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TITLE 3—THE PRESIDENT

PROCLAMATION 3257

MODIFICATION OF TRADE AGREEMENT CONCESSIONS AND IMPOSITION OF QUOTAS ON UNMANUFACTURED LEAD AND ZINC

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

1. WHEREAS, pursuant to the authority vested in him by the Constitution and the statutes, including section 350 of the Tariff Act of 1930, as amended (19 U. S. C. 1351), the President, on October 30, 1947, entered into a trade agreement with foreign countries, which consists of the General Agreement on Tariffs and Trade and the related Protocol of Provisional Application thereof, together with the Final Act Adopted at the Conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment (61 Stat. (Parts 5 and 6) A 7, A 11, and A 2051), and, by Proclamation No. 2761A of December 16, 1947 (61 Stat. (Part 2) 1103), proclaimed such modifications of existing duties and other import restrictions of the United States and such continuance of existing customs or excise treatment of articles imported into the United States as were then found to be required or appropriate to carry out that agreement on and after January 1, 1948;

2. WHEREAS, pursuant to the said authority, the President, on April 21, 1951, entered into a trade agreement consisting of the Torquay Protocol to the General Agreement on Tariffs and Trade, including the annexes thereto (3 UST (Part 1) 588), and, by Proclamation No. 2929 of June 2, 1951 (3 CFR, 1951 Supp., p. 27), proclaimed such modification of existing duties and other import restrictions of the United States and such continuance of existing customs or excise treatment of articles imported into the United States as were then found to be required or appropriate to carry out that agreement on and after June 6, 1951, which proclamation has been supplemented by several notifications of the President to the Secretary of the Treasury, including a notification dated June 2, 1951 (3 CFR, 1951 Supp., p. 530);

3. WHEREAS the second item 394 in Part I of Schedule XX annexed to the agreement referred to in the first recital of this proclamation (61 Stat. (Part 5) A 1219) reads as follows:

Tariff act of 1930, paragraph	Description of products	Rate of duty
394	Old and worn-out zinc, fit only to be remanufactured, zinc dross, and zinc skimmings.	¾ cent per pound.

4. WHEREAS item 391, the first item 392, item 393, and item 394 in Part I of Schedule XX annexed to the trade agreement referred to in the second recital of this proclamation (3 UST (Part 1) 1167), read, respectively, as follows:

Tariff act of 1930, paragraph	Description of products	Rate of duty
391	Lead-bearing ores, flue dust, and mattes of all kinds.	¾ cent per pound on lead content.
392	Lead bullion or base bullion, lead in pigs and bars, lead dross, reclaimed lead, scrap lead, antimonial lead, antimonial scrap lead, type metal, Babbitt metal, solder, all alloys or combinations of lead not specially provided for.	1 1/16 cents per pound on lead content.
393	Zinc-bearing ores of all kinds, except pyrites containing not over 3% of zinc.	0.6 cent per pound on zinc content.
394	Zinc in blocks, pigs, or slabs, and zinc dust.	0.7 cent per pound.

5. WHEREAS, in accordance with Articles II and XI of the said General Agreement on Tariffs and Trade, the United States customs treatment reflecting the concessions granted in the said trade agreements with respect to the articles described in the items reproduced in the third and fourth recitals of this proclamation has been the application of the respective rates of duty specified in such items, without quantitative limitation;

6. WHEREAS the United States Tariff Commission has submitted to me a report of its Investigation No. 65 under section 7 of the Trade Agreements Extension Act of 1951, as amended (19 U. S. C. 1364), as a result of which the Commission has

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THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

CODIFICATION GUIDE—Con.

found that the articles described in the said items (except Babbitt metal, solder, and zinc dust) are, as a result in part of the customs treatment specified in the fifth recital of this proclamation, being imported into the United States in such increased quantities, both actual and relative, as to cause serious injury to the domestic industries producing like or directly competitive products;

7. WHEREAS I find that the modifications of the concessions granted in the said agreements with respect to such articles to permit the application to such articles of the customs treatment hereinafter proclaimed is necessary to remedy the serious injury to the domestic industires producing like or directly competitive products;

8. WHEREAS the said section 350 of the Tariff Act of 1930, as amended, authorizes the President to proclaim such modifications of existing duties and such additional import restrictions as are required or appropriate to carry out any foreign trade agreement that the President has entered into under the said section 350; and

