or applications, the remaining application may be available for consideration on its merits by the Commission at a succeeding regular meeting as promptly as processing and review by the Commission can be completed.

ACTION ON APPLICATIONS

§ 1.381 *Failure to prosecute applications.* An applicant not desiring to prosecute his application may request the

dismissal of same without prejudice. A request of an applicant for the return of an application which has been accepted for filing will be considered as a request to dismiss the same without prejudice. Where an applicant fails to respond to official correspondence or request for additional material, the application will be dismissed without prejudice.

§ 1.382 *Grants without a hearing.* (a) Where an application for radio facilities is proper upon its face and where it appears from an examination of the application and supporting data that (1) the applicant is legally, technically, and financially qualified; (2) a grant of the application would not involve modification, revocation, or nonrenewal of any existing license or outstanding construction permit; (3) a grant of the application would not cause additional electrical interference to an existing station or station for which a construction permit is outstanding within its normally protected contour as prescribed by the applicable rules and regulations; (4) a grant of the application would not preclude the grant of any mutually exclusive application; and (5) a grant of the application would be in the public interest, the Commission will grant the application without a hearing.

(b) In making its determinations pursuant to the provisions of paragraph (a) of this section, the Commission will not consider any other application as being mutually exclusive with the application under consideration unless such other application was substantially complete and was tendered for filing with the Commission not later than the close of business on the day preceding the day on which the Commission takes action with respect to the application under consideration.

§ 1.383 *Partial grants.* Where the Commission without a hearing grants any application in part, or with any privileges, terms, or conditions other than those requested, or subject to any interference that may result to the station if designated application or applications are subsequently granted, the action of the Commission shall be considered as a grant of such application unless the applicant shall, within 20 days from the date on which public announcement of such grant is made, or from its effective date if a later date is specified, file with the Commission a written request rejecting the grant as made. Upon receipt of such request, the Commission will vacate its original action upon the application and set the application for hearing in the same manner as other applications are set for hearing.

§ 1.384 *Operation pending action on renewal application.* (a) When there is pending before the Commission at the time of expiration of license any proper and timely application for renewal of license with respect to any activity of a continuing nature, in accordance with the provisions of section 9 (b) of the Administrative Procedure Act, such license shall continue in effect without further action by the Commission until such time as the Commission shall make a final determination with respect to

the renewal application. No operation by any licensee under this section shall be construed as a finding by the Commission that the operation will serve public interest, convenience, or necessity nor shall such operation in any way affect or limit the action of the Commission with respect to any pending application or proceeding. A licensee operating by virtue of this section shall, after the date of expiration specified in the license, post in addition to the original license the acknowledgment received from the Commission that the renewal application has been accepted for filing or a signed copy of the application for renewal of license which has been submitted by the licensee or, in services other than broadcast and common carrier, a statement certifying that the licensee has mailed or filed a renewal application, specifying the date of mailing or filing.

(b) Where there is pending before the Commission at the time of expiration of license any proper and timely application for renewal or extension of the term of a license with respect to any activity not of a continuing nature, the Commission may in its discretion grant a temporary extension of such license, pending determination of such application. No such temporary extension shall be construed as a finding by the Commission that the operation of any radio station thereunder will serve public interest, convenience, or necessity beyond the express terms of such temporary extension of license nor shall such temporary extension in any way affect or limit the action of the Commission with respect to any pending application or proceeding.

(c) Except where an instrument of authorization clearly states on its face that it relates to an activity not of a continuing nature, or where the authorization is expressly denominated "temporary", or where the non-continuing nature is otherwise clearly apparent upon the face of the authorization, all licenses issued by the Commission shall be deemed to be related to an activity of a continuing nature.

§ 1.385 *Designation for hearing.* Applications will be designated for hearing in the following cases:

(a) Where it does not appear from an examination of the application that the applicant is legally, technically, or financially qualified; or

(b) Where a grant of the application would require the modification, revocation, or nonrenewal of license of an existing station or of any outstanding construction permit; or

(c) Where a grant of the application would cause electrical interference to an existing station or station for which a construction permit is outstanding within its normally protected contour as prescribed by the applicable rules and regulations; or

(d) Where it does not appear from an examination of the application that a grant of the application will be in the public interest.

(e) Where a grant of the application would preclude the grant of an applica-

tion or applications mutually exclusive with it. However, the Commission may, if public interest will be served thereby, make a conditional grant of one of the applications and designate all of the mutually exclusive applications for hearing. Such conditional grant will be made upon the express condition that such grant is subject to being withdrawn if at the hearing it is shown that public interest will be better served by a grant of one of the other applications. Such conditional grants will be issued only where it appears:

(1) That some or all of the applications were not filed in good faith but were filed for the purpose of delaying or hindering the grant of another application; or

(2) That public interest requires the prompt establishment of radio service in a particular community or area; or

(3) That a grant of one or more applications would be in the public interest and that a delay in making a grant to any applicant until after the conclusion of a hearing on all applications might jeopardize the rights of the United States under the provisions of international agreement to the use of the frequency in question; or

(4) That a grant of one application would be in the public interest and that it appears from an examination of the remaining applications that they cannot be granted because they are in violation of provisions of the Communications Act, or of other statutes, or of the Commission's rules and regulations.

§ 1.386 Petition for reconsideration and grant without hearing. Where the Commission has designated an application for hearing, the applicant may file a petition requesting reconsideration and grant of the application without hearing. If the petition shows that a grant of the application without hearing would be consistent with § 1.382, the petition will be granted. Otherwise it will be denied.

§ 1.387 Procedure when case is designated for hearing. (a) When an application has been designated for hearing, the Secretary of the Commission will mail a written notice to applicant setting forth the action of the Commission designating the application for hearing, together with such statement of the Commission's reasons therefor as shall be appropriate to the nature of the application. In addition, notice of hearing involving matters under Part I of Title III of the act will be given by publishing the notice of hearing in the FEDERAL REGISTER. The Commission will attempt, when possible, to give at least 30 days advance notice of a hearing in cases other than those involving broadcast applications and at least 60 days advance notice on comparative hearings involving applications for authority to construct broadcast facilities. In order to avail himself of the opportunity to be heard, the applicant, in person or by his attorney, shall, within 20 days of the mailing of the notice of designation for hearing by the Secretary, file with the Commission, in triplicate, a written ap-

pearance stating that he will appear and present evidence on the issues specified in the statement of reasons furnished by the Commission on such date as may be fixed for the hearing. Where an applicant fails to file such a written statement within the time specified, and has not filed prior to the expiration of that time period a petition to dismiss without prejudice pursuant to § 1.366, his application shall be dismissed with prejudice for failure to prosecute. In cases involving applications for facilities other than AM broadcast, FM broadcast, international broadcast, or television, the applicant shall submit with his appearance an additional copy of his application and supporting documents.

(b) The Commission will on its own motion name as parties to the hearing:

(1) Any existing licensee or holder of an outstanding construction permit who, if the application were granted, would suffer electrical interference within his normally protected contour as prescribed by the Commission's rules and regulations.

(2) Any existing licensee or holder of an outstanding construction permit whose license or construction permit would have to be modified or revoked, or whose application for renewal of license would have to be denied, if the application in question were granted.

(3) Any person who, prior to the time the application in question was designated for hearing, had filed with the Commission a mutually exclusive application. Any application that is mutually exclusive with another application or applications already designated for hearing will be consolidated for hearing with such other application or applications only if the application in question is filed at least 30 days before the date on which the hearing on the prior application or applications is scheduled: *Provided, however,* That in the case of applications for broadcast stations the said period shall be 60 days. If the scheduled date is changed, the date last set shall govern in determining the timeliness of an application for purposes of this paragraph. If the application is filed after the 30-day period, or in the case of broadcast applications after the 60-day period, it will be dismissed without prejudice and will be eligible for re-filing only after a decision is rendered by the Commission with respect to the application or applications designated for hearing or after such applications are dismissed or removed from hearing.

(4) In order to avail himself of the opportunity to be heard, any person named as a party pursuant to this subsection shall, within 20 days of the mailing of the notice of his designation as a party, file with the Commission, in person or by attorney, a written appearance in triplicate stating that he will appear and present evidence on the issues specified in the notice of hearing. Any person so named who fails to file this written statement within the time specified, shall, unless good cause for such failure is shown, forfeit his hearing rights.

§ 1.388 Petitions to intervene. (a) Where the Commission has failed on its

own motion to name as parties to a hearing any person specified in § 1.387 (b), such person will be permitted to participate in the proceeding by filing a petition to intervene showing that he comes within the provisions of § 1.387 (b). Where the petition to intervene is based upon a claim that a grant of the application would cause electrical interference to an existing station or a station for which a construction permit is outstanding within its normally protected contour as prescribed by the applicable rules and regulations, the petition must be accompanied by an affidavit of a qualified radio engineer which shall show either by reference to the standard broadcast Technical Standards of part 3 of this chapter or to actual measurements made in accordance with the methods prescribed therein that electrical interference will be caused to the existing station or station for which a construction permit is outstanding within the normally protected contour of the station.

(b) Any other person desiring to participate in the hearing may file a petition to intervene. The petition must set forth the interest of the petitioner in the proceedings, must show how such person's participation will assist the Commission in the determination of the issues in question, and must be accompanied by the affidavit of a person with knowledge as to the facts set forth in the petition. The Commission in its discretion may grant or deny such petition or may permit intervention by such persons limited to particular issues or to a particular stage of the proceeding.

(c) The granting of any petition to intervene shall not have the effect of changing or enlarging the issues specified in the Commission's notice of hearing unless the Commission shall on motion amend the same.

(d) Petitions to intervene under this section must be filed with the Commission not later than 15 days after the issues in the hearing have first been published in the FEDERAL REGISTER. Any person desiring to file a petition to intervene after the expiration of such 15 days must set forth the reason why it was not possible to file the petition within the prescribed 15 days. Unless good cause is shown for delay in filing, the petition will not be granted.

§ 1.389 Motions to enlarge or change the issues. Motions to enlarge or change the issues may be filed by any party to a hearing. Such motions must be filed with the Commission not later than 15 days after the issues in the hearing have first been published in the FEDERAL REGISTER. Any person desiring to file a motion to enlarge or change the issues after the expiration of such 15 days must set forth the reason why it was not possible to file the petition within the prescribed 15 days. Unless good cause is shown for delay in filing, the motion will not be granted.

§ 1.390 Petitions for reconsideration or for rehearing. (a) Where an application has been granted without a hearing, any person aggrieved or whose interests would be adversely affected

thereby may file a petition for reconsideration of such action. Such petition must be filed with the Commission within 30 days after public notice is given of the Commission's action in granting the application. Such petition will be granted if the petitioner shows that:

(1) Petitioner is an existing licensee or permittee and a grant of the application would require the modification, revocation, or nonrenewal of his license or construction permit; or

(2) That petitioner is an existing licensee or permittee and a grant of the application would cause interference to his station within the normally protected contour as prescribed by applicable rules and regulations; or

(3) At the time the application was granted, petitioner had a mutually exclusive application pending before the Commission; or

(4) A grant of the application is not in the public interest.

(b) Where an application has been granted or denied after hearing, petitions for rehearing may be filed within 30 days after public notice is given of the Commission's action in granting or denying the application. Petitions for rehearing by persons not parties to the Commission's hearing will not be granted unless good cause is shown as to why it was not possible for such person to participate earlier in the Commission's proceeding.

(c) Where a petition for reconsideration or for rehearing is based upon a claim of electrical interference within the normally protected contour of an existing station or a station for which a construction permit is outstanding, such petition must be accompanied by an affidavit of a qualified radio engineer which shall show either by reference to the standard broadcast Technical Standards of Part 3 of this chapter or to actual measurements made in accordance with the methods prescribed therein that electrical interference will be caused to the station within its normally protected contour. If the claim of interference is not based upon actual measurements made in accordance with the standard broadcast Technical Standards of Part 3 of this chapter, it may be controverted by affidavit containing results of actual measurements made in accordance with the standard broadcast Technical Standards of Part 3 of this chapter.

(d) Any opposition to a petition for reconsideration or rehearing may be filed within 10 days after the filing of such petition.

(e) Petitions for reconsideration or rehearing filed under this section may request (1) reconsideration, either in cases decided after hearing or in cases of applications granted without hearing; (2) reargument; (3) reopening of the proceeding; (4) amendment of any finding; or (5) such other relief as may be appropriate. Such petition shall state specifically the form of relief sought and, subject to this requirement, may contain alternative requests. Each such petition shall state with particularity in what respect the decision, order or requirement or any matter determined

therein is claimed to be unjust, unwarranted, or erroneous, and with respect to any finding of fact must specify the pages of record relied on. Where the petition is based upon a claim of newly discovered evidence, it must be accompanied by a verified statement of the facts relied upon, together with the facts relied on to show that the petitioner, with due diligence, could not have known or discovered such facts at the time of the hearing.

(f) The filing of a petition for reconsideration or rehearing shall not excuse any person from complying with or obeying any decision, order, or requirement of the Commission, or operate in any manner to stay or postpone the enforcement thereof. However, upon good cause shown the Commission may stay the effectiveness of its order or requirement pending a decision on the petition for rehearing.

§ 1.391 *Special waiver procedure relative to broadcast applications.* (a) In the case of any broadcast applications designated for hearing, the parties may request the Commission to grant or deny the application upon the basis of the information contained in the applications and other papers specified in paragraph (b) of this section without the presentation of oral testimony. Any party desiring to follow this procedure should execute and file with the Commission a waiver in accordance with paragraph (f) of this section and serve copies on all other parties, or a joint waiver may be filed by all the parties. Upon the receipt of waivers from all parties to a proceeding, the Commission will decide whether the case is an appropriate one for determination without the presentation of oral testimony. If it is determined by the Commission that, notwithstanding the waivers, the presentation of oral testimony is necessary, the parties will be so notified and the case will be retained on the hearing docket. If the Commission concludes that the case can appropriately be decided without the presentation of oral testimony, the case will be removed from the hearing docket and the record will be considered as closed as of the date the waivers of all parties were first on file with the Commission.

(b) In all cases which are removed from the hearing docket in accordance with this procedure, the Commission will decide the case upon the basis of the information contained in the applications and any other papers open to public inspection on file with the Commission (as of the date the record was closed) which pertain to the applicants or applications in question. The Commission reserves the right to call upon any party to furnish any additional information which the Commission deems necessary to a proper decision. Such information shall be served upon all parties. The waiver previously executed by the parties shall be considered in effect unless within 10 days of the service of such information the waiver is withdrawn.

(c) This procedure does not in any way change the Commission's practice

with respect to protests. Any party, or any member of the public, may file with the Commission any information concerning the applicant which bears upon his qualifications to operate a station in the public interest. Where such protest raises a question of substance which might affect the granting of the application, the presentation of oral testimony will generally be required. If the protest is not of any substance the Commission may proceed to act upon the application without the presentation of oral testimony.

(d) In all cases where the Commission issues a decision pursuant to this procedure without holding the usual hearing, an opinion will be issued by the Commission stating its reasons for its grant or denial of the individual applications. This decision shall have the same effect as a proposed decision, and the procedure thereafter to be followed shall be the same as in the case of a proposed decision made under the regular hearing procedure.

(e) The Commission does not construe this procedure as involving any waiver by the parties of the right to appeal to the Courts from any adverse final decision of the Commission.

(f) The waiver provided for by this section shall be in the following form:

WAIVER

Name of Applicant.....
Call Letters.....
Docket No.....

The undersigned hereby requests the Commission to consider its application and grant or deny it in accordance with the procedure prescribed in § 1.391 of the Commission's rules and regulations. It is understood that all the terms and provisions of § 1.391 are incorporated in this waiver.

PROCEDURE WITH RESPECT TO REVOCATION AND MODIFICATION OF STATION AUTHORIZATIONS, ISSUANCE OF CEASE AND DESIST ORDERS, AND SUSPENSION OF RADIO OPERATOR'S LICENSE

§ 1.401 *Notice of violations.* Any licensee who appears to have violated any provision of the Communications Act of 1934 or of the rules and regulations of the Federal Communications Commission, shall be served with a notice calling the facts to his attention and requesting a statement concerning the matter. Within 3 days from receipt of such notice, or such other period as may be specified, the licensee shall send a written answer direct to the office of the Commission originating the official notice. If an answer cannot be sent nor an acknowledgment made within such 3-day period by reason of illness or other unavoidable circumstances, acknowledgment and answer shall be made at the earliest practicable date with a satisfactory explanation of the delay. The answer to each notice shall be complete in itself and shall not be abbreviated by reference to other communications or answers to other notices. If the notice relates to violations that may be due to the physical or electrical characteristics of transmitting apparatus, the answer shall state fully what steps, if any, have been taken to prevent future violations, and if any new apparatus is to be in-

stalled, the date such apparatus was ordered, the name of the manufacturer, and promised date of delivery. If the installation of such apparatus requires a construction permit, the file number of the application shall be given, or if a file number has not been assigned by the Commission such identification shall be given as will permit ready identification thereof. If the notice of violation relates to lack of attention or to improper operation of the transmitter, the name and license number of the operator in charge shall be given.

§ 1.402 *Revocation of station licenses and construction permits and issuance of cease and desist orders.* (a) Whenever it appears that a station license or construction permit should be revoked for any of the reasons set forth in section 312 (a) of the Communications Act of 1934, as amended, or a cease and desist order should be issued for any of the reasons specified in section 312 (b) of the act, the Commission will issue an order directing the licensee, permittee or person to show cause why an order of revocation or a cease and desist order, as the case may be, should not be issued.

(b) Any order to show cause issued in accordance with paragraph (a) of this section will contain a statement of the matters with respect to which the Commission is inquiring and will call upon the licensee or permittee or person to appear before the Commission at a time and place stated in the order, but in no event less than thirty (30) days after the receipt of such order, and give evidence upon the matter specified therein; except that where safety of life or property is involved, the Commission may provide in the order for a shorter period.

(c) In order to avail himself of the opportunity to appear before the Commission at the time and place stated in the show cause order to give evidence upon the matter specified therein, the licensee, permittee or person, in person or by his attorney, shall within 30 days of the receipt of the order, or such shorter period as may be specified therein if the safety of life or property is involved, file with the Commission, in triplicate, a written appearance stating that he will appear and present evidence on the matter specified in the order.

(d) Hearings on the matters specified in the order to show cause and the practice and procedure in connection therewith shall accord with the provisions of Subparts F and G of this part, except that in all such hearings the burden of proceeding with the introduction of evidence and burden of proof shall be upon the Commission, and except that the Commission may, where the circumstances of the proceeding require expedition, specify in the show cause order, or authorize the hearing examiner to specify by subsequent order, times within which the initial decision in such proceedings shall become effective, within which exceptions to such initial decision or replies thereto may be filed, and within which parties may file notice of intent to seek and participate in oral argument,

less than those specified in §§ 1.853 and 1.854.

(e) If the licensee, permittee or person does not desire to appear before the Commission and give evidence upon the matter specified in the show cause order, he shall, within 30 days of the receipt of the order or such shorter period as may be specified therein if the safety of life or property is involved, file with the Commission, in triplicate, a written waiver of hearing. Such waiver, which shall include the name of the licensee, permittee or person to whom the show cause order was addressed, the call letters of his station, if any, and the docket number of the proceeding, may be accompanied by a statement of reasons why the licensee, permittee or person believes that an order of revocation or a cease and desist order, as the case may be, should not be issued.

(f) If the licensee, permittee or person fails timely to respond to an order to show cause or fails to appear at a hearing, such failure will be deemed a waiver of hearing.

(g) If the licensee, permittee or person waives a hearing in accordance with the provisions of paragraph (e) of this section and fails to submit a statement therewith showing why he believes an order of revocation or a cease and desist order should not be issued, or if he is deemed to waive a hearing in accordance with the provisions of paragraph (f) of this section, the allegations specified in the order to show cause will be deemed to be admitted and a decision will be issued by the Commission invoking the sanction specified in the order to show cause. If a hearing is waived pursuant to paragraph (e) of this section but a written statement as to why an order of revocation or cease and desist order should not be issued is submitted, the Commission will, on the basis of the facts before it as supplemented by such written statement, issue a decision stating its reasons for invoking the sanction specified in the order to show cause or for dismissing the proceeding, as the case may be: *Provided*, That where the written statement contains factual allegations contrary to those upon which the show cause order was based the Commission may call upon the submitting party to furnish additional information under oath, or, if necessary, designate the proceeding for oral hearing. The decisions of the Commission referred to in this paragraph shall have the same effect as an initial decision and the procedure to be followed thereafter shall be the same as in the case of an initial decision issued in the course of the regular hearing procedure.¹²

(h) Any order of revocation or cease and desist order issued pursuant to this section shall include a statement of the findings and the grounds and reasons therefor and specify the effective date of the order, and shall be served on said licensee, permittee or person.

§ 1.403 *Modification of licenses.* Whenever it appears that public interest, convenience, and necessity would be served, or the provisions of the Com-

munications Act, or of any treaty ratified by the United States will be more fully complied with, by the modification of any radio station construction permit or license, the Bureaus of Law and Engineering prepare a report and other necessary papers which are presented to the Commission for action. If the Commission concludes that proceedings should be instituted, an order will be issued to show cause why such construction permit or license should not be modified. Such order to show cause shall contain a statement of the grounds and reasons for such proposed modification, and shall specify wherein the said construction permit or license is required to be modified. It shall require the licensee against whom it is directed, to appear at a place and time therein named to show cause why the proposed modification should not be made and the order of modification issued. If the licensee against whom the order to show cause is directed does not appear at the time and place provided in said order, a final order of modification shall issue forthwith.

§ 1.404 *Suspension of operator licenses.* Whenever it appears that grounds exist for suspension of an operator license, as provided in section 303 (m) of the act, the Chief of the Safety and Special Radio Services Bureau, with respect to amateur operator licenses, or the Chief of the Field Engineering and Monitoring Bureau, with respect to commercial operator licenses, pursuant to authority delegated by the Commission, issue an order suspending the operator license. No order of suspension of any operator's license shall take effect until 15 days' notice in writing thereof, stating the cause for the proposed suspension, has been given to the operator licensee, who may make written application to the Commission at any time within said 15 days for a hearing upon such order. The notice to the operator licensee shall not be effective until actually received by him, and from that time he shall have 15 days in which to mail the said application. In the event that physical conditions prevent mailing of the application before the expiration of the 15-day period, the application shall then be mailed as soon as possible thereafter, accompanied by a satisfactory explanation of the delay. Upon receipt by the Commission of such application for hearing, said order of suspension shall be designated for hearing by the Chief, Safety and Special Radio Services Bureau or the Chief, Field Engineering and Monitoring Bureau, as the case may be, pursuant to authority delegated by the Commission, and said order of suspension shall be held in abeyance until the conclusion of the hearing, which shall be conducted under such rules as the Commission shall deem appropriate. Upon the conclusion of said hearing, the Commission may affirm, modify, or revoke said order of suspension. If the license is ordered suspended, the operator shall send his operator license to the office of the Commission in Washington, D. C., on or before the effective date of the order, or, if the effective date has passed at the time notice is received, the license

¹² See §§ 1.853 to 1.857.

shall be sent to the Commission forthwith.

FORFEITURES AGAINST SHIPS AND SHIP MASTERS

§ 1.410 *Forfeitures against ships and ship masters.* (a) Whenever information is received indicating that reasonable grounds exist to support a suit for collection of forfeitures provided by section 362 of the Communications Act of 1934, as amended, the owner of the ship and the master will be notified of apparent liability for forfeitures. The notification will specify dates, places and the nature of the alleged violations or irregularities, and will advise the parties of the Commission's authority under section 504 (b) of the act to remit or mitigate such forfeitures upon application therefor. Applications for mitigation or remission may be filed within thirty (30) days from the date of receipt of the notification letter, or within such extended time as may for good cause be granted. The application must be in duplicate but need not follow any special form. After a review of the case in the light of all the information available, including the information and arguments presented in the application, the applicant will be notified of the determination, which may be either remission of the entire amount, an offer of mitigation of the forfeiture to the extent which appears warranted under the circumstances, or denial of any relief.

(b) Acceptance of an offer of mitigation may be accomplished through payment, within thirty (30) days from the date of receipt of the notification, of the amount specified therein by check or similar means drawn to the order of the Treasurer of the United States and mailed to the Commission.

(c) In lieu of acceptance of an offer of mitigation, or in the event of denial of relief, application may be made within thirty (30) days from the date of receipt of the notification for review by the Commission as provided in section 5 (d) (2) of the act. The application should set forth the reasons for applicant's belief that the original action on his application should be modified. It may include a statement of any material facts that may have been omitted from the original application for relief. If the Commission grants the application for review, it may affirm, modify or set aside the previous action, or direct any further proceedings that appear necessary and in the public interest.

(d) If the applicant fails to take any action in respect to a notification of apparent liability for forfeiture or an offer of mitigation or a notification of denial of relief, the case may be referred by the Commission to the Attorney General of the United States for appropriate civil action to recover the forfeiture in accordance with the provisions of section 504 (a) of the act.

SUBPART E—RULES RELATING TO APPLICATIONS, REPORTS, AND PROCEEDINGS AFFECTING COMMON CARRIERS UNDER TITLE II OF THE COMMUNICATIONS ACT

GENERAL RULES RELATING TO APPLICATIONS

§ 1.501 *Subscription and verification of applications.* Each application or

amendment thereto shall be personally subscribed and verified (a) by the party filing such application or amendment, or by one of the parties, if there be more than one; (b) by an officer of the party filing the application or amendment if the party be a corporation; *Provided, however,* That subscription and verification may be made by the attorney for the party (1) in case of physical disability of the party, or (2) his absence from the continental United States. If it be made by a person other than the party, he must set forth in the verification the grounds of his belief as to all matters not stated upon his knowledge and the reason why it is not made by the party. Where more than one copy of an application is required to be filed with the Commission, only the original need be signed and verified; the copies may be conformed.

§ 1.502 *Full disclosures.* Each application shall contain full and complete disclosures with regard to the real party or parties in interest and as to all matters and things required to be disclosed by the application forms.

§ 1.503 *Additional statements.* The Commission may require an applicant to submit such documents and written statements of fact, under oath, as in its judgment may be necessary.

§ 1.504 *Form of amendments to applications.* Any amendment to an application shall be subscribed, verified, and submitted in the same manner, and with the same number of copies, as was the original application.

§ 1.505 *Amendments of applications ordered.* The Commission may upon its own motion or upon motion of any party to a proceeding, order the applicant to amend his application so as to make the same more definite and certain.

§ 1.506 *Defective applications.* (a) Applications which are defective with respect to completeness of answers to required questions, execution or other matters of a purely formal character will not be received for filing by the Commission, unless the Commission shall otherwise direct, and will be returned to the applicant with a brief statement as to the omissions.

(b) If an applicant is requested by the Commission to file any documents or information not included in the prescribed application form, a failure to comply with such request will constitute a defect in the application.

(c) Applications which are not in accordance with the Commission's rules, regulations or other requirements will be considered defective unless accompanied either (1) by a petition to amend any rule or regulation with which the application is in conflict, or (2) by a request of the applicant for waiver of, or an exception to, any rule, regulation or requirement with which the application is in conflict. Such request shall show the nature of the waiver or exception desired and set forth the reasons in support thereof.

(d) Applications found to be complete are accepted for filing and are given a file number.

§ 1.507 *Amendments and dismissals of applications.* (a) Any application may be amended or dismissed without prejudice as a matter of right prior to the designation of such application for hearing. Thereafter, requests to amend or dismiss without prejudice will be considered only upon written motion properly served upon all parties of record.

(b) When leave to amend has been granted after an application has been designated for hearing, the application will not be removed from the hearing docket unless the Motions Commissioner shall determine that the proposed amendment substantially affects the issues upon which the application has been designated for hearing and orders that the application shall be removed from the hearing docket. An amended application which has been removed from the hearing docket will be reexamined by the Commission and when necessary will be redesignated for hearing at a subsequent time.

§ 1.508 *Failure to prosecute applications.* An applicant not desiring to prosecute his application may request the dismissal of same without prejudice. A request of an applicant for the return of an application which has been accepted for filing will be considered as a request to dismiss the same without prejudice. Where an applicant fails to respond to official correspondence or request for additional material, the application will be dismissed without prejudice.

§ 1.509 *Partial grants.* Where the Commission without a hearing grants any application in part, or with any privileges, terms or conditions other than those requested, the action of the Commission shall be considered as a grant of such application unless the applicant shall, within 20 days from the date on which public announcement of such grant is made, or from its effective date if a later date is specified, file with the Commission a written request rejecting the grant as made. Upon receipt of such request, the Commission will vacate its original action upon the application and set the application for hearing in the same manner as other applications are set for hearing.

§ 1.510 *Inconsistent or conflicting applications.* When an applicant has an application pending or undecided, no other inconsistent or conflicting application filed by the same applicant, his successor or assignee, or on behalf or for the benefit of said applicant, will be considered by the Commission.

FILING AND PROCESSING OF APPLICATIONS

§ 1.521 *Filing and routing of applications.* All applications under Title II of the act are filed with the Secretary and dated by the Mail and Files Branch of his Bureau. All applications other than for special tariff permission are then routed to the Commercial License Branch of the Bureau of the Secretary, where they are given a file number and then routed to the appropriate units of the Bureaus of Law, Accounting and Engineering. Applications for special tariff permission are routed to the Rates Division of the Bureau of Accounting, where

they are numbered and referred to the appropriate branches of that Division.

§ 1.522 *Application for extension of time in which to file financial reports.* Applications for extensions of time in which to file annual, monthly, and special reports required by the Commission pursuant to sections 211 and 219 of the act should be made in writing.

§ 1.523 *Application for special tariff permission; procedure and application form.* Applications under section 203 (a) of the act for special tariff permission shall be made in the form and manner and with the number of copies required by §§ 61.151 through 61.153 of this chapter. Final action is taken by the Chief Accountant where Commission policy in the matter has been established, and in other cases the Commission acts upon the recommendation of the Chief Accountant or upon the recommendation of the Bureaus of Law, Accounting and Engineering.

§ 1.524 *Application for holding interlocking offices or directorates; procedure and application form.* Applications under section 212 of the act for authority to hold the position of officer or director of more than one carrier subject to the act shall be made in the form and manner and with the number of copies required by §§ 62.1, 62.2, 62.11 and 62.21 through 62.25 of this chapter. Final action is taken by the Secretary upon securing the approval of the Bureau of Law where Commission policy in the matter has been established, and in other cases the Commission acts upon the recommendations of the General Counsel.

§ 1.525 *Application for lines.* (a) Applications under section 214 of the act for authority to construct a new line, extend any line, acquire or operate any line or extension thereof, or to engage in transmission over or by means of such additional or extended line, to furnish temporary or emergency service or to supplement existing facilities shall be made on the form and manner and with the number of copies required by §§ 63.01 through 63.06 and §§ 63.51 through 63.54 of this chapter. In accordance with the delegation of authority provided for in the Commission's Statement of Organization, Delegations of Authority and Other Information, the Telegraph Committee, the Telephone Committee, and the Secretary, respectively, take final action on these matters. In other cases, final action is taken by the Commission. Recommendations on these applications are made by the Bureau of Engineering, or by the Bureaus of Engineering, Accounting and Law.

(b) In cases requiring a certificate, notice is given to and a copy of the application is filed with the Secretary of the Army, the Secretary of the Navy, and the Governor of each State involved. Hearing is held if any of these parties desires to be heard or if the Commission determines that a hearing should be held. Copies of applications for certificates are also served upon the state regulatory commissions of the states involved.

§ 1.526 *Application for discontinuance, reduction, or impairment of service.* (a) Applications under section 214 of the act for authority to discontinue, reduce or impair service to a community or part of a community or for the temporary, emergency or partial discontinuance, reduction or impairment of service shall be made on the form and manner and with the number of copies required by §§ 63.51 to 63.54, §§ 63.60 to 63.68, and §§ 63.500 to 63.507 of this chapter. Posted and published notice shall be given to the public as required by § 63.67, § 63.68 or § 63.90 of this chapter. In accordance with the delegation of authority provided for in the Commission's Statement of Organization, Delegations of Authority and Other Information, the Telegraph Committee, the Telephone Committee, and the Secretary, respectively, take final action on these matters. In other cases, final action is taken by the Commission. Recommendations on these applications are made by the Bureau of Accounting where telegraph service is involved, by the Bureau of Engineering where telephone service is involved, or by the Bureaus of Accounting, Engineering and Law.