9. WHEREAS, upon modification of the said concessions as hereinafter proclaimed, it will be appropriate, to carry out the General Agreement on Tariffs and Trade, to apply to the said articles the customs treatment hereinafter proclaimed:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, acting under the authority vested in me by section 350 of the Tariff Act of 1930, as amended, and by section 7 (c) of the Trade Agreements Extension Act of 1951, as amended, and in accordance with the provisions of Article XIX of the said General Agreement on Tariffs and Trade, do proclaim as follows:

(a) Item 391, the first item 392, item 393, and item 394, referred to in the fourth recital of this proclamation, shall each be modified, effective October 1, 1958, so as to read, respectively, as follows:

391	Lead-bearing ores, flue dust, and mattes of all kinds. Whenever, in any three-month period beginning October 1 in 1958, and January 1, April 1, July 1, and October 1 in any subsequent year— (1) the dutiable lead content (as shown on the entry in accordance with the applicable customs regulations) of lead-bearing ores, flue dust, and mattes the product of a country specified below, entered, or withdrawn from warehouse, for consumption, and (2) the dutiable lead content (as shown on the warehouse withdrawal for consumption in accordance with the applicable customs regulations) of lead-bearing ores, flue dust, or mattes the product of such country, with respect to which duty was collected under section 312 of the Tariff Act of 1930 upon withdrawal for consumption from customs bonded warehouse of "metal producible" within the meaning of the said section 312, are determined by the Secretary of the Treasury of the United States to have reached the aggregate quantity specified below for such country, no lead-bearing ores, flue dust, or mattes the product of such country may be entered, or withdrawn from warehouse, for consumption during the remainder of such period; and no article may be withdrawn for consumption from any customs bonded warehouse during the remainder of such period if by reason of such withdrawal duty would become collectible under section 312 of the Tariff Act of 1930 in cancellation of a bond charge covering any lead-bearing ore, flue dust, or matte the product of such country: *Short tons* Peru 8,080 Union of South Africa 7,440 Canada 6,720 Australia 5,640 Bolivia 2,520 All other foreign countries (total) 3,280 The foregoing quantitative restrictions shall not apply to any ore, flue dust, or matte the lead content of which is not subject to duty or which contains less than two per centum of lead (whether or not the lead content thereof is subject to duty); to any article imported by or for the account of the Government of the United States; or to any imported article which is under contract for delivery in the United States for the account of a corporation wholly owned by the Government of the United States.	¾ cent per pound on lead content.
392	Lead bullion or base bullion, lead in pigs and bars, lead dross, reclaimed lead, scrap lead, antimonial lead, antimonial scrap lead, type-metal, Babbitt metal, solder, all alloys or combinations of lead not specially provided for. Whenever, in any three-month period beginning October 1 in 1958, and January 1, April 1, July 1, and October 1 in any subsequent year, the dutiable lead content (as shown on the entry in accordance with the applicable customs regulations) of the articles described above in this item (except Babbitt metal and solder) the product of a country specified below, entered, or withdrawn from warehouse, for consumption, is determined by the Secretary of the Treasury of the United States to have reached the aggregate quantity specified below for such country, no such articles the product of such country may be entered, or withdrawn from warehouse, for consumption during the remainder of such period: *Short tons* Mexico 18,440 Australia 11,840 Canada 7,960 Yugoslavia 7,880 Peru 6,440 All other foreign countries (total) 3,040 The foregoing quantitative restrictions shall not apply to any article described in this item which is not subject to duty; to any such article imported by or for the account of the Government of the United States; or to any imported article which is under contract for delivery in the United States for the account of a corporation wholly owned by the Government of the United States.	1¼ cents per pound on lead content.
393	Zinc-bearing ores of all kinds, except pyrites containing not over 3% of zinc. Whenever, in any three-month period beginning October 1 in 1958, and January 1, April 1, July 1, and October 1 in any subsequent year— (1) the dutiable zinc content (as shown on the entry in accordance with the applicable customs regulations) of zinc-bearing ores the product of a country specified below, entered, or withdrawn from warehouse, for consumption, and (2) the dutiable zinc content (as shown on the warehouse withdrawal for consumption in accordance with the applicable customs regulations) of zinc-bearing ores the product of such country, with respect to which duty was collected under section 312 of the Tariff Act of 1930 upon withdrawal for consumption from customs bonded warehouse of "metal producible" within the meaning of the said section 312, are determined by the Secretary of the Treasury of the United States to have reached the aggregate quantity specified below for such country, no zinc-bearing ores the product of such country may be entered, or withdrawn from warehouse, for consumption during the remainder of such period; and no article may be withdrawn for consumption from any customs bonded warehouse during the remainder of such period if by reason of such withdrawal duty would become collectible under section 312 of the Tariff Act of 1930 in cancellation of a bond charge covering any zinc-bearing ore the product of such country: *Short tons* Mexico 35,240 Canada 33,240 Peru 17,360 All other foreign countries (total) 8,920 The foregoing quantitative restrictions shall not apply to any ore the zinc content of which is not subject to duty or which contains less than one per centum of zinc (whether or not the zinc con-	0.6 cent per pound on zinc content.