(b) In cases requiring a certificate, notice is given to and a copy of the application is filed with the Secretary of the Army, the Secretary of the Navy, and the Governor of each State involved. A hearing is held if any of these parties desire to be heard or if the Commission determines that a hearing should be held. Also, copies of all formal applications under this section requesting authorizations are filed with the Governors of the States involved and the Secretary of the Army and Secretary of the Navy.

§ 1.527 *Application for consolidation of telephone companies.* Applications under section 221 (a) of the act, by one or more telephone companies for authority to consolidate their properties or a part thereof into a single company or to acquire the whole or any part of the property of another telephone company or other telephone companies or the control thereof by the purchase of securities or by lease or in any other like manner when such consolidated company would be subject to the Communications Act shall be submitted as follows:

(a) *Contents of application.* Each application shall contain in narrative form the following information:

(1) The exact name and address of each applicant;

(2) A statement as to whether each applicant is a carrier subject to the act and what change or changes in status will result from the consummation of the proposed transaction;

(3) The name, title, and post-office address of the officer to whom correspondence in regard to the application should be addressed;

(4) The Government, State, or Territory, under the laws of which each corporate applicant was organized;

(5) Detailed description of the property to be acquired, consolidated, or merged, and a brief history of such property;

(6) In a proposed consolidation or merger, the name of the company result-

ing therefrom, the capitalization proposed therefor, and the amount and class of capital stock and other securities proposed to be issued;

(7) The manner in which the properties, or control, will be acquired and the consideration, in money and otherwise, to be paid by each applicant;

(8) Statement of action of stockholders and directors of each applicant approving the proposed transaction, giving date and place of each meeting;

(9) Facts as to any intercorporate relations through holding companies, ownership of securities or otherwise, between the applicants, or any of them;

(10) Reasons in general why the proposed transaction will be of advantage to the persons to whom service is to be rendered and in the public interest;

(11) With respect to the full-time employees employed in the exchange area or exchange areas served by properties proposed to be acquired, a complete statement as to the treatment proposed to be accorded to such employees by the acquiring company, with due regard to such matters as severance pay, if any, for employees discharged as a consequence of the transaction; accrued pension and benefit rights, if any; wages; locations of employment; job assignments; seniority; and other conditions of employment.

(12) With respect to the full-time employees employed in the exchange area or exchange areas served by properties proposed to be consolidated or merged, a complete statement describing the manner in which the respective labor forces will be integrated or merged, giving due regard to the treatment to be accorded to such matters as severance pay, if any, for employees discharged as a consequence of the transaction; accrued pension and benefit rights, if any; wages; locations of employment; job assignments; seniority and other conditions of employment.

(13) The extent to which the facilities to be acquired or controlled (by purchase, lease, or otherwise) parallel or are competitive with the facilities of the proposed purchaser or others;

(14) A statement as to whether the proposed transaction has been presented to the regulatory authority of each state in which the property is situated, and, if so, with what results.

(b) *Supporting data required with application.* There shall be filed with and made a part of the original of each application under section 221 (a) the following:

(1) One copy of the charter, articles of incorporation and the bylaws of each applicant, duly certified (such copies are already on file with the Commission may be incorporated in the application by reference);

(2) One copy of resolutions of the stockholders or directors of each of the applicants approving the proposed transaction, such resolutions to be properly attested and accompanied by appropriate excerpts from the minutes, showing the number of votes cast for and against each such resolution;

(3) Map or sketch indicating the facilities of each telephone carrier in the area involved, and the location and own-

ership of exchange and toll properties before and after consummation of the proposed transaction;

(4) A recent balance sheet and an income statement of each party involved;

(5) A statement showing the book cost and related reserve amounts with respect to the plant items to be acquired unless all of the telephone plant is included in the proposed acquisition, consolidation, or merger;

(6) Copy of any contract or contracts, exclusive of right-of-way and attachment contracts, entered into between the applicants, or any of them, with respect to any of the telephone properties or service included in the proposed transaction;

(7) With respect to the full-time employees employed in the exchange area or exchange areas served by the properties proposed to be acquired, consolidated, or merged, a table showing for each such employee, by name, his job classification, length of service, wage rate and location of employment; except that where twenty-five or more full-time employees are employed in any exchange area served by the properties to be consolidated or merged with another exchange area or exchange areas, such information with respect to those employees may be given on a group basis by job classification.

(8) Copies of any pension or benefit plans which are referred to in the statements supplied pursuant to paragraph (a) (11) and (12) of this section.

(9) Any additional facts or reasons in support of the application.

(c) *Copies required.* Five copies shall be furnished to the Commission for its use. In addition, a copy should be served on any other party to the proceeding.

(d) *Procedure.* These applications are acted upon by the Commission after a public hearing is held thereon. Reasonable notice of the hearing is given by the Commission to the Governor of each State in which the physical property affected, or any part thereof, is situated, and to the State commission having jurisdiction over telephone companies and to such other persons as the Commission may deem advisable.

§ 1.528 *Application for consolidation of domestic telegraph carriers.* (a) Applications under section 222 of the act by two or more domestic telegraph carriers for authority to effect a consolidation or merger or to acquire all or any part of the domestic telegraph properties, domestic telegraph facilities, or domestic telegraph operations of any carrier which is not primarily a telegraph carrier shall contain such information as is necessary for the Commission to act upon such application under the provision of section 222 of the act.

(b) These applications are acted upon by the Commission after public hearing. Reasonable notice in writing of the public hearing and an opportunity to be heard is given by the Commission to the Governor of each of the States in which any of the physical property involved in such proposed consolidation or merger is situated, to the Secretary of State, the Secretary of the Army, the Attorney

General of the United States, the Secretary of the Navy, representatives of employees where represented by bargaining representatives known to the Commission, and to such other persons as the Commission may deem advisable.

§ 1.529 *Application with respect to disposition of debit amounts in account 100.4, "Telephone plant acquisition adjustment," for class A and class B telephone companies and in account 1200, "Plant adjustments" for class C telephone companies.* Sections 31.100.4 (c) (1) and 33.1200 (c) (1) of this chapter contain provisions relating to the disposition of such debit amounts in whole or in part, or for amortization over a reasonable period, through charges to appropriate income or surplus accounts. If a different disposition is desired, application therefor shall be made to the Commission. Final action, in accordance with established Commission policy, is taken on such applications by the Chief Accountant; or such applications are presented to the Commission for action upon the recommendation of the Chief Accountant.

TARIFFS, REPORTS, AND OTHER MATERIAL REQUIRED TO BE SUBMITTED BY CARRIERS

§ 1.541 *Tariffs to be filed.* Schedules of charges required under section 203 of the Communications Act shall be constructed, filed and posted in accordance with Part 61 of this chapter.

§ 1.543 *Contracts to be filed.* Copies of carrier contracts, agreements, concessions, licenses, authorizations or other arrangements, shall be filed in the form and manner and with the number of copies required by § 43.51 of this chapter.

§ 1.544 *Annual financial reports.* (a) Annual financial reports shall be filed by carriers and affiliates as required by § 43.21 of this chapter on the following forms:

- (1) Form H (holding companies)
- (2) Form M (telephone companies, class A and B).
- (3) Form O (wire-telegraph and ocean-cable carriers, class A and B).
- (4) Form R (radiotelegraph carriers, class A and B).
- (5) [Reserved.]

(6) Form L (licensees in the domestic public land mobile radio services who do not report to the Commission on Annual Report Form M).

(b) Verified copies of annual reports filed with the Securities and Exchange Commission on its Form 10-K, Form 1-MD, or such other form as may be prescribed by that Commission for filing of equivalent information, shall be filed annually with this Commission by each person immediately controlling any communication common carrier in accordance with § 43.21 of this chapter.

(c) Reports shall be filed annually by common carriers with respect to operations of separate departments or divisions of a holding company, servicing, or manufacturing nature in accordance with § 43.21 of this chapter.

§ 1.545 *Monthly financial reports.* Monthly reports of revenues, expenses, and other items shall be filed by carriers

as required by § 43.31 of this chapter on the following forms:

- F. C. C. Form No. 901 Telephone.
- F. C. C. Form No. 903 Radiotelegraph and Ocean-cable.
- F. C. C. Form No. 905 Wire-telegraph.

§ 1.547 *Reports to be filed under Part 31 of this chapter.* Reports shall be filed, either periodically or upon the happening of specified events, by carriers under Part 31 of this chapter in regard to the following:

(a) 31.01-2 (d) (1), (2), and (3). Sub-accounts, clearing, temporary and experimental accounts.

(b) 31.01-2 (e). Effecting entries to transfer the balances from the old to the new system of accounts.

(c) 31.01-5 (b). Particulars of relatively large delayed items.

(d) 31.01-9. Interpretation of prescribed accounting.

(e) 31.02-83, 31.138 (c), 31.609. Unprovided-for loss in service value of plant retired for causes not factors in depreciation.

(f) 31.1-13 (b). Amortization of amounts ordinarily includible in surplus and relating to the refinancing of the carrier's securities.

(g) 31.1-15 (f). Amortization of amounts ordinarily includible in surplus and relating to the refinancing of the carrier's long-term debt.

(h) 31.1-16. Exchange of securities.

(i) 31.1-16A. Issuance or assumption of nonpar capital stock.

(j) 31.1-16A. Transfer of surplus to nonpar capital stock account.

(k) 31.100.4 (b). Opening entry (and basis of computations of amounts included) in account 100.4, "Telephone plant acquisition adjustment."

(l) 31.100.4, 31.100.7, 31.172, 31.614. Disposition of amounts included in account 100.4, "Telephone plant acquisition adjustment," and in account 100.7, "Telephone plant adjustment."

(m) 31.138 (c), 31.6-64. Extensive replacement of station apparatus, inside, drop and block wires.

(n) 31.2-21 (b) (3). Acquisition of duplicate or other telephone plant to be retired.

(o) 31.2-21 (e). Substantial acquisition of telephone plant.

(p) 31.2-22 (b) (10) (ii) (iii). Interest for period longer than 6 months prior to commencement of construction, and interest during the suspension of construction.

(q) 31.2-24. Changes in list of retirement units.

(r) 31.2-26 (a), (b). Continuing property-record plan.

(s) 31.611 (a). Institution of an employment stabilization program.

(t) 31.672 (d), (f). Changes in (a) pension plan; (b) related matters; and (c) accounting for pension costs.

(u) Appendix B—Standard Practices, CPR: Section 1 (b). Continuing property record; (1) list of accounting areas (with descriptions) and (2) descriptions of subsequent proposed changes in the list.

(v) CFR: Section 2 (a). Continuing property record; proposed revisions in list of property-record units.

§ 1.548 *Reports to be filed under Part 33 of this chapter.* Reports shall be filed, either periodically or upon the happening of specified events, by carriers under Part 33 of this chapter in regard to the following:

- (a) 33.1 (a). Jurisdictional matters: determination of class.
- (b) 33.1 (b). Adoption of accounts prescribed for class A and class B telephone companies.
- (c) 33.12 (e). Closing of books on other than a calendar-year basis.
- (d) 33.14. Interpretation of prescribed accounting.
- (e) 33.14. Spreading of relatively large amounts to prevent distortion of accounts.
- (f) 33.14. Disposition of relatively large delayed items.
- (g) 33.21 (f). Issuance or assumption of no-par capital stock.
- (h) 33.21 (f). Transfer of surplus to no-par capital-stock accounts.
- (i) 33.32 (b), 33.1200 (b). Distribution of cost of plant acquired to plant and other accounts.
- (j) 33.1200 (c), 33.2700 (a), 33.5200. Disposition of amounts included in account 1200, "Plant adjustments."
- (k) 33.34 (c). Replacements of property leased from others.
- (l) 33.65 (d), 33.1890 (c), 33.2600 (b). Unprovided-for loss in service value of plant retired for causes not factors in depreciation.
- (m) 33.1890 (c). Extensive retirements of station apparatus and inside, drop, and block wires.
- (n) 33.2800 (b). Transfer of credit amounts from account 2800, "Contributions of telephone plant."
- (o) 33.81. Revision of list of units of property.

§ 1.549 *Reports to be filed under Part 34 of this chapter.* Reports shall be filed, either periodically or upon the happening of specified events, by carriers under Part 34 of this chapter in regard to the following:

- (a) 34.03-5 (b) (3). Subaccounts, clearing, temporary and experimental accounts.
- (b) 34.03-6. Effecting entries to transfer the balances from the old to the new system of accounts.
- (c) 34.03-11. Interpretation of prescribed accounting.
- (d) 34.03-13. Particulars of relatively large delayed items.
- (e) 34.04-4 (b), 34.1910. Unprovided-for loss in service value of plant retired for causes not factors in depreciation.
- (f) 34.10-8. Exchange of securities.
- (g) 34.10-9 (c). (a) Issuance of no-par capital stock; (b) transfer of surplus to no-par capital stock account; (c) reduction of capital surplus by use of no-par capital stock account; and (d) reduction of capital stock issued.
- (h) 34.10-10 (c). Historical and detailed analysis of capital surplus for prior periods (ended December 31, 1939).
- (i) 34.10-14 (f). Amortization of amounts ordinarily includible in income accounts and relating to refinancing of carrier's long-term debt.
- (j) 34.1510 (e), 34.1520 (b), 34.4920 (a), 34.5255 (a). Disposition of amounts

included in account 1510, "Plant acquisition adjustments."

- (k) 34.1515 (b). Relief from mandatory charges to account 6299, "Other extraordinary income charges," to create a credit balance (at January 1, 1940) in account 1515, "Allowance for depreciation—Radiotelegraph plant," equal to sustained depreciation of owned plant.
 - (l) 34.1520 (c). Relief from mandatory charges to account 6299 to create a credit balance (at January 1, 1940) in account 1520, "Allowance for amortization—Radiotelegraph plant," equal to the expired service value of certain intangibles.
 - (m) 34.1599 (d), 34.5089 (d). Changes in optional procedure adopted for recording foreign investments and foreign income.
 - (n) 34.1935 (a). Relief from mandatory charges to account 6299 of amounts cleared from account 1935, "Preliminary survey and investigation charges," and applicable to abandoned projects.
 - (o) 34.2220 (a), (c), 34.4198 (a). Institution of a program for equalization of maintenance expenses.
 - (p) 34.2225 (c). Relief from mandatory charges to account 6299 to create a credit balance (at January 1, 1940) in account 2225, "Provisions for depreciation and replacement of operated plant leased from others," equal to the expired service value of plant leased from others.
 - (q) 34.2515 (b). Transfer of credit amounts from account 2515, "Contributions of plant."
 - (r) 34.1-2 (d) (3). Acquisition of duplicate or other plant to be retired.
 - (s) 34.1-2 (g). Substantial acquisition of plant.
 - (t) 34.1-2 (g), 34.01 (b). Clearance date for plant acquisition entries.
 - (u) 34.1-3 (c) (8). Interest during the suspension of construction.
 - (v) 34.1-5 (g). Disposition of deferred charges and credits relating to plant leases terminated.
 - (w) 34.1-6 (f). Disposition of balances in account 2225 and account 2230, "Leased operated plant retired," relating to each expired lease of plant from others.
 - (x) 34.1-8. Continuous property-record plan.
 - (y) 34.4435 (d), (f). Changes in (a) pension plan, (b) related matters, and (c) in accounting for pension cost.
 - (z) 34.4950, 34.5260. Revenue-contract payments.
 - (aa) 34.9010 (Note). Relief from mandatory charges to account 6299 of amounts cleared from account 9010, "Research and development—Undistributed," and applicable to abandoned projects.
 - (bb) 34.1-6-1 (b). Revision of list of retirement units.
 - (cc) 34.1-6-1 (b), (d). Changes in list of retirement units (due 45 days after June 30, December 31).
- § 1.550 *Reports to be filed under Part 35 of this chapter.* Reports shall be filed, either periodically or upon the happening of specified events, by carriers under Part 35 of this chapter in regard to the following:

- (a) 35.03-5 (b) (3). Subaccounts, clearing, temporary and experimental accounts.
- (b) 35.03-6. Effecting entries to transfer the balance from the old to the new system of accounts.
- (c) 35.03-11 (b). Interpretation of prescribed accounting.
- (d) 35.03-13. Particulars of relatively large delayed items.
- (e) 35.04-4, 35.1910. Unprovided-for loss in service value of plant retired for causes not factors in depreciation.
- (f) 35.10-8. Exchange of securities.
- (g) 35.10-9 (c). (a) Issuance of no-par capital stock; (b) transfer of surplus to no-par capital stock account; (c) reduction of capital surplus by use of no-par capital stock account; and (d) reduction of capital stock issued.
- (h) 35.10-10 (c). Historical and detailed analysis of capital surplus for period ended December 31, 1942.
- (i) 35.10-14 (f). Amortization of amounts ordinarily includible in income accounts and relating to refinancing of company's long-term debt.
- (j) 35.1510 (d), 35.1520 (b), 35.4920 (a), 35.5255 (a). Disposition of amounts included in account 1510, "Plant acquisition adjustments."
- (k) 35.1515 (b). Relief from mandatory charges to account 6120 "Extraordinary current income charges," to create a credit balance in account 1515 "Allowance for depreciation—wire-telegraph and ocean-cable plant," equal to the sustained depreciation at January 1, 1943, of owned plant.
- (l) 35.1520 (c). Relief from mandatory charges to account 6120 to create a credit balance in account 1520 "Allowance for amortization—wire-telegraph and ocean-cable plant," equal to the sustained depreciation at January 1, 1943, of owned plant.
- (m) 35.1545 (b). Disposition of amounts included in account 1545, "Plant adjustments."
- (n) 35.1599 (d), 35.5089 (d). Changes in optional procedure adopted for recording foreign investments and foreign income.
- (o) 35.1935 (a). Relief from mandatory charges to account 6120 of amounts cleared from account 1935, "Preliminary survey and investigation charges," and applicable to abandoned projects.
- (p) 35.2220 (a), (c), 35.4180. Institution of a program for equalization of maintenance expenses.
- (q) 35.2225 (c). Relief from mandatory charges to account 6120 to create a credit balance (at January 1, 1943) in account 2225, "Provisions for depreciation and replacement of operated plant leased from others."
- (r) 35.2515 (b). Transfer of credit amounts from account 2515, "Contributions of Plant."
- (s) 35.1-1 (f). Reclassification of plant; and statement of amounts in accounts before and after reclassification (at January 1, 1943).
- (t) 35.1-2 (e). Acquisition of duplicate or other plant to be retired.
- (u) 35.1-2 (h). Substantial acquisition of plant.
- (v) 35.1-2 (h), 35.91 (b). Clearance date for plant acquisition entries.

(w) 35.1-3 (c) (8). Interest during the suspension of construction.

(x) 35.1-5 (g). Disposition of deferred charges and credits relating to plant leases terminated.

(y) 35.1-6 (k). Disposition of balances in account 2225 and account 2230, "Leased operated plant retired," relating to expired leases of plant from others.

(z) 35.1-8 (b). Continuous property-record plan.

(aa) 35.4327 (d), (f). Changes in (a) pension plan, (b) related matters, and (c) accounting for pension costs.

(bb) 35.9011 (b). Relief from mandatory charges to account 6120 of amounts cleared from account 9011, "Research and development clearing account," and applicable to abandoned projects.

(cc) 35.1-6-1 (b). Revision of list of retirement units.

(dd) 35.1-6-1 (b), (d). Permissive changes in list of retirement units (due 90 days after June 30)

§ 1.551 *Reports of proposed changes in depreciation rates.* Carriers shall file reports regarding proposed changes in depreciation rates as required by § 43.43 of this chapter.

§ 1.552 *Reports regarding premature destruction of records.* Carriers shall file reports relating to the premature destruction of records as required by §§ 45.7 and 46.7 of this chapter.

§ 1.553 *Reports regarding pensions and benefits.* Carriers shall file reports regarding pensions and benefits as required by § 43.42 of this chapter.

§ 1.554 *Reports regarding division of international telegraph communication charges.* Carriers engaging in international telegraph communication shall file reports in regard to the division of communication charges as required by § 43.53 of this chapter.

§ 1.555 *Reports regarding telegraph carrier services.* Telegraph carriers shall file description of their services as required by § 43.54 of this chapter.

§ 1.556 *Reports of negotiations regarding foreign communication matters.* Carriers engaging or participating in foreign communications shall file monthly reports covering negotiations conducted as required by § 43.52 of this chapter.

§ 1.557 *Reports on traffic.* (a) Commission Orders Nos. 85 and 86 require international telegraph carriers to file on FCC Form No. 336 and common carriers engaged in radiotelegraph communication with maritime mobile stations (with certain exceptions) to file on FCC Form No. 337 certain traffic information at periodic intervals. A complete description of these reports is set forth in Orders Nos. 85 and 86.

(b) Monthly and quarterly reports must be filed with the Commission in connection with certain fixed public radio service operations. No form is prescribed. A complete description of the contents of these reports is contained in §§ 6.41 and 6.53 of this chapter.

§ 1.558 *Reports under § 63.04 of this chapter.* Radio carriers receiving authority under § 63.04 of this chapter shall furnish quarterly reports as required therein.

§ 1.559 *Reports to be filed regarding lines.* Carriers shall furnish reports under § 63.54 of this chapter when a line authorized to be constructed, acquired or operated has been put into service.

§ 1.560 *Reports to be furnished regarding domestic telegraph speed of service.* The Western Union Telegraph Company shall furnish monthly reports under §§ 64.201 through 64.283 of this chapter in regard to Message Center speed of service and Origin to Destination speed of service on FCC Forms No. 338-A and No. 338-B respectively, and copies of instructions to field offices in accordance with § 64.226 of this chapter.

RULES RELATING TO COMPLAINTS

§ 1.571 *Formal or informal complaints.* Complaints filed under title II of the act may be either formal or informal.

§ 1.572 *Informal complaints.* No particular form is prescribed for informal complaints but they must be in writing, subscribed, and verified by the complainant. The complaint shall state the name and address of the complainant, the name of the carrier against whom the complaint is made, and shall state as definitely as possible the basis or reason for the complaint.

§ 1.573 *Action on informal complaints.* Upon receipt of an informal complaint properly drawn and executed, the Commission will, if its nature warrants, take the question up by correspondence with the carrier complained of in an endeavor to bring about satisfaction. Such correspondence with the carrier shall call upon it either to satisfy the complainant or advise the Commission of its refusal or inability to do so within such time as may be prescribed. If the carrier satisfies the complainant, it shall immediately notify the Commission and file with it proof of satisfaction; whereupon the complaint will be dismissed. If the carrier refuses or is unable to satisfy the complainant within the time prescribed, it shall so notify the Commission, which decision the Commission will forthwith give notice of to the complainant.

§ 1.574 *Resubmission; 6 months' rule.* When an informal complaint has not been satisfied pursuant to the foregoing rule, the complainant may either file a formal complaint or resubmit his informal complaint within 6 months from the date of the Commission's notice: *Provided, however,* That such resubmitted informal complaint must contain new material matter upon the same cause of action. The procedure prescribed herein for handling of informal complaints will be followed in case of resubmitted informal complaints. If such resubmitted informal complaint or a formal complaint is filed with the Commission within the 6-month period, such resubmission or filing will be deemed to relate back to

the date of the filing of the original informal complaint. But reference to the original date of the informal complaint must be made in such resubmission or in the formal complaint filed.

§ 1.575 *Formal complaints; requirements.* (a) Formal complaints shall contain the names of all parties complainant and defendant in full, the address of each complainant, and the name and address of his attorney, if represented by attorney, and shall be subscribed and verified by the complainant. (b) A form of such complaint is as follows:

(This form may be used in cases to which it is applicable, with such alterations as the circumstances may render necessary.)

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

COMPLAINANT

Docket No. -----

(To be inserted by the Secretary of the Commission)

Complainant

v.

Defendant

The complainant (here insert full name of each complainant and if a corporation the corporate title of such complainant) respectively shows:

(1) That (here state occupation and post-office address of each complainant).

(2) That (here insert the full name, occupation, and post-office address of each defendant).

(3) That (here insert fully and clearly the specific act or thing complained of, together with such facts as are necessary to give a full understanding of the situation).

Wherefore, complainant asks (here state specifically the relief desired).

Dated at ----- this ---- day of ----- 19-----

(Name of each complainant)

(Name and address of attorney, if any)

FORM OF VERIFICATION

----- being first duly sworn, on oath deposes, and says:

That he is the complainant (or one of the complainants), in the above-entitled matter; that he has read the within and foregoing complaint and knows the contents thereof, and that the matter and things therein stated are true of his own knowledge, save and except those matters therein stated on information and belief, and as to those he believes them to be true.

Subscribed and sworn to before me this ---- day of ----- 19-----

(Notary public or other proper officer)

§ 1.576 *Statement of issues; joinder of causes of complaint.* Formal complaints shall be so drawn as to advise the Commission and the defendant fully wherein the provisions of the act, or an order, rule or regulation of the Commission have been violated, the facts claimed

to constitute such violation, and the relief sought. Two or more grounds of complaint involving the same principle, subject, or statement of facts may be included in one complaint, but should be separately stated and numbered.

§ 1.577 *Notice of complaints.* Upon receipt of any formal complaint against any common carrier subject to the act, the Commission will forward a copy of the same to such carrier together with a notice of the filing thereof, which notice shall contain an order of the Commission calling upon the carrier to satisfy the complaint or answer the same in writing within the time specified in said notice, which in no event shall be less than 30 days.

§ 1.578 *Charges, etc.; specific references.* The several charges, classifications, regulations, or practices complained of shall be set out by specific references to schedules of charges and classifications, and also the particular regulations or practices whenever that is possible.

§ 1.579 *Separate statement of each provision violated.* When a violation of more than one provision of a section of the act is alleged, such violation shall be separately stated with respect to each provision of the act claimed to be violated.

§ 1.580 *Allegations; certainty.* In case recovery of damage is sought, the complaint should contain appropriate allegations showing such data as will serve to identify, with reasonable certainty, the communications or transmissions, or other services, in respect of which recovery is sought and shall state (a) that the complainant makes claim for reparation; (b) the name and address of each individual claimant asking reparation; (c) the name and address of defendants against which claim is made; (d) the communications, transmissions, or other services rendered, the charge applied thereto, the date when charges were paid, by whom paid, and by whom borne; (e) the period of time within which, or the specific dates when such communications, transmissions or other services were rendered; (f) points of origin and reception of such communications or transmissions, and if the damages sought to be recovered are for services other than communications or transmissions, then the allegations of the complaint shall state the nature and extent of such services, the date or dates when rendered, when paid for, and by whom borne; (g) nature and amount of injury sustained by each claimant; (h) if reparation is sought on behalf of others than the complainant, in what capacity or by what authority complaint is made in their behalf; and (i) that claimant has not filed suit in any court on the basis of the same claim.

§ 1.581 *Challenge of general rate adjustments; reparation.* If a general rate adjustment is challenged in the complaint, or many communications and transmissions or points of origin and reception are involved, the Commission will find and determine in its report the

issues as to violation of the act, injury thereby to complainant, and right to reparation. The Commission will afford the parties opportunity to agree or make proof respecting the communications, transmissions, or other services, and amount of reparation due under its findings, before entering its order awarding reparation. In such cases, authenticated schedules of charges, receipts, statements, and other exhibits bearing on details of such communications, transmissions, or other services, for which reparation is claimed, and the amount claimed (separately stated with respect to each communication, transmission, or other service rendered), need not be produced at the hearing unless called for or needed to develop other pertinent facts.

§ 1.582 *Discrimination specified.* In case unjust or unreasonable discrimination is alleged, the charge, practice, classification, regulation, facility, or service complained of must be clearly specified.

§ 1.583 *Preference or prejudice.* In case undue or unreasonable preference, advantage, or prejudice is alleged, the particular person, company, firm, corporation, locality, or description of traffic affected thereby, and the particular preference or prejudice or disadvantage, relied upon as constituting a violation, shall be clearly specified.

§ 1.584 *Reparation; prayer for.* Reparation will not be awarded upon a complaint unless specifically prayed for, except under unusual circumstances and for good cause shown. Reparation may be awarded, however, upon a supplemental complaint based upon the finding of the Commission in the original proceeding.

§ 1.585 *Limitations; damages pendente lite.* The Commission will consider as in substantial avoidance of the statute of limitations, a complaint in which the complainant alleges that the matters complained of, if continued in the future, will constitute violations of the act in the particulars and to the extent indicated, and prays reparation accordingly as to charges which shall be paid and borne by complainant on all communications, transmissions, or other services affected thereby occurring during the pendency of the proceeding.

§ 1.586 *Supplemental complaints—*
(a) *General.* Supplemental complaints may be tendered for filing by the parties complainant, against the parties defendant, setting forth any causes of action under the act alleged to have accrued in favor of the complainants and against the defendants since the filing of the original complaint.

(b) *Seeking damages.* If recovery of damages is sought by supplemental complaint, it must be filed with the Commission within the statutory periods stated in section 415 of the act.

§ 1.587 *Cross complaints.* Cross complaints alleging violations of the act by other carriers, parties to the proceeding, or seeking relief against them under the act, may be tendered for filing by de-

fendants with their answers and, upon leave granted, will be filed and served by the Commission in the manner provided for serving complaints.

§ 1.588 *Answers to complaints and petitions.* Any party upon whom a copy of a complaint, petition, or cross complaint is filed under this subpart shall file an answer within 30 days after service of the complaint. Such answer shall be subscribed by the party answering and shall be so drawn as to advise the parties and the Commission fully and completely of the nature of the defense, and shall admit or deny specifically and in detail all material allegations of the complaint. Collateral or immaterial issues shall be avoided in answers and every effort shall be made to narrow the issues. Matters alleged as affirmative defenses shall be separately stated and numbered. Any defendant failing to file and serve answer within the time and in the manner prescribed will be deemed in default, and the Commission will issue an appropriate order. (Counterclaims and set-offs against users of service supplied by carriers are not within the jurisdiction of the Commission.) This section does not apply to protests or applications seeking suspensions of proposed tariff schedules.

§ 1.589 *Answers to petitions or amended complaints.* Answers to petitions for intervention, or to amended complaints filed and served upon leave granted, need not be separately made unless the defendant so elects, and defendant's answer to the complaint will be deemed its answer to the petition in intervention.

§ 1.590 *Requests for suspension of tariff schedules.* Requests for suspensions of tariff schedules under section 204 of the act will not ordinarily be considered unless made in writing or by telegram at least 10 days before the effective date named in the schedule. Requests for suspensions must indicate the schedule affected by its Federal Communications Commission number and give specific reference to the items against which protest is made, together with a statement of the grounds thereof. If such request is made by telegram, the telegram must be followed and confirmed by request in writing and the telegram should succinctly state the substance of the matters to be set forth in the written request. Sixteen copies of each written request must be furnished to the Commission.

RULES CONCERNING SHOW CAUSE ORDERS AND TENTATIVE VALUATIONS

§ 1.591 *Order to show cause.* (a) Whenever the Commission desires to institute a proceeding within its jurisdiction under title II of the act against any common carrier, it will commence such action by serving upon the carrier an order to show cause. Said order shall contain a statement of the particulars and matters concerning which the Commission is inquiring, and the reasons for such action, and shall call upon the carrier to appear before the Commission at a place and time therein stated, and

answer and give evidence upon the matters specified in said order. The Commission may require in said order, that the carrier file with the Commission its verified answer to the order to show cause, on or before a day certain, prior to the hearing date therein fixed, in no event less than 30 days after service of the order.

(b) Any carrier, upon whom an order to show cause has been served under this section shall respond to the same by filing its answer within the time specified in said order. Such answer shall be drawn so as specifically to admit or deny the charges or allegations which may be made in said order, and so as to advise the Commission fully and completely upon the matters and things inquired of.

§ 1.592 *Protests of tentative valuations.* Protests in opposition to a tentative valuation shall be subscribed and verified and shall contain a concise statement of the essential elements of the protest with particularity as to the matters concerning which protest is made. Each object of protest shall be set up as a separate item in a separately numbered paragraph and the protest shall also include a statement of the protestant's interest in the matter in controversy.

SUBPART F—GENERAL RULES OF PRACTICE AND PROCEDURE

GENERAL

§ 1.701 *Suspension, amendment or waiver of rules.* The rules and regulations of the Commission may be suspended, revoked, modified, amended, or supplemented, in whole or in part, at any time by the Commission, subject to the provisions of the Administrative Procedure Act. Any provision of the rules may be waived by the Commission, if good cause therefor exists.