	tent thereof is subject to duty); to any article imported by or for the account of the Government of the United States; or to any imported article which is under contract for delivery in the United States for the account of a corporation wholly owned by the Government of the United States.	
394	Zinc in blocks, pigs, or slabs, and zinc dust.	0.7 cent per pound.

Whenever, in any three-month period beginning October 1 in 1958, and January 1, April 1, July 1, and October 1 in any subsequent year, the total aggregate quantity of the articles described above in this item (except zinc dust) and in the second item 394 in Part I of Schedule XX annexed to the General Agreement on Tariffs and Trade as authenticated on October 30, 1947 (old and worn-out zinc, fit only to be remanufactured, zinc dross, and zinc skimmings), the product of a country specified below, entered, or withdrawn from warehouse, for consumption, is determined by the Secretary of the Treasury of the United States to have reached the aggregate quantity specified below for such country, no such articles the product of such country may be entered, or withdrawn from warehouse, for consumption during the remainder of such period:

	Short tons
Canada	18,920
Belgium and Luxembourg (total)	3,760
Mexico	3,160
Belgium Congo	2,720
Peru	1,880
Italy	1,800
All other foreign countries (total)	3,040

The foregoing quantitative restrictions shall not apply to any article described in this item which is not subject to duty; to any such article imported by or for the account of the Government of the United States; or to any imported article which is under contract for delivery in the United States for the account of a corporation wholly owned by the Government of the United States.

(b) The articles described in the said items entered, or withdrawn from warehouse, for consumption on or after October 1, 1958, and until the President otherwise proclaims, shall be subject to the quantitative limitations specified in the said items, as modified by paragraph (a) above, except that no such quantitative limitation shall be applied to any article described in item 392 or item 394 or in clause numbered (1) of item 391 or clause numbered (1) of item 393 which was exported to the United States prior to the date of this proclamation.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this twenty-second day of September in the year of our Lord nineteen hundred and fifty-eight, and of the Independence of the United States of America the one hundred and eighty-third.

[SEAL]

DWIGHT D. EISENHOWER

By the President:

JOHN FOSTER DULLES,
Secretary of State.

[F. R. Doc. 58-7939; Filed, Sept. 24, 1958; 12:56 p. m.]

RULES AND REGULATIONS

TITLE 4—ACCOUNTS

Chapter I—General Accounting Office

MISCELLANEOUS AMENDMENTS TO CHAPTER

The following amendments are made to Chapter I of Title 4:

PART 31—CLAIMS AGAINST THE UNITED STATES; GENERAL PROCEDURES

1. Section 31.4 is changed to read:

§ 31.4 *Where claims should be filed.* Action will generally be expedited if claimants file their claims initially with the administrative department or agency out of whose activities they arose. Claims which cannot be disposed of administratively will be transmitted to the Claims Division of the General Accounting Office by the administrative office. However, as to claim filing requirements when the statutory period of limitation is about to expire, see § 31.5. Claims filed direct with the General Accounting Office should be addressed to

Claims Division,
U. S. General Accounting Office,
Washington 25, D. C.

(Sec. 311, 42 Stat. 25, 31 U. S. C. 52. Interprets or applies sec. 305, 42 Stat. 24, 31 U. S. C. 71)

2. Section 31.5 is changed to read:

§ 31.5 *Statutory limitations on claims*—(a) *Statutory limitations relating to claims generally.* Statutory limitations relating to claims generally are contained in 31 U. S. C. 71a. Claimants should submit their claims to the Claims Division of the General Accounting Office if the statutory period of limitation will soon expire.