§ 1.702 *Petition for amendment or waiver of rules.* Any interested person may petition for issuance, amendment, repeal or waiver of any rule or regulation. Such petition shall show the text of the proposed rule, or its change, and set forth the reason in support of the petition.

§ 1.703 *Computation of time.* In computing any period of time prescribed or allowed by the Commission's rules or by order of the Commission the day of the act, event, or default, after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Sunday or a legal holiday or a Saturday on which the Commission's offices are not open, in which event the period runs until the end of the next day which is not a Sunday, holiday, or Saturday on which the Commission's offices are not open. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and holidays shall be excluded in the computation. A half holiday shall be considered as other days and not as a holiday.

PERSONAL APPEARANCES; PRACTITIONERS

§ 1.711 *Appearances.* Any person appearing before the Commission or any

of its representatives may be heard in person and may be accompanied, represented and advised by counsel.

§ 1.712 *Authority for representation.* Any person, in a representative capacity, transacting business with the Commission, may be required to show his authority to act in such capacity.

§ 1.713 *Persons who may be admitted to practice.* (a) The Commission will maintain a register of attorneys admitted to practice before the Commission. Any attorney at law in good standing admitted to practice before any court of the United States, the District of Columbia, or the highest court of any State or Territory, may register by filing with the Commission, an affidavit to this effect on FCC Form No. 786. The Commission may, if it so desires, require additional proof of said attorney's qualifications.

(b) Any attorney at law who has not been admitted to practice before the Commission may, in the discretion of the Commission or the official presiding at any hearing, be admitted for a particular case in which he may be employed.

§ 1.714 *Suspension or disbarment of attorneys.* The Commission may censure, suspend, disbar, or revoke the right of any person who has been admitted to practice before it if it finds that such person has in obtaining admission concealed any material facts with reference to his legal qualifications, professional standing, character or integrity, or has failed to conform to recognized standards of professional conduct. Before any member of the bar of the Commission shall be censured, suspended, disbarred, or his right to practice before the Commission revoked, charges shall be preferred by the Commission against such practitioner and he shall be afforded an opportunity to be heard thereon.

§ 1.715 *Former employees.* (a) No member, officer, or employee of the Commission shall, within 2 years after his service with the Commission is terminated, appear as attorney before the Commission in any cause or application which he has handled or passed upon while in the service of the Commission.

(b) No member, officer or employee of the Commission (1) whose active service with the Commission has terminated but who is receiving pay while on annual leave not taken prior to separation from such active service, or (2) who is in any other leave status, shall appear as attorney or participate in the preparation or handling of any matter before, or to be submitted to, the Commission.

§ 1.716 *Appearance blanks.* Each attorney representing a party to any proceeding shall enter his appearance in duplicate on the form prescribed for the purpose by the Commission prior to participating in such proceeding, which appearance shall be made a part of the record.

PETITIONS AND OTHER REQUESTS FOR COMMISSION ACTION

§ 1.721 *General.* Persons desiring to file complaints with the Commission or to request information on file with the

Commission or for any other relief under the jurisdiction of the Commission may do so either formally or informally. Formal submissions must be by way of petition which shall set forth clearly and concisely the petitioner's interest and facts supporting the relief sought and must comply with the Commission's rules concerning pleadings. All other submissions will be considered as informal in nature.

§ 1.722 *Petitions to intervene.* (a) Special rules governing petitions to intervene in matters arising under title III of the Communications Act are set forth in § 1.388.

(b) In all other proceedings persons desiring to intervene must file a petition setting forth the grounds of the proposed intervention, the position and interest of the petitioner, in the proceeding, the facts on which the petitioner bases his claim that his intervention will be in the public interest. If a proper showing is made, the Commission will grant the petition and permit participation in the proceedings. If the facts warrant, the Commission may limit participation by such persons to particular issues or to a particular stage of the proceedings. The granting of a petition to intervene shall not have the effect of changing or enlarging the issues which shall be those specified in the Commission's notice of hearing unless on motion the Commission shall amend the same.

§ 1.723 *Request by nonparties to participate in hearings: communications relating to applications.* (a) There will be maintained in the office of the Secretary of the Commission a record of all communications received by the Commission relating to the merits of any application pending before the Commission requesting the granting, renewal, modification, or revocation of any license or construction permit, certificate of convenience and necessity, or rate schedule. Such record shall show the name and address of the person making the statement and the substance of such statement. When the date of hearing has been set, if the matter is designated for hearing, the Secretary shall notify all persons shown by the records to have communicated with the Commission regarding the merits of such matter in order that such persons will have an opportunity to appear and give evidence at such hearing. In the case of communications bearing more than one signature, notice shall be given to the person first signing unless the communication clearly indicates that such notice should be sent to someone other than such person.

(b) No such person shall be precluded from giving any relevant material and competent testimony at such hearing because he lacks a sufficient interest to justify his intervention as a party in the matter.

(c) No such communication will be considered by the Commission in determining the merits of any such matter, nor shall any such communication be considered by any hearing officer unless it has been introduced into evidence at the hearing and appears as a part of the record. The admissibility of any such

communication or the Secretary's record of any such communication shall be governed by the applicable rules of evidence, and no such communication shall be admissible on the basis of a stipulation unless Commission's counsel as well as counsel for all of the parties shall join in such stipulation.

(d) Such communications, however, may be considered by the Commission if circumstances warrant in deciding whether or not a matter shall be set down for hearing in cases where in the absence of such communication no hearing would be required by the Commission.

§ 1.724 *Petitions to consolidate.* (a) The Commission, upon motion, or upon its own motion, will, where such action will best conduce to the proper dispatch of business and to the ends of justice, consolidate for hearing (1) any cases which involve the same applicant or arise from the same complaint or cause, or (2) any applications which by reason of the privileges, terms, or conditions requested present conflicting claims of the same nature.

(b) Any application that is mutually exclusive with another application or applications already designated for hearing will be consolidated for hearing with such other application or applications only if the application in question is filed at least 30 days before the date on which the hearing on the prior application or applications is scheduled: *Provided, however,* that in the case of applications for broadcast stations the said period shall be 60 days. If the scheduled date is changed, the date last set shall govern in determining the timeliness of an application for purposes of this paragraph.

§ 1.725 *Motions to enlarge or change the issues.* (a) Special rules governing motions to enlarge or change the issues in matters arising under title III of the Communications Act are set forth in § 1.389.

(b) In all other proceedings, motions to enlarge or change the issues may be filed by any party to a hearing.

§ 1.726 *Reconsideration or rehearing.* (a) Special rules relating to petitions for reconsideration or rehearing concerning matters arising under title III of the Communications Act are set forth in §§ 1.386 and 1.390.

(b) Rules governing petitions for rehearing in other cases are set forth in §§ 1.891-1.896.

(c) The Commission may on its own motion set aside any action made or taken by it within 30 days after public notice is given of such action.

§ 1.727 *Complaints.* (a) Special rules governing complaints as to matters arising under title II of the Communications Act are set forth in §§ 1.571-1.590.

(b) In other matters, formal petitions may be filed complaining of anything done, or omitted to be done, in contravention of provisions of law or of the Commission's rules and regulations. Upon the filing of such a petition the Commission will either make an investigation and issue a report or will deny the petition, setting forth the reasons there-

for. Persons desiring to submit complaints by informal methods may do so. Such complaints may, in the Commission's discretion be investigated or otherwise acted upon in any manner the Commission may deem expedient; but such informal complaint shall not be deemed to be a formal complaint within the meaning of this part, irrespective of any action taken thereon by the Commission.

§ 1.728 *Declaratory rulings.* The Commission may in its discretion on motion or on its own motion issue a declaratory ruling terminating a controversy or removing uncertainty.

§ 1.729 *Adverse rulings on petitions.* (a) Whenever the Commission denies in whole or in part any petition, prompt notice thereof will be given. This notice will contain or be accompanied by a statement of the reasons for the Commission's action unless it is merely an affirmation of a prior denial where reasons were given or the reasons for the denial are self-evident.

(b) The requirements of this section shall apply only to formal petitions as defined in § 1.721.

§ 1.730 *Oppositions and replies to oppositions.* Except as otherwise provided, oppositions to petitions must be filed within 10 days after such petitions are filed with the Commission. Replies to such oppositions must be filed within 5 days after such oppositions are filed with the Commission. No other pleadings may be filed with the Commission unless (a) specifically requested by the Commission or (b) leave to file such additional pleadings has been granted by the Motions Commissioner upon a showing of good cause.

MOTIONS DOCKET

§ 1.741 *Action by Commission.* In cases designated for formal hearing, all motions, petitions and other pleadings requesting final disposition of any case on its merits, those having the nature of an appeal to the Commission, those changing the issues upon which the hearing was ordered, and those requesting change or modification of a final order made by the Commission, shall be acted upon by the Commission. All other motions, petitions and other pleadings shall be acted upon in accordance with §§ 1.742 to 1.750.

§ 1.742 *Action by Motions Commissioner or Commissioner designated to preside at a hearing.* In cases designated for formal hearing all motions, petitions and other pleadings, except those subject to Commission action under § 1.741, shall be acted upon by the Motions Commissioner or, if a Commissioner has been designated to hear the case, by such Commissioner. When such Commissioner is not available, the Motions Commissioner may act.

§ 1.743 *Action by Hearing Examiner.* (a) After a Hearing Examiner has been designated to preside at a hearing, all motions, petitions and other pleadings, except those described in paragraph (b) of this section, which would be acted upon by the Motions Commissioner in accordance with § 1.742, shall be acted

upon by the Hearing Examiner. If the Hearing Examiner is not available, the Motions Commissioner may act.

(b) Petitions to intervene, to dismiss an application or proceeding, or any motion or petition filed after an initial decision is issued will be acted upon in accordance with the provisions of either §§ 1.741 or 1.742.

§ 1.744 *Motions calendar: Time of calling and place; continuances.* (a) There shall be a weekly Motions calendar consisting of two parts:

(1) Motions to be acted upon by the Motions Commissioner; and

(2) Motions to be acted upon by presiding officers.

(b) Each part of the motions calendar shall be called at the offices of the Commission at such times as the Motions Commissioner shall designate.

(c) The Motions Commissioner or Commissioner designated to preside at a hearing or a Hearing Examiner may continue any motion, petition or other pleading, and may upon notice, hear any motion at any time.

§ 1.745 *Time for filing motions.* Unless it is found that irreparable injury would be caused to one of the parties or the public interest so requires, no motion, petition, or other pleading shall be called, considered, or determined in the absence of consent by all parties unless it shall have been on file, accompanied by proof of service upon all parties, for a period of four days.

§ 1.746 *Oppositions.* Any party or the General Counsel of the Commission may file a pleading in opposition within the time specified in § 1.745 and may be heard thereon on the day designated for hearing of the motion, petition, or other pleading.

§ 1.747 *Procedure in Motions calendar.* Upon the request of any party or the General Counsel of the Commission, oral argument with respect to any contested matter on the Motions calendar may be heard before the Motions Commissioner, the Commissioner designated to preside at a hearing, or the Hearing Examiner. Failure of any party to request oral argument shall be deemed a waiver of his rights thereto; except that such request may be made after an opposition is filed by any other party. If oral argument is waived by any party, such motion or opposition shall be considered together with any pleadings or briefs which may be filed in support thereof. The waiving of oral argument by any party shall not preclude oral argument by any other party who makes timely request therefor. A motion duly served on all parties may be granted without oral argument if no opposition thereto has been timely filed, unless, in the discretion of the Motions Commissioner, the Commissioner designated to preside, or the Hearing Examiner, oral argument appears necessary prior to action, in which event, he may order such argument. If oral argument has not been requested by any party, the Motions Commissioner, the Commissioner designated to preside, or the Hearing

Examiner may, in his discretion, order oral argument.

§ 1.748 *Number of copies.* Eight copies of each motion, petition, or opposition thereto shall be filed unless the subject matter requires consideration by the Commission en banc or a Board or Committee of Commissioners, in which event 15 copies shall be filed.

§ 1.749 *Rulings.* Each motion or petition shall be disposed of by written order of which public notice shall promptly be given. The order upon contested motions or petitions shall contain a brief statement of the reasons for the ruling therein, unless such order is self-explanatory, or is merely the affirmation of a prior denial in which reasons have been given.

§ 1.750 *Review of adverse ruling.* (a) Any interested party may obtain review by the Commission of an adverse ruling with respect to any petition or motion by (1) filing within two days a petition for review; or (2) by stating his exception on the record in the hearing and requesting that it be carried forward therein.

(b) Failure to make timely request for review or to state an exception on the record, shall be deemed a waiver of any right to review.

§ 1.751 *Limitation on length of pleadings in adjudicatory proceedings.* No pleading filed with the Commission or Motions Commissioner by any party to any adjudicatory proceeding which has been designated for hearing which relates to an appeal from an interlocutory ruling of an examiner, or the Motions Commissioner, or to matters covered by section 0.222 of the rules, or to petitions for reconsideration and grant without hearing of applications previously designated for hearing, will be accepted for filing if the pleadings exceed 15 double spaced typewritten pages: *Provided*, That parties may, in a separate pleading, request permission to file pleadings on matters covered by this section of more than 15 pages, which permission will be granted upon good cause shown. Such requests must be filed in the case of the petition for reconsideration and grant without hearing within ten days of the mailing of the notice of designation for hearing by the Commission, and in all other matters covered by this section, within two days of the ruling in question. The two-day requirement of § 1.750 shall be operative only after disposal of the request for permission to file a pleading exceeding the limit here specified.

SPECIFICATIONS AND SERVICE OF PLEADINGS AND OTHER PAPERS

§ 1.761 *Cross reference.* Rules governing applications and reports under title III of the Communications Act are contained in Subpart D of this part. Rules governing applications, reports and complaints under title II of the Communications Act are contained in Subpart E of this part.

§ 1.762 *Specifications as to pleadings and documents.* All pleadings and docu-

ments (except briefs) filed in any proceeding shall, unless otherwise specifically provided herein, be on paper either 8 by 10½ or 8½ by 13 or 14 inches, with left-hand margin not less than 1½ inches wide. This requirement shall not apply to original documents, or admissible copies thereof, offered as exhibits or to specially prepared exhibits. The impression shall be on one side of the paper only and shall be double-spaced, except that long quotations shall be single-spaced and indented. All papers, except charts and maps, shall be typewritten or prepared by mechanical processing methods, other than letterpress or printed. The foregoing shall not apply to official publications. All copies must be clearly legible.

§ 1.763 *Briefs.* Briefs may be printed, typewritten, mimeographed, or multi-graphed. Printed briefs shall be in 10- or 12-point type, on good unglazed paper, 5¾ inches wide by 9 inches long, with inside margin not less than 1½ inches wide, and with double-leaded text and single-leaded citations.

§ 1.764 *Number of copies.* Unless otherwise specifically provided, an original and 14 copies of all petitions, motions, pleadings, briefs and other documents required or permitted to be filed under these rules shall be furnished the Commission, and one extra copy for each party to the proceeding when service is made by the Commission.

§ 1.765 *Subscription and verification.* All petitions, motions, pleadings, briefs, and other documents filed by any party represented by an attorney, shall be signed by at least one attorney of record in his individual name, whose address shall be stated. A party who is not represented by an attorney shall sign and verify the document and state his address. Except when otherwise specifically provided by rule or statute, documents signed by the attorney for a party need not be verified or accompanied by affidavit. The signature of an attorney constitutes a certificate by him that he has read the document; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If a document is not signed or is signed with intent to defeat the purpose of this section, it may be stricken as sham and false and the matter may proceed as though the document had not been filed. For a willful violation of this rule an attorney may be subjected to appropriate disciplinary action. Similar action may be taken if scandalous or indecent matter is inserted.

§ 1.766 *Amendments to pleadings.* Any pleading may be amended as a matter of right if filed with the Commission not less than 30 days prior to the date set for hearing in the proceeding in which the pleading is filed. Thereafter, requests for leave to amend will be considered only upon written motion. Amendments, amended pleadings, or requests for leave to amend must be served upon all parties of record.