(b) *Statutory limitation on check claims.* The statutory limitation on claims on account of checks appearing to have been paid are contained in 31 U. S. C. 122. To protect their own interests, it is the responsibility of claimants to present their claims for the proceeds of checks to the Treasurer of the United States or the General Accounting Office if the statutory period of limitation is about to expire.

(c) *Other statutory limitations.* It is not intended to imply that statutes of limitation imposed by Congress are necessarily limited to those cited in paragraphs (a) and (b) of this section. It is incumbent on claimants to inform themselves regarding other possible statutory limitations.

(Sec. 311, 42 Stat. 25, 31 U. S. C. 52. Interprets or applies 31 U. S. C. 71)

3. Section 31.6 is amended to read:

§ 31.6 *Information relating to claims presented to the Claims Division of the General Accounting Office.* Claimants or their authorized representatives may obtain information relating to claims which have been presented to the Claims Division of the General Accounting Office by addressing correspondence to

Claims Division,
U. S. General Accounting Office,
Washington 25, D. C.

or by calling in person at that Office at 441 G Street NW.

(Sec. 311, 42 Stat. 25, 31 U. S. C. 52)

4. Section 31.8 is changed to read:

§ 31.8 *Form of claim settlements*—(a) *Allowed claims.* The Claims Division of the General Accounting Office will certify claims for payment either by use of a Certificate of Settlement, GAO Form 39, or by certificate of allowance placed on the voucher when voucher procedures are in effect.

(b) *Disallowed claims.* When part of a claim is allowed and part disallowed, a statement relating to the disallowed portion will be included on the certificate of settlement or the voucher. When the full amount of a claim is disallowed, the claimant will be advised by issuance of Settlement Certificate, GAO Form 44.

(Sec. 311, 42 Stat. 25, 31 U. S. C. 52)

PART 33—DECEASED CIVILIAN OFFICERS AND EMPLOYEES; PROCEDURE FOR SETTLEMENT OF ACCOUNTS

1. Section 33.1 is changed to read:

§ 33.1 *Scope of part*—(a) *Accounts covered by this part.* This part prescribes forms and procedures for the prompt settlement of accounts of deceased civilian officers and employees of the Federal Government and of the government of the District of Columbia (including wholly owned and mixed-ownership Government corporations), as contemplated by the act of August 3, 1950, as amended, 5 U. S. C. 61f–61k.

(b) *Exceptions.* The procedures prescribed by this part do not apply to:

(1) Accounts of deceased officers and employees of the Federal land banks, Federal intermediate credit banks, production credit corporations, or regional banks for cooperatives. See 5 U. S. C. 61k.

(2) Payment of unpaid balance of salary or other sums due deceased Senators or officers or employees of the Senate. See 2 U. S. C. 36a.

(3) Payment of unpaid balance of salary or other sums due deceased Members of the House of Representatives. See 2 U. S. C. 38a. (See § 33.6 relative

to the settlement of accounts of deceased officers and employees of the House of Representatives.)

(4) Claims for amounts due civilian officers and employees of the Federal Government who die subsequent to separation from employing agency. See Part 35 of this subchapter.

(Sec. 311, 42 Stat. 25, 31 U. S. C. 52. Interprets or applies sec. 3, 64 Stat. 396, 5 U. S. C. 61h)

2. Section 33.3 is changed to read:

§ 33.3 *Forms prescribed for procedures in this part.* Forms prescribed for procedures in this part are:

Standard Forms

SF 1152 Designation of Beneficiary, Unpaid Compensation for Deceased Civilian Employee.

SF 1153 Claim of Designated Beneficiary and/or Surviving Spouse for Unpaid Compensation of Deceased Civilian Employee.

SF 1155 Claim for Unpaid Compensation of Deceased Civilian Employee (No Designated Beneficiary or Surviving Spouse).

(Sec. 311, 42 Stat. 25, 31 U. S. C. 52. Interprets or applies sec. 3, 64 Stat. 396, 5 U. S. C. 61h)

3. Section 33.6 is changed to read:

§ 33.6 *Claims jurisdiction*—(a) *Administrative agencies.* Claims for unpaid compensation due deceased employees of the District of Columbia, of the Canal Zone Government on the Isthmus of Panama, and of wholly owned and mixed-ownership Government corporations will be paid by the employing agency. See 5 U. S. C. 61h. Claims for unpaid compensation due deceased employees of other administrative agencies of the Federal Government will be paid by the employing agency when payment can be made to a designated beneficiary or surviving spouse, unless the provisions of paragraph (b) of this section apply.

(b) *Clerk of the House of Representatives.* Pursuant to the authority vested in the Comptroller General by 5 U. S. C. 61h (b), the Clerk of the House of Representatives is authorized to make payments of unpaid compensation due deceased officers and employees of the House of Representatives to the person or persons specified in 5 U. S. C. 61f, subject to post audit of the payment by the General Accounting Office. If any question should arise concerning the payment of these claims, the vouchers covering the claims may be referred to the General Accounting Office for settlement or for advance decision.

(c) *General Accounting Office.* Except in cases involving deceased employees of the District of Columbia, Canal Zone Government, Government corporations, or deceased officers and employees of the House of Representatives, claims for unpaid compensation due deceased employees of the Federal Government will be paid only upon settlement by the Claims Division of the General Accounting Office:

(1) When no beneficiary has been designated and there is no surviving spouse;

(2) When the designated beneficiary is a minor, is an incompetent, or is the estate of the deceased employee, since such claims are considered as always involving doubt; or

(3) When any doubtful question of law or fact is involved.

(Sec. 311, 42 Stat. 25, 31 U. S. C. 52. Interprets or applies sec. 3, 64 Stat. 396, 5 U. S. C. 61h)

4. Section 33.9 is amended to read:

§ 33.9 *Return of unnegotiated Government checks.* All unnegotiated U. S. Government checks drawn to the order of a decedent representing unpaid compensation as defined in § 33.2, and in the possession of the claimant, should be returned to the employing agency concerned. Claimants should be instructed to return any other U. S. Government checks, drawn to the order of a decedent for purposes other than unpaid compensation, such as veterans benefits, social security benefits, or Federal tax refunds, to the agency from which received with request for further instructions from that agency.

(Sec. 311, 42 Stat. 25, 31 U. S. C. 52. Interprets or applies sec. 3, 64 Stat. 396, 5 U. S. C. 61h)

PART 35—DECEASED PUBLIC CREDITORS GENERALLY; PROCEDURES FOR SETTLEMENT OF ACCOUNTS

Part 35 is completely revised as follows:

Sec.
35.1 Scope of part.
35.2 Jurisdiction.
35.3 Forms.
35.4 Claim filing requirements.
35.5 Unnegotiated and undelivered Government checks.
35.6 Applicability of general claim procedures.

AUTHORITY: §§ 35.1 to 35.6 issued under sec. 311, 42 Stat. 25, 31 U. S. C. 52. Interprets or applies sec. 305, 42 Stat. 24, 31 U. S. C. 71.

§ 35.1 *Scope of part.* This part prescribes the form and procedures relating to the settlement of claims for amounts alleged to be due the estates of deceased individual public creditors, including claims for the proceeds of Government checks drawn on the Treasurer of the United States or other authorized Government depositary to the order of such public creditors, except when such claims are within the scope of other parts of this subchapter or are within the exclusive jurisdiction of administrative agencies pursuant to specific statutory authority. The claims coming within the scope of this part include, among others, claims for amounts due former members of the uniformed services and former civilian employees of the United States who die subsequent to discharge or separation and claims for amounts due deceased contractors and other deceased public creditors for supplies furnished or services rendered.

§ 35.2 *Jurisdiction.* The claims to which this part relates require the consideration and application of the law of the domicile of the deceased public creditor to determine entitlement to amounts found due. Therefore, they are considered as involving such elements of doubt as to require their submission to the Claims Division of the General Accounting Office for adjudication.

§ 35.3 *Forms*—(a) *Forms prescribed for procedures in this part.* The following form is prescribed for procedures in this part:

SF 1055, Claim Against the United States for Amounts Due in the Case of a Deceased Creditor.

(b) *Use of SF 1055 for claims outside scope of part.* SF 1055 may be used for filing claims which are within the exclusive jurisdiction of administrative agencies, if the agencies concerned so desire.

§ 35.4 *Claim filing requirements*—(a) *Use of prescribed form.* Claims to which this part relates, including claims for the proceeds of U. S. Government checks, will be filed on SF 1055.

(b) *Where claims should be filed.* Action will generally be expedited if claimants file their claims initially with the administrative department or agency out of whose activities they arose.

(c) *Assisting claimants in filing claims.* Such assistance as is deemed necessary may be given to claimants by the administrative agency concerned to insure proper execution and submission of the SF 1055.