§ 1.767 *Service of documents and proof of service.* All pleadings, petitions,

motions, briefs, or other documents filed in any proceeding shall be served by the party filing the same upon all parties of record, at or prior to the date fixed by these rules for the filing thereof, as follows:

(a) Service upon common carriers shall be made as provided in section 413 of the Communications Act of 1934, as amended.

(b) In all other cases whenever under the regulations in this part service is required or permitted to be made upon a party, and such party is represented by an attorney of record in the proceeding, the service shall be made upon the attorney. Service upon the attorney or upon a party shall be made by delivering a copy to him or by mailing it to him at his last-known address. Delivery of a copy within this rule means: handing it to the attorney or to the party; or leaving it at his office with his clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein, or, if the office is closed or the person to be served has no office, leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service by mail is complete upon mailing.

Proof of service as provided in the foregoing shall be made by appropriate certificate describing the service which shall be signed and attached to the original and copies of which shall be attached to all copies filed with the Commission. If service has been made by a delivery of a copy to the attorney, written acknowledgment thereof on the original filed will be considered proof of service; in such case an appropriate notation of such acknowledgment shall be made on all copies filed.

(c) Applications under title II of the Communications Act, which require service, and formal complaints, supplemental complaints, cross complaints, and amended complaints under title II will be served by the Commission. Service by the Commission upon common carriers shall be by leaving a copy of any document requiring service with the designated agent of such carrier at his office or usual place of residence in the District of Columbia, and if no such agent is designated, then service may be made by posting such notice, process, order, decision, or pleading in the office of the Secretary of the Commission.

§ 1.768 *Withdrawal of papers.* The granting of a request to dismiss or withdraw an application or a pleading does not authorize the removal of such application or pleading from the Commission's records. No application or other document once officially filed shall be returned unless the Commission shall, for good cause shown, order such return.

SUBPART G—RULES RELATING TO HEARINGS AND DECISIONS¹

§ 1.801 *Informal hearings.* The Commission may upon petition by any person or upon its own motion hold such informal hearings as it may deem necessary

¹ See footnote to Subpart D

from time to time in connection with the investigation of any matter which it has power to investigate under the law, or for the purpose of obtaining information necessary or helpful in the determination of its policies, the carrying out of its duties or the formulation or amendment of its rules and regulations. For such purposes it may subpoena witnesses and require the production of testimony as in formal hearings but the procedure to be followed shall be such as in the opinion of the Commission will best serve the purposes of such hearing.

FORMAL HEARINGS

§ 1.802 *Official reporter; transcript.* The Commission will designate from time to time an official reporter for the taking down and transcribing of hearing proceedings. No transcript of the testimony taken, or argument had, at any hearing will be furnished by the Commission, but will be open to inspection under section 4.406 of the Statement of Organization, Delegations of Authority and Other Information. Copies of such transcript, if desired, may be obtained from the official reporter upon payment of the charges therefor.

§ 1.803 *Notice of hearing.* Reasonable notice of hearing will be given to all parties to a proceeding. Such notice shall include:

- (a) A statement as to the time, place and nature of the hearing. If the time and place are not specified in the initial notice, the notice will indicate that the time and place will be designated by subsequent notice.
- (b) A statement as to the legal authority and jurisdiction under which the hearing is to be held.
- (c) A statement of the matters of fact and law involved

CONTINUANCES AND PREHEARING CONFERENCES

§ 1.811 *Continuances and extensions.* Continuances of any proceeding or hearing and extensions of time for making any filing or performing any act required or allowed to be done within a specified time may be granted upon motion for good cause shown, unless the time for performance or filing is limited by statute.

§ 1.812 *Postponement or change of place.* The Commission or the presiding officer may recess or adjourn a hearing for such time as may be deemed necessary, and may change the place thereof.

§ 1.813 *Prehearing conferences.* (a) The Commission or the presiding officer on its or his initiative, or at the request of any party, may direct the parties or their attorneys to appear at a specified time and place for a conference prior to or during the course of a hearing, or to submit suggestions in writing, for the purpose of considering, among other things, the following matters:

- (1) The necessity or desirability of simplification, clarification, amplification or limitation of the issues;
- (2) The possibility of stipulating with respect to facts;

- (3) The procedure at the hearing;
- (4) The limitation of the number of witnesses;

(5) The necessity or desirability of prior mutual exchange between or among the parties of prepared testimony and exhibits;

(6) In cases arising under Title II of the act, the necessity or desirability of amending the pleadings and offers of settlement or proposals of adjustment.

(b) An official transcript of the conference shall be made and action taken at or on the basis of the conference, including agreements reached between the parties, shall be incorporated by the Hearing Examiner in an order issued as promptly as may be feasible subsequent to the conclusion of the conference. All agreements will be subject to such ruling as the Examiner may make upon appropriate objection and, to be effective, must be found to be acceptable and approved by the Hearing Examiner.

DEPOSITIONS

§ 1.821 *Depositions on notice—(a) Notice of examination: time and place.* A party to a hearing desiring to take the deposition of any person shall give reasonable notice in writing to every other party. The notice shall state the time and place for taking the deposition, the name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs, and the matters with which the deposition will be concerned. On motion of any party upon whom the notice is served, the Commission may, for cause shown, enlarge or shorten the time.

(b) *Orders for the protection of parties and deponents.* After notice is served for taking a deposition, upon motion, seasonably made by any party or by the person to be examined, and upon notice and for good cause shown, the Commission may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the action and their officers or counsel, or that after being sealed the deposition shall be opened only by order of the Commission; or that Commission may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression.

§ 1.822 *Persons before whom depositions may be taken.* (a) *Qualifications.* Depositions shall be taken before any judge of any court of the United States, or any United States commissioner, or any clerk of a district court, or any chancellor, justice or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any of the United States, or any notary public, not being of counsel or attorney to any

party, nor interested in the event of the proceeding.

(b) *Record of examination; oath; objections.* The officer before whom the deposition is to be taken shall administer an oath or affirmation to the witness and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed, unless the parties agree otherwise. Any objection made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to such objection. In lieu of participating in the oral examination, parties served with notice of taking a deposition may transmit written interrogatories to the officer, who shall propound them to the witness and record the answers verbatim.

§ 1.823 *Submission to witness; changes; signing.* When the testimony is fully transcribed the deposition of each witness shall be submitted to him for examination and shall be read to or by him. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed, unless upon a motion to suppress the Commission holds that the reason given for the refusal to sign requires rejection of the deposition in whole or in part.

§ 1.824 *Certification and filing by officer; copies.* The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness, and that said officer is not of counsel or attorney to either of the parties, nor interested in the event of the proceeding or investigation. He shall then securely seal the deposition in an envelope endorsed with the title of the action and marked "Deposition of (here insert name of witness)" and shall promptly send the original and two copies thereof together with the original and two copies of all exhibits by registered mail to the Secretary of the Commission.

§ 1.825 *Inclusion in the record; objections.* (a) No deposition shall constitute a part of the record in any proceeding until received in evidence at a hearing. Except as provided in paragraphs (b) and (c) of this section, objection may be made at the hearing to

receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence, if the witness were then present and testifying.

(b) Objections to the competency of a witness, or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.

(c) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath, or affirmation, or in the conduct of parties and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless reasonable objection thereto is made at the taking of the deposition.

§ 1.826 *Inclusion in record.* The deposition of a person with a substantial interest in or holding a position of responsibility with a party to the proceeding will not be admitted in evidence unless it is shown that the witness is dead or seriously ill, or that such exceptional circumstances exist, or that the testimony proffered is of such character that in the interest of justice and with due regard to the importance of presenting the testimony of the witnesses orally, the deposition should be admitted.

SUBPENAS

§ 1.831 *Who may sign and issue.* Subpenas requiring the attendance and testimony of witnesses, and subpenas requiring the production of any books, papers, schedules of charges, contracts, agreements, and documents relating to any matter under investigation or hearing may be signed and issued as follows:

(a) Hearings before the Commission en banc or before a Committee of Commissioners: By a Commissioner;

(b) Hearings before a presiding officer: By a Commissioner or by the presiding officer.

§ 1.832 *Requests; verification and content.* A subpoena other than one directed by the Commission on its own initiative, will be issued only upon request in writing, unless such request is made on the record while a hearing is in progress, in which case such request on the record may be accepted in lieu of written request. Any request for a subpoena shall be supported by a showing of the general relevance and materiality of the evidence sought. A request for a subpoena to compel a witness to produce documentary evidence shall be in writing, duly subscribed and verified, and shall specify with particularity the books, papers, and documents desired and the facts expected to be proved thereby. Such requests need not be served upon other parties to the hearing. Prompt notice, including a brief statement of the reasons therefor, will be given of the denial, in whole or in part, of a request for a subpoena.

§ 1.833 *Witness fees.* Witnesses who are subpoenaed and respond thereto are entitled to the same fees including mileage

as are paid for like service in the courts of the United States. The party at whose instance the testimony is taken shall pay such fees at the time the subpoena is served.

§ 1.834 *Service of subpoenas; return.* (a) A subpoena may be served by a United States marshal or his deputy or by any other person who is not a party and is not less than 18 years of age. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person and by tendering to him the fees for one day's attendance and the mileage allowed by law. If the subpoena is issued on behalf of the United States or an officer or agency thereof fees and mileage need not be tendered.

(b) If service of the subpoena is made by a person other than a United States marshal or his deputy, such person shall make affidavit thereof, stating the date, time, and manner of service; and return such affidavit on, or with, the original subpoena in accordance with the form thereon. In case of failure to make service the reasons for the failure shall be stated on the original subpoena. In making service, the original subpoena shall be exhibited to the person served, shall be read to him if he is unable to read, and a copy thereof shall be left with him. The original subpoena, bearing or accompanied by the required return, affidavit, or statement, shall be returned forthwith to the Secretary of the Commission, or, if so directed on the subpoena, to the official before whom the person named in the subpoena is required to appear.

HEARINGS AND DECISIONS

§ 1.840 *Applicability.* Sections 1.843, 1.851 and 1.858 shall apply only to (a) cases which have been designated for hearing on or after December 11, 1946; (b) cases which were designated for hearing prior to December 11, 1946, and which after the record was closed were designated for further hearing on and after December 11, 1946, before a Commissioner or a Hearing Examiner appointed pursuant to the Administrative Procedure Act; and (c) cases designated for a hearing prior to December 11, 1946, if consolidated with a case designated for hearing on or after said date.

§ 1.841 *Exchange of exhibits and information; commencement of hearing procedure in cases involving broadcast applications for authority to construct broadcast facilities.* (a) Each applicant in a hearing upon broadcast applications for authority to construct broadcast facilities shall provide all parties to the hearing with a full set of exhibits to be offered in the hearing as the direct case of the said applicant. Such exchange of exhibits shall be made in accordance with such agreements and rulings as may result from the pre-hearing conference held pursuant to § 1.813, and unless otherwise directed by the Examiner, shall take place at least twenty days in advance of the date for commencement of the hearing. The exhibits required to be exchanged by this paragraph shall comprise the full direct case of the applicant, i. e., all data desired to be submitted by

the applicant in connection with his qualifications and proposals.

(b) Oral testimony by an applicant or his witnesses in connection with his direct case will be limited to (1) such appropriate qualification and explanation as may be necessary of the applicant's exhibits and (2) testimony concerning any portion of the applicant's affirmative case in substitution of exhibits or portions thereof which are rejected by the Examiner on grounds of competency or form rather than for reasons of lack of materiality or relevance. Such substituted oral testimony, however, is to be limited to the scope of the rejected exhibit or portions thereof: *Provided, however,* That the provision of this paragraph shall not be construed to preclude or limit normal cross-examination, rebuttal testimony, or the submission of appropriate exhibits in connection therewith.

(c) Except for good cause found in advance by the presiding officer, in all broadcast hearings involving applications for authority to construct broadcast facilities, there shall be held prior to the exchange of exhibits pursuant to this section a pre-hearing conference, in accordance with § 1.813, and a further conference following such exchange of exhibits. Unless otherwise ordered by the Examiner such further conference shall be held at least ten days prior to the date for the commencement of the hearing looking toward agreement on all matters relating to the conduct of the hearing and not already the subject of agreement. At this conference the Examiner and the parties, including Commission counsel, should be prepared to discuss (1) the possibility of agreements disposing of any evidentiary issues raised with respect to the exhibits previously exchanged between the parties; (2) the limitation on cumulative evidence; (3) number of witnesses and estimated length of testimony; (4) need for the use of depositions; and (5) any other matters which may aid the disposition of the hearing.

(d) The Hearing Examiner shall endeavor to issue an order at least five days prior to the date for commencement of hearing which recites the action taken at the further conference; the date for the hearing on the applicants' affirma-

²Such conferences involving applications for broadcast stations in comparative hearings may include matters such as: (1) Narrowing the issues or the areas of inquiry and proof at the hearing; (2) admissions of fact and of documents which will avoid unnecessary proof; (3) reports and letters relating to surveys or contacts; (4) assumptions regarding the availability of equipment; (5) network programming; (6) assumptions regarding the availability of networks proposed; (7) offers of letters in general; (8) the method of handling evidence relating to the past cooperation of existing stations owned and/or operated by the applicants with organizations in the area; (9) proof of contracts, agreements, or understandings reduced to writing; (10) stipulations; (11) need for depositions; (12) the numbering of exhibits; (13) the order of offer of proof with relationship to docket number; and (14) such other matters as will be conducive to an expeditious conduct of the hearing.

tive cases which, in the absence of special circumstances warranting greater delay, shall not be later than the date for commencement of the hearing specified by the Commission; agreements reached at the conference and any other matters relating to the subsequent course of the hearing. The orders issued by the Examiner as provided for herein shall control the course of the hearing unless modified by the Hearing Examiner for cause during the course of the hearing or by the Commission upon a review of the Hearing Examiner's ruling.

(e) Unless otherwise provided by agreement pursuant to § 1.813 (b), or by order of the Examiner in the light of the circumstances of a particular case, any party to a proceeding involving application for authority to construct broadcast facilities shall be entitled, upon written request therefor, to receive from any other party to the proceeding such detailed information relevant to the proposals of such other party as may reasonably and timely be requested, including information respecting the cost of station construction and operation, and including any material falling within the categories hereinafter specified:

- (1) Background and experience.
- (2) Integration of ownership and management.
- (3) Past operation of broadcast stations.
- (4) Programs.
- (5) Studies and surveys.
- (6) Studio, transmitter, and auxiliary broadcast equipment.
- (7) Studio, office, and transmitter building facilities.
- (8) Management and staffing plans.

§ 1.842 *Order of procedure.* At hearings on a formal complaint or petition, or in a proceeding for any instrument of authorization which the Commission is empowered to issue, the complainant, petitioner, or applicant, as the case may be, shall open and close. At hearings on revocation or modification of a station license under section 312 of the act, on suspension of an operator's license under section 303 of the act, or other like proceedings instituted by the Commission, the Commission shall open and close. At all hearings under Title II of the act, other than hearings on formal complaints, petitions or applications, the respondent shall open and close unless otherwise specified by the Commission. In all other cases, the Commission or presiding officer shall designate the order of presentation. Intervenor shall follow the party in whose behalf intervention is made, and in all cases where the intervention is not in support of an original party, the Commission, or presiding officer, shall designate at what stage such intervenors shall be heard.

§ 1.843 *Designation of presiding officers.* (a) There shall be designated to preside at hearings one or more Commissioners, or a Hearing Examiner appointed pursuant to section 11 of the Administrative Procedure Act.

(b) So far as practicable, Hearing Examiners designated as presiding officers shall be assigned to cases in rotation, due consideration being given to the fol-

lowing factors: (1) The grade classification of the Hearing Examiner, (2) the nature of the case to be heard, (3) the specialized experience of the Hearing Examiner, and (4) the extent of the Hearing Examiner's workload.