§ 35.5 *Unnegotiated and undelivered Government checks.* All unnegotiated U. S. Government checks in possession of the claimant, drawn to the order of the decendent and involved in the claim, should be returned to the agency from which received.

§ 35.6 *Applicability of general claim procedures.* Except as otherwise provided herein, the provisions of Part 31 of this subchapter relating to the procedures applicable to claims generally are equally applicable to the claims to which this part relates.

PART 36—INCOMPETENT PUBLIC CREDITORS; PROCEDURES FOR SETTLEMENT OF ACCOUNTS

Part 36 is completely revised, as follows:

Sec.
36.1 Scope of part.
36.2 Jurisdiction.
36.3 Claim filing requirements.
36.4 Disposition of unnegotiated and undelivered Government checks.
36.5 Applicability of general claim procedures.

AUTHORITY: §§ 36.1 to 36.5 issued under sec. 311, 42 Stat. 25, 31 U. S. C. 52. Interprets or applies sec. 305, 42 Stat. 24, 31 U. S. C. 71.

§ 36.1 *Scope of part.* This part prescribed the procedures applicable to the settlement of claims for amounts due incompetent public creditors of the United States, including claims for the proceeds of Government checks drawn on the Treasurer of the United States or other authorized Government depositary to the order of such creditors, except those claims which are under the exclusive jurisdiction of administrative agencies pursuant to specific statutory authority.

§ 36.2 *Jurisdiction*—(a) *Claims Division, General Accounting Office.* The claims to which this part relates are considered as generally involving such elements of doubt as to require their submission to the Claims Division of the General Accounting Office for adjudication. Therefore, except in the case of recurring payments to guardians and committees, they shall be submitted to the Claims Division of the General Accounting Office for direct settlement. However, action will generally be expedited if claimants file their claims initially with the administrative department or agency out of whose activities they arose.

(b) *Administrative agencies.* After the first payment has been certified by the General Accounting Office to a guardian or committee, recurring payments may be made in the same form and capacity by the administrative office as long as the appointment as guardian or committee remains in effect and the matter is otherwise free from doubt.

§ 36.3 *Claim filing requirements*—(a) *Form of claim.* No form is prescribed for use in making claim for sums due incompetent creditors of the United States. Such claims must be filed in writing over the signature and full address of the person claiming on behalf of the incompetent creditor and must set forth the connection of the incompetent creditor with the United States Government, giving the name of the department, bureau, establishment or agency involved.

(b) *Claim filed by guardian or committee*—(1) *Initial claim.* The initial claim filed by the guardian or committee of the estate of an incompetent must be accompanied by a short certificate of the court showing the appointment and qualification of the claimant as guardian or committee.

(2) *Claims for recurring payments.* Subsequent claims from guardians or committees for recurring payments need not be accompanied by an additional certificate of the court, but they must be supported by a statement that the appointment is still in full force and effect.

(c) *Claims filed by other than guardian or committee.* When the amount due the incompetent is small and no guardian or committee of the estate has been or will be appointed, payment may be made, in the discretion of the Comptroller General, to the person or persons having care or custody of the incompetent, or to close relatives who will hold the amount for the use and benefit of the incompetent. The claim must be supported by a statement showing (1) that: No guardian or committee has been or will be appointed; (2) the claimant's relationship to the incompetent, if any; (3) the name and address of the person having care and custody of the incompetent; and (4) that any amount paid to the claimant will be applied to the use and benefit of the incompetent.

§ 36.4 *Disposition of unnegotiated and undelivered Government checks.* All unnegotiated U. S. Government checks in possession of the claimant, drawn to the order of the incompetent public creditor and involved in the claim, should be returned to the agency from which received.

§ 36.5 *Applicability of general claim procedures.* The provisions of Part 31 of this subchapter relating to the procedures applicable to claims generally are applicable also to the settlement of accounts of incompetent public creditors to which this chapter relates.

PART 51 — PASSENGER TRANSPORTATION SERVICE FOR THE ACCOUNT OF THE UNITED STATES

Section 51.19 is changed to read:

§ 51.19 *Stopovers.* When a traveler is obliged to make one or more stops to conduct official business, a through ticket with stopover privileges usually can be utilized at a saving to the Government and will require the issuance of only one transportation request. Each stopover on official business must be specifically indicated on the transportation request when (a) travel is by domestic airlines; (b) Pullman accommodations are used; or (c) excess baggage services via air are involved.