(c) Unless the Commission determines that due and timely execution of its functions requires otherwise, presiding officers shall be so designated, and notice thereof made public, at least 10 days prior to the date set for hearing. In the event that a presiding officer deems himself disqualified and desires to withdraw from the case he shall notify the Commission of his withdrawal at least 7 days prior to the date set for hearing. Any party or the General Counsel of the Commission may request the presiding officer to withdraw on the grounds of personal bias or other disqualification. The person seeking disqualification shall file with the presiding officer an affidavit setting forth in detail the facts alleged to constitute grounds for disqualification, and the presiding officer may file a response thereto. Such affidavit shall be filed not later than 5 days before the commencement of the hearing, unless for good cause shown, additional time is necessary; but in no event later than the close of the first day of the hearing. If the presiding officer believes himself not disqualified he shall so rule and proceed with the hearing. If the person seeking disqualification excepts to the ruling, he shall so state at the time the ruling is made, and the presiding officer shall certify the question together with the affidavit and any response filed in connection therewith, to the Commission. The Commission may rule on the question without hearing or it may require testimony or argument on the issues raised. The affidavit, response, testimony and decision thereon shall be part of the record in the case. Unless objection is made and exception is taken as required by this section, the right to request withdrawal of the presiding officer shall be deemed waived.

(d) If a presiding officer becomes unavailable to the Commission before the taking of testimony has been concluded, another presiding officer will be designated by order as provided in paragraph (a) of this section. If a presiding officer becomes unavailable to the Commission after the taking of testimony has been concluded, the record shall be certified by the Secretary to the Commission.

§ 1.844 *Authority of presiding officers.* Presiding officers, with respect to cases assigned to them, from the date of their designations until the submission of their decisions or the transfer of the cases to the Commission, and in addition to and in accordance with the authority elsewhere specified in the rules in this part, shall have authority to:

- (a) Administer oaths and affirmations.
- (b) Examine witnesses.
- (c) Rule upon questions of evidence.
- (d) Take or cause depositions to be taken.
- (e) Regulate the course of the hearing, maintain discipline and decorum and exclude from the hearing any person found in contemptuous conduct.

(f) Require the filing of memoranda of law, and the presentation of oral argument with respect to any question of law upon which he is required to rule during the course of the hearing.

(g) Issue subpoenas authorized by law.

(h) Hold conferences for the settlement or simplification of the issues by consent of the parties.

(i) Dispose of procedural requests or similar matters.

(j) Make decisions or recommended decisions in conformity with the Administrative Procedure Act.

§ 1.845 *Hearing before more than one person.* If more than one person is designated to preside at a hearing, the terms "presiding officer", "Commissioner designated to preside" or "Hearing Examiner" shall apply to all such persons, and authority to act shall be vested in a majority thereof, except as otherwise provided by order of the Commission.

§ 1.846 *Closing of the hearing.* The record of hearing shall be closed by an announcement to that effect, at the hearing, by the presiding officer when the taking of testimony has been concluded. In the discretion of the presiding officer, the record may be closed as of a future specified date in order to permit the admission into the record of exhibits to be prepared: *Provided*, The parties to the proceeding stipulate on the record that they waive the opportunity to cross-examine or present evidence with respect to such exhibits. The record in any hearing which has been adjourned may not be closed by such officer prior to the adjourned date except upon 10 days' notice to all parties to the proceeding and to the General Counsel of the Commission.

§ 1.847 *Certification of transcript.* After the close of the hearing the complete transcript of testimony, together with all exhibits, shall be certified as to identity by the presiding officer and filed in the office of the Secretary of the Commission. Notice of such certification shall be served on all parties to the proceedings.

§ 1.848 *Corrections to transcripts.* Within ten days after the date of notice of certification of the transcript, any party to the proceeding or the General Counsel may file with the presiding officer a motion requesting the correction of the transcript, which motion shall be accompanied by proof of service thereof upon all other parties to the proceedings. Within five days, other parties and the General Counsel may file a pleading in support of or in opposition to such motion. Thereafter, the presiding officer shall, by order, specify the corrections to be made in the transcript, and a copy of the order shall be served upon all parties and made a part of the record. The presiding officer, on his initiative, may specify corrections to be made in the transcript on 5 days' notice.

§ 1.849 *Proposed findings and conclusions.* (a) Each party to the proceeding and the General Counsel of the Commission may file proposed findings of fact and conclusions, briefs or memoranda of

law: *Provided, however*, That the presiding officer may direct the filing of proposed findings of fact and conclusions, briefs or memoranda of law. Such proposed findings of fact, conclusions, briefs, and memoranda of law shall be filed within 20 days after the record is closed, unless additional time is allowed.

(b) All pleadings and other papers filed pursuant to this section shall be accompanied by proof of service thereof upon all the other counsel.

(c) In the absence of a showing of good cause therefor, the failure to file proposed findings of fact, conclusions, briefs, or memoranda of law, when directed to do so, may be deemed a waiver of the right to participate further in the proceeding.

§ 1.850 Contents of findings of fact and conclusions. Proposed findings of fact shall be set forth in serially numbered paragraphs and shall set out in detail and with particularity all basic evidentiary facts developed on the record (with appropriate citations to the transcript of record or exhibit relied on for each evidentiary fact) supporting the conclusions proposed by the party filing same. Proposed conclusions shall be separately stated. Proposed findings of fact and conclusions submitted by a person other than an applicant may be limited to those issues in connection with the hearing which affect the interests of such person.

§ 1.851 Initial and recommended decisions. (a) Except as provided in paragraph (b) of this section, the presiding officer shall prepare an "Initial Decision" which shall be transmitted to the Secretary of the Commission who shall make it public immediately and file it in the docket of the case.

(b) In the order designating the presiding officer, or by subsequent order, the Commission may direct that the record in any case be certified to it for initial decision. If a case is certified to the Commission for initial decision, the presiding officer shall first prepare a recommended decision which shall be transmitted to the Secretary and which shall be made public at the time of the issuance of the Commission's initial decision, except that if the case involves rule making or the determination of an application for an initial license, no recommended decision shall be prepared unless it is otherwise ordered by the Commission. If a presiding officer is not required to prepare an initial or a recommended decision, he shall, upon the completion of the testimony, transmit the record of the case to the Secretary.

(c) Each initial and recommended decision shall contain findings of fact and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law or discretion presented on the record; each initial decision shall also contain the appropriate rule or order, and the sanction, relief or denial thereof; and each recommended decision shall contain recommendations as to what disposition of the case should be made by the Commission. Each initial decision will show the date upon which it will become effective in accordance

with the rules in this part in the absence of exceptions, appeal or review.

(d) The authority of the presiding officer over the proceedings shall cease when he has filed his initial or recommended decision, or, if it is a case in which he is to file no decision, when he has certified the case to the Commission for decision.

§ 1.852 Waiver of initial or recommended decision. At the conclusion of the hearing or within 20 days thereafter, all the parties to the proceeding and the General Counsel may agree to waive an initial or recommended decision, and may request that the Commission issue a final decision or order in the case. The Commission may, in its discretion, grant the request, in whole or in part, if such action will best conduce to the proper dispatch of business and to the ends of justice.

§ 1.853 Appeal and review of initial decision. (a) Within 20 days after the date on which public announcement of an initial decision is made, any of the parties or the General Counsel of the Commission may appeal to the Commission by filing exceptions to the initial decision and such decision shall not become effective and shall then be reviewed by the Commission, whether or not such exceptions may thereafter be withdrawn. The time for filing such exceptions may be extended for good cause shown.

(b) The Commission may on its initiative provide, by order adopted within 20 days after the time for filing exceptions expires, that an initial decision shall not become final, and that it shall be further reviewed or considered by the Commission.

(c) In any case in which an initial decision is subject to further review in accordance with paragraphs (a) or (b) of this section, the Commission may take any one or more of the following actions:

(1) Schedule the proceedings for oral argument;

(2) Require the filing of briefs;

(3) Prior to or after oral argument or the filing of briefs, reopen the record and remand the proceedings to the presiding officer to take further testimony or evidence;

(4) Prior to or after oral argument or the filing of briefs remand the proceedings to the presiding officer to make further findings or conclusions; and

(5) Prior to or after oral argument or the filing of briefs issue a supplemental initial decision.

(d) No initial decision shall become effective before 40 days after public announcement thereof is made unless otherwise ordered by the Commission. The timely filing of exceptions or the further review or consideration of an initial decision on the Commission's initiative shall stay the effectiveness thereof until the Commission's review thereof has been completed. If the effective date of an initial decision falls within any further time allowed for the filing of exceptions it shall be postponed automatically until 20 days after time for filing exceptions has expired.

(e) If no exceptions are filed, and the Commission has not ordered the review

of an initial decision on its initiative, the initial decision shall become effective, an appropriate notation to that effect shall be entered in the docket of the case and public notice thereof shall be given by the Commission. The provisions of § 1.726 (c) shall not be applicable with respect to this paragraph.

(f) When any party fails to file exceptions within the specified time to an initial decision which proposes to deny its application, such party shall be deemed to have no interest in further prosecution of its application, and its application may be dismissed with prejudice for failure to prosecute.

§ 1.854 Exceptions; oral arguments.

(a) Each exception to an initial decision or to any part of the record or proceeding in any case, including rules upon motions or objections, shall point out with particularity alleged errors in the decision or ruling and shall contain specific references to the page or pages of the transcript of hearing, exhibit or order on which the exception is based. Any objection not saved by exception, filed pursuant to this section, is waived. The exceptions should be concise and they will not be accepted if they contain argumentative matters or discussions of law. Excerpts of testimony, as may be desired, must not be contained in the exceptions but they may be set forth in an appendix to a brief or memorandum of law filed in accordance with paragraph (c) of this section.

(b) Within the period of time allowed herein for the filing of exceptions any party or the General Counsel of the Commission, may file a statement in support of an initial decision in whole or in part, which shall be similar in form to a statement of exceptions.

(c) Exceptions or supporting statements may be accompanied by a separate brief or memorandum of law in support thereof, and may contain a request for oral argument before the Commission. Except by special permission such brief or memorandum of law will not be accepted if they exceed 50 double spaced typewritten pages in length. After the filing of exceptions to a decision, any other party or the Bureau Counsel, or the General Counsel of the Commission, as the case may be, may file a reply brief for which the same limitation in length applies and a request for oral argument, (1) within 10 days after expiration of the time for filing exceptions, or (2) within 10 days after all parties have filed exceptions whichever period expires earliest. A request by an exceptor for oral argument shall be made within the time allowed for filing exceptions except, if such request has not been so made and a reply brief is filed, an exceptor may request such argument within five days after the filing of the reply brief. If no request for oral argument is filed within the time allowed herein, the parties will be deemed to have waived the right to oral argument.

(d) Within 10 days after any party or the Bureau Counsel or the General Counsel, as the case may be, has filed a request for oral argument, notice of intention to appear and participate therein

shall be filed by the other parties and the Bureau Counsel or General Counsel. If the Commission on its initiative designates an initial decision for oral argument, all parties who wish to participate, including the Bureau Counsel or the General Counsel shall, within 5 days thereafter, file written notice of intention to appear and participate in oral argument. Failure to file the written notice shall constitute a waiver of the right to participate in oral argument. The notice of hearing will contain the allotment of time for oral argument before the Commission for each party. The Commission will grant, in its discretion, upon good cause shown, an extension of such time upon petition by a party, which petition must be filed within 5 days after issuance of said notice of hearing.

(c) Within ten days after a transcript of oral argument has been filed in the office of the Secretary of the Commission, any party who participated in the oral argument, and the General Counsel, may file with the Commission a motion requesting correction of the transcript, which motion shall be accompanied by proof of service thereof upon all other parties who participated in the oral argument. Within five days after parties, and the General Counsel, may file a pleading in support of or in opposition to such motion. Thereafter, the Commissioner who presided at the oral argument shall, by order, specify the corrections to be made in the transcript, and a copy of the order shall be served upon all parties to the proceeding. The Commissioner who presided at the oral argument, on his own initiative, may specify corrections to be made in the transcript on five days' notice.

§ 1.855 *Limitation of matters to be reviewed.* Upon review of any initial decision, the Commission may, in its discretion, limit the issues to be reviewed to those findings and conclusions to which exceptions have been filed, or to those findings and conclusions specified in the Commission's order of review issued pursuant to § 1.853 (b).

§ 1.856 *Number of copies.* Fifteen copies of proposed findings of fact and conclusions, exceptions, supporting statements or briefs shall be filed.

§ 1.857 *Final decision of the Commission.* After opportunity has been afforded for the filing of proposed findings of fact and conclusions, exceptions, supporting statements, briefs and for the holding of oral argument as provided in the rules in this part, the Commission will issue a final decision in each case in which an initial decision has not otherwise become final. The final decision shall contain findings of fact and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law or discretion presented on the record; shall contain a ruling on each relevant and material exception filed and the appropriate rule or order and the sanction, relief or denial thereof.

§ 1.858 *Separation of functions.* (a) No hearing examiner shall consult any person or party on any fact in issue un-

less upon notice and opportunity for all parties to participate; nor shall such officer be responsible to or subject to the supervision or direction of any officer, employee or agent engaged in the performance of investigative or prosecuting functions for the Commission.

(b) Except as provided by section 5 of the Administrative Procedure Act, no officer, employee or agent engaged in the performance of investigative or prosecuting functions for the Commission in any case shall, in that or a factually related case, participate or advise in the decision, recommended decision or Commission review of any decision, except as a witness or counsel in public proceedings.

§ 1.859 *The record.* The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, shall constitute the exclusive record for decision.

EVIDENCE

§ 1.871 *Rules of evidence.* Except as otherwise provided in this subpart, the rules of evidence governing civil proceedings in matters not involving trial by jury in the courts of the United States shall govern formal hearings. Such rules may be relaxed if the ends of justice will be better served by so doing.

§ 1.872 *Cumulative evidence.* The introduction of cumulative evidence shall be avoided, and the number of witnesses that may be heard in behalf of a party on any issue may be limited.

§ 1.873 *Further evidence during hearing.* At any stage of a hearing, the presiding officer may call for further evidence upon any issue and may require such evidence to be submitted by any party to the proceeding.

§ 1.874 *Documents containing matter not material.* If material and relevant matter offered in evidence is embraced in a document containing other matter not material or relevant, and not intended to be put in evidence, such document will not be received, but the party offering the same shall present to other counsel, and to the presiding officer, the original document, together with true copies of such material and relevant matter taken therefrom, as it is desired to introduce. Upon presentation of such matter in proper form, it may be received in evidence, and become a part of the record. Other counsel will be afforded an opportunity to introduce in evidence, in like manner, other portions of such document if found to be material and relevant.

§ 1.875 *Documents in foreign language.* Every document, exhibit, or other paper written in a language other than English, which shall be filed in any proceeding, or in response to any order, shall be filed in the language in which it is written together with an English translation thereof duly verified under oath to be a true translation. Each copy of every such document, exhibit, or other paper filed, shall be accompanied by a separate copy of the translation.

§ 1.876 *Copies of exhibits.* No document or exhibit, or part thereof shall be

received as, or admitted in, evidence unless offered in duplicate. In addition, when exhibits of a documentary character are to be offered in evidence, copies shall be furnished to other counsel unless the presiding officer otherwise directs.

§ 1.877 *Mechanical reproductions as evidence.* Unless offered for the sole purpose of attempting to prove or demonstrate sound effect, mechanical or physical reproductions of sound waves shall not be admitted in evidence. Any party desiring to offer any matter alleged to be contained therein or thereupon shall have such matter typewritten on paper of the size prescribed by the rules of the Commission, and the same shall be identified and offered in duplicate in the same manner as other exhibits.

§ 1.878 *Tariffs as evidence.* In case any matter contained in a tariff schedule on file with the Commission is offered in evidence, such tariff schedule need not be produced or marked for identification, but the matter so offered shall be specified with particularity (tariff and page number) in such manner as to be readily identified, and may be received in evidence by reference subject to check with the original tariff schedules on file.

§ 1.879 *Proof of official record; authentication of copy.* An official record, or entry therein when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having legal custody of the record, or by his deputy, and accompanied with a certificate that such officer has the custody. If the office in which the record is kept is within the United States or within a territory or insular possession subject to the dominion of the United States, the certificate may be made by the judge of a court of record of the district or political subdivision in which the record is kept, authenticated by the seal of the court, or may be made by any public officer having a seal of office having official duties in the district or political subdivision in which the record is kept, authenticated by the seal of his office. If the office in which the record is kept is in a foreign state or country, the certificate may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent, or by any officer in the foreign service of the United States stationed in the foreign state or country in which the record is kept, and authenticated by the seal of his office.

§ 1.880 *Proof of lack of record.* The absence of an official record or entry of a specified tenor in an official record may be evidenced by a written statement signed by an officer, or by his deputy, who would have custody of the official record, if it existed, that after diligent search no record or entry of a specified tenor is found to exist in the records of his office accompanied by a certificate as provided in § 1.879. Such statement and certificate are admissible as evidence that the records of his office contain no such record or entry.

§ 1.881 *Other proof of official record.* Sections 1.879 and 1.880 do not prevent the proof of official records or of entry

or lack of entry therein by any method authorized by any applicable statute or by the rules of evidence at common law.

REHEARINGS

§ 1.891 *Cross reference.* Special rules relating to petition for reconsideration or rehearing concerning matters arising under Title III of the Communications Act are set forth in §§ 1.386 and 1.390.

§ 1.892 *Who may file.* A petition for rehearing may be filed by any party to the hearing. Any person not a party to the hearing desiring to file a petition for rehearing shall state his interest in the proceeding and show good reason why it was not possible for him to participate in the hearing.

§ 1.893 *Contents; relief requested.* (a) Petitions for rehearing shall state with particularity in what respect the decision, order, or requirement or any matter determined therein is claimed to be unjust, unwarranted, or erroneous, and with respect to any finding of fact shall specify the pages of record relied on. If the existence of newly discovered evidence is claimed, the petition shall be accompanied by a verified statement of the facts, together with the facts relied on to show that the petitioner, with due diligence, could not have known or discovered such facts at the time of the hearing.

(b) The petition for rehearing may request (1) reconsideration, either in cases decided after hearing or in cases of application granted without hearing under Title III of the act; (2) oral argument; (3) reopening of the proceeding; (4) amendment of any findings, or (5) other relief. Such petition shall be specific as to the form of relief sought and, subject to this requirement, may contain alternative requests.

§ 1.894 *Time for filing.* Petitions for rehearing shall be filed within 30 days after public notice is given of the order or action complained of.

§ 1.895 *Opposition.* An opposition to any petition for rehearing may be filed within 10 days after the filing of such petition.

§ 1.896 *Special calendar when granted.* In case any petition for rehearing is granted, whether the taking of additional testimony is ordered or otherwise, the case shall be placed upon a special calendar and consideration of the same shall be expedited.

APPENDIX 1—APPLICATIONS UNDER THE CABLE LANDING LICENSES ACT¹ AND EXECUTIVE ORDER NO. 10530

APPLICATIONS UNDER "AN ACT RELATING TO THE LANDING AND OPERATION OF SUBMARINE CABLES IN THE UNITED STATES"

These applications should be filed in duplicate with the Secretary of the Federal Communications Commission in accordance with the provisions of Executive Order No. 10530, dated May 10, 1954, and should contain the name and address of the applicant, the corporate structure and citizenship of officers if a corporation; description of sub-

marine cable, including type and number of channels and capacity thereof; location of points on shore of United States and points in foreign countries where cable will land (including map); proposed use, need and desirability of the cable; and any other information as may be necessary to enable the Commission to act thereon. Each application or amendment thereto shall be personally subscribed and verified (or affirmed according to law): (1) By the party filing such application or amendment, or by one of the parties, if there be more than one; (2) by an officer of the party filing the application or amendment if the party be a corporation: *Provided, however,* That subscription and verification may be made by the attorney for the party (1) in case of physical disability of the party, or (2) his absence from the continental United States. If it be made by a person other than the party, he must set forth in the verification the grounds of his belief as to all matters not stated upon his knowledge and the reason why it is not made by the party. Only the original copy need be signed and verified; the copy may be conformed.

These applications are acted upon by the Federal Communications Commission after obtaining the approval of the Secretary of State and such assistance from any executive department or establishment of the Government as it may require. These applications are processed initially by the International Division of the Common Carrier Bureau, which makes a recommendation thereon to the Commission.

Original files relating to submarine cable landing licenses and applications for licenses since June 30, 1934, are kept by the Federal Communications Commission. Such applications for licenses (including all documents and exhibits filed with and made a part thereof, with the exception of any maps showing the exact location of the submarine cable or cables to be licensed) and the licenses issued pursuant thereto, with the exception of such maps, shall, unless otherwise ordered by the Commission, be open to public inspection in the offices of the Commission in Washington, D. C.

Original files relating to licenses and applications for licenses for the landing operation of cables prior to June 30, 1934, were kept by the Department of State and such files prior to 1930 have been transferred to the Executive and Foreign Affairs Branch of the General Records Office of the National Archives. Requests for inspection of these files should, however, be addressed to the Federal Communications Commission, Washington 25, D. C., and the Commission will obtain such files for a temporary period in order to permit inspection at the offices of the Commission.

APPENDIX 2—A PLAN OF COOPERATIVE PROCEDURE IN MATTERS AND CASES UNDER THE PROVISIONS OF SECTION 410 OF THE COMMUNICATIONS ACT OF 1934

(Approved by the Federal Communications Commission October 25, 1938, and approved by the National Association of Railroad and Utilities Commissioners on November 17, 1938.)

PRELIMINARY STATEMENT CONCERNING THE PURPOSE AND EFFECT OF THE PLAN

Section 410 of the Communications Act of 1934 authorizes cooperation between the Federal Communications Commission, hereinafter called the Federal Commission, and the State commissions of the several States, in the administration of said act. Subsection (a) authorizes the reference of any matter arising in the administration of said act to a board to be composed of a member or members from each of the States in which the wire, or radio communication affected by or involved in the proceeding takes place, or is

proposed. Subsection (b) authorizes conferences by the Federal Commission with State commissions regarding the relationship between rate structures, accounts, charges, practices, classifications, and regulations of carriers subject to the jurisdiction of such State commissions and of said Federal Commission and joint hearings with State commissions in connection with any matter with respect to which the Federal Commission is authorized to act.

Obviously, it is impossible to determine in advance what matters should be the subject of a conference, what matters should be referred to a board, and what matters should be heard at a joint hearing of State commissions and the Federal Commission. It is understood, therefore, that the Federal Commission or any State commission will freely suggest cooperation with respect to any proceedings or matter affecting any carrier subject to the jurisdiction of said Federal Commission and of a State commission, and concerning which it is believed that cooperation will be in the public interest.

To enable this to be done, whenever a proceeding shall be instituted before any commission, Federal or State, in which another commission is believed to be interested, notice should be promptly given each such interested commission by the commission before which the proceeding has been instituted. Inasmuch, however, as failure to give notice as contemplated by the provisions of this plan will sometimes occur purely through inadvertence, any such failure should not operate to deter any commission from suggesting that any such proceeding be made the subject matter of cooperative action, if cooperation therein is deemed desirable.

It is understood that each commission, whether or not represented in the National Association of Railroad and Utilities Commissioners, must determine its own course of action with respect to any proceeding in the light of the law under which, at any given time, it is called upon to act, and must be guided by its own views of public policy; and that no action taken by such Association can in any respect prejudice such freedom of action. The approval by the Association of this plan of cooperative procedure, which was jointly prepared by the Association's standing Committee on Cooperation between Federal and State commissions and said Federal Commission, is accordingly recommendatory only; but such plan is designed to be, and it is believed that it will be, a helpful step in the promotion of cooperative relations between the State commissions and said Federal Commission.

NOTICE OF INSTITUTION OF PROCEEDING

Whenever there shall be instituted before the Federal Commission any proceeding involving the rates of any telephone or telegraph carrier, the State commissions of the States affected thereby will be notified immediately thereof by the Federal Commission, and each notice given a State commission will advise such commission that, if it deems the proceeding one which should be considered under the cooperative provisions of the act, it should either directly or through the National Association of Railroad and Utilities Commissioners, notify the Federal Commission as to the nature of its interest in said matter and request a conference, the creation of a joint board, or a joint hearing as may be desired, indicating its preference and the reasons therefor. Upon receipt of such request the Federal Commission will consider the same and may confer with the commission making the request and with other interested commissions, or with representatives of the National Association of Railroad and Utilities Commissioners, in such manner as may be most suitable; and if cooperation shall appear to be practicable and desirable, shall so advise each interested

¹ May 27, 1921, c. 12, 42 Stat. 8 and 9 (47 U. S. C. 34-39).

State commission, directly, when such cooperation will be by joint conference or by reference to a joint board appointed under said section 410 (a), and, as hereinafter provided, when such cooperation will be by a joint hearing under said section 410 (b).

Each State commission should in like manner notify the Federal Commission of any proceeding instituted before it involving the toll telephone rates or the telegraph rates of any carrier subject to the jurisdiction of the Federal Commission.

PROCEDURE GOVERNING JOINT CONFERENCES

The Federal Commission, in accordance with the indicated procedure, will confer with any State commission regarding any matter relating to the regulation of public utilities subject to the jurisdiction of either commission. The commission desiring a conference upon any such matter should notify the other without delay, and thereupon the Federal Commission will promptly arrange for a conference in which all interested State commissions will be invited to be present.

PROCEDURE GOVERNING MATTERS REFERRED TO A BOARD

Whenever the Federal Commission, either upon its own motion or upon the suggestion of a State commission, or at the request of any interested party, shall determine that it is desirable to refer a matter arising in the administration of the Communications Act of 1934 to a board to be composed of a member or members from the State or States affected or to be affected by such matter, the procedure shall be as follows:

The Federal Commission will send a request to each interested State commission to nominate a specified number of members to serve on such board.

The representation of each State concerned shall be equal, unless one or more of the States affected chooses to waive such right of equal representation. When the member or members of any board have been nominated and appointed, in accordance with the provisions of the Communications Act of 1934, the Federal Commission will make an order referring the particular matter to such board, and such order shall fix the time and place of hearing, define the force and effect the action of the board shall have, and the manner in which its proceedings shall be conducted. The rules of practice and procedure, as from time to time adopted or prescribed by the Federal Commission, shall govern such board, as far as applicable.

PROCEDURE GOVERNING JOINT HEARINGS

Whenever the Federal Commission, either upon its own motion or upon suggestions made by or on behalf of any interested State commission or commissions, shall determine that a joint hearing under said section 410 (b) is desirable in connection with any matter pending before said Federal Commission, the procedure shall be as follows:

(a) The Federal Commission will notify the general solicitor of the National Association of Railroad and Utilities Commissioners that said Association, or, if not more than eight States are within the territory affected by the proceeding, the State commissions interested, are invited to name Cooperating Commissioners to sit with the Federal Commission for the hearing and consideration of said proceeding.

(b) Upon receipt of any notice from said Federal Commission inviting cooperation, if not more than eight States are involved, the general solicitor shall at once advise the State commissions of said States, they being represented in the membership of the association, of the receipt of such notice, and shall request each such commission to give advice to him in writing, before a date to be indicated by him in his communication requesting such advice (1) whether such commission will cooperate in said proceed-

ing, (2) if it will, by what commissioner it will be represented therein.

(c) Upon the basis of replies received, the general solicitor shall advise the Federal Commission what States, if any, are desirous of making the proceeding cooperative and by what commissioners they will be represented, and he shall give like advice to each State commission interested therein.

(d) If more than eight States are interested in the proceeding, because within territory for which rates will be under consideration therein, the general solicitor shall advise the president of the association that the association is invited to name a cooperating committee of State commissioners representing the States interested in said proceeding.

The president of the association shall thereupon advise the general solicitor in writing (1) whether the invitation is accepted on behalf of the association, and (2) the names of commissioners selected to sit as a cooperating committee. The president of the association shall have authority to accept or to decline said invitation for the association, and to determine the number of commissioners who shall be named on the cooperating committee, provided that his action shall be concurred in by the chairman of the association's executive committee. In the event of any failure of the president of the association and chairman of its executive committee to agree, the second vice president of the association (or the chairman of its committee on cooperation between State and Federal commissions, if there shall be no second vice president) shall be consulted, and the majority opinion of the three shall prevail. Consultations and expressions of opinion may be by mail or telegraph.

(e) If any proceeding, involving more than eight States, is pending before the Federal Commission, in which cooperation has not been invited by that Commission, which the association's president and the first and second vice presidents, or any two of them, consider should be made a cooperating proceeding, they may instruct the general solicitor to suggest to the Federal Commission that the proceeding be made a cooperative proceeding; and any State commission considering that said proceeding should be made cooperative may request the president of the association or the chairman of its executive committee to make such suggestion after consideration with the executive officers above named. If said Federal Commission shall assent to the suggestion, made as aforesaid, the president of the association shall have the same authority to proceed, and shall proceed in the appointment of a cooperating committee, as is provided in other cases involving more than eight States, wherein the Federal Commission has invited cooperation, and the invitation has been accepted.

(f) Whenever any case is pending before the Federal Commission involving eight States or less, which a commission of any of said States considers should be made cooperative, such commission, either directly or through the general solicitor of the association, may suggest to the Federal Commission that the proceeding be made cooperative. If said Federal Commission accedes to such suggestion, it will notify the general solicitor of the association to that effect and thereupon the general solicitor shall proceed as is provided in such case when the invitation has been made by the Federal Commission without State commission suggestion.

APPOINTMENT OF COOPERATING COMMISSIONERS BY THE PRESIDENT

In the appointment of any cooperating committee, the president of the association shall make appointments only from commissions of the States interested in the particular proceeding in which the committee is to serve. He shall exercise his best judgment to select cooperating commissioners who are

especially qualified to serve upon cooperating committees by reason of their ability and fitness; and in no case shall he appoint a commissioner upon a cooperating committee until he shall have been advised by such commissioner that it will be practicable for him to attend the hearings in the proceeding in which the committee is to serve, including the arguments therein, and the cooperative conferences, which may be held following the submission of the proceeding, to an extent that will reasonably enable him to be informed upon the issues in the proceeding and to form a reasonable judgment in the matters to be determined.

TENURE OF COOPERATORS

(a) No State commissioner shall sit in a cooperative proceeding under this plan except a commissioner who has been selected by his commission to represent it in a proceeding involving eight States or less, or has been selected by the president of the association to sit in a case involving more than eight States, in the manner hereinbefore provided.

(b) A commissioner who has been selected, as hereinbefore provided, to serve as a member of a cooperating committee in any proceeding, shall without further appointment, and without regard to the duration of time involved, continue to serve in said proceeding until the final disposition thereof, including hearings and conferences after any order or reopening, provided that he shall continue to be a State commissioner.

(c) No member of a cooperating committee shall have any right or authority to designate another commissioner to serve in his place at any hearing or conference in any proceeding in which he has been appointed to serve.

(d) Should a vacancy occur upon any cooperating committee, in a proceeding involving more than eight States, by reason of the death of any cooperating commissioner, or of his ceasing to be a State commissioner, or of other inability to serve, it shall be the duty of the president of the association to fill the vacancy by appointment, if, after communication with the chairman of the cooperating committee, it be deemed necessary to fill such vacancy.

(e) In the event of any such vacancy occurring upon a cooperating committee involving not more than eight States, the vacancy shall be filled by the commission from which the vacancy occurs.

COOPERATING COMMITTEE TO DETERMINE RESPECTING ANY REPORT OF STATEMENT OF ITS ATTITUDE

(a) Whenever a cooperating committee shall have concluded its work, or shall deem such course advisable, the committee shall consider whether it is necessary and desirable to make a report to the interested State commissions, and, if it shall determine to make a report, it shall cause the same to be distributed through the secretary of the association, or through the general solicitor to all interested commissions.

(b) If a report of the Federal Commission will accompany any order to be made in said proceeding, the Federal Commission will state therein the concurrence or nonconcurrence of said cooperating committee in the decision or order of said Federal Commission.

CONSTRUCTION HEREOF IN CERTAIN RESPECTS EXPRESSLY PROVIDED

It is understood and provided that no State or States shall be deprived of the right of participation and cooperation as hereinbefore provided because of nonmembership in the association. With respect to any such State or States, all negotiations herein specified to be carried on between the Federal Commission and any officer of such association shall be conducted by the Federal Commission directly with the chairman of the commission of such State or States.

NOTICE

This form should be completed and forwarded to the Federal Communications Commission, Washington, D. C., and upon receipt of same, any amendment to this Part of the Rules and Regulations adopted after the date of this publication will be mailed to the addressee indicated, except as noted below.¹

Part No. 1—Practice and Procedure
(December 1955 Edition)

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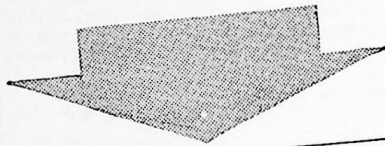
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¹Purchasers of this part will be advised where a particular amendment may be obtained including the cost if not available from the F. C. C.

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