(Sec. 311, 42 Stat. 25, 31 U. S. C. 52. Interprets or applies sec. 309, 42 Stat. 25, 31 U. S. C. 49)

[SEAL] JOSEPH CAMPBELL,
Comptroller General of the United States.

[F. R. Doc. 58-7880; Filed, Sept. 25, 1958; 8:50 a. m.]

TITLE 7—AGRICULTURE

Chapter VIII—Commodity Stabilization Service (Sugar), Department of Agriculture

Subchapter B—Sugar Requirements and Quotas

[Sugar Reg. 811, Amdt. 6]

PART 811—CONTINENTAL SUGAR REQUIREMENTS AND AREA QUOTAS

DETERMINATION AND PRORATION OF 1958 QUOTA DEFICITS

Basis and purpose. This amendment is issued pursuant to the Sugar Act of 1948, as amended, hereinafter called the "act" for the purpose of determining and prorating additional deficits in the quotas for Hawaii and the Virgin Islands for sugar to be marketed in the continental United States in 1958.

Section 204 (a) of the act provides that the Secretary shall from time to time determine whether any area will be unable to market its quota and prescribes the manner in which any deficit in a quota for a domestic area or Cuba is to be prorated to other such areas able to supply the additional sugar. Such section provides that any deficit in any domestic producing area occurring by reason of inability to market that part of the quota for such area allotted under the provisions of section 202 (a) (2) of the act, shall first be prorated to other domestic areas on the basis of the quotas then in effect, and the remainder of such deficit to be prorated to other domestic areas and Cuba on the basis of quotas then in effect.

The act also provides that the quota for any area as established under the provisions of section 202 shall not be reduced by reason of any determination of a deficit.

In order to afford sellers of sugar in affected areas an adequate opportunity to plan marketings and to market the additional sugar authorized by this amendment, and thereby protect the interest of consumers, it is essential that this amenmdent be made effective immediately. Therefore, it is hereby determined and found that compliance with the notice, procedure and effective date requirements of the Administrative Procedure Act is unnecessary, impracticable and contrary to the public interest and the amendment herein shall become effective when published in the FEDERAL REGISTER.

By virtue of the authority vested in the Secretary of Agriculture by the Sugar Act of 1948, as amended (61 Stat. 922, as amended) and the Administrative Procedure Act (60 Stat. 237) § 811.4 of Sugar Regulation 811 (23 F. R. 2785 as amended) is hereby amended to read as follows:

§ 811.4 *Determination and proration of area deficits and adjusted quotas*—(a) *Deficit in quotas established in § 811.2.* It is hereby determined, pursuant to subsection (a) of section 204 of the act, that for the calendar year 1958, Hawaii, Puerto Rico and the Virgin Islands will be unable by 390,496, 325,253 and 9,449 short tons, raw value, of sugar, respectively, to market the quotas established for such areas in § 811.2.

(b) *Quotas in effect upon proration of deficits in parts of quotas established pursuant to section 202 (a) (2).* The part of the deficits determined in paragraph (a) of this section applicable to that portion of the quotas in § 811.2 established pursuant to the provisions of section 202 (a) (2) of the act, which amounts to 102,298 short tons, raw value, is hereby prorated on the basis of the quotas established in § 811.2 to domestic areas to the extent each such area is able to supply additional quantities. The quotas for such areas in effect upon publication of this paragraph in the FEDERAL REGISTER shall be those established in § 811.2 plus the quantities prorated herein, as follows:

Area	Prorated herein	Quotas including prorations herein
	Short tons, raw value	
Domestic beet sugar	78,227	2,032,179
Mainland cane sugar	24,071	625,321
Hawaii	0	1,060,406
Puerto Rico	0	1,140,253
Virgin Islands	0	15,549

(c) *Quotas in effect upon proration of deficits in part of quotas otherwise established.* Immediately after the quotas established in paragraph (b) of this section become effective, the quan-

tity by which the deficit determined in paragraph (a) of this section exceeds the quantity prorated in paragraph (b) of this section, which amounts to 622,900 short tons, raw value, is hereby prorated on the basis of the quotas in effect pursuant to paragraph (b) of this section for domestic areas and pursuant to § 811.3 for Cuba, to the domestic areas able to supply additional sugar and Cuba. Thereupon, the following quotas shall be in effect, such quotas consisting of those established in paragraph (b) of this section for domestic areas and in § 811.3 for Cuba plus the quantities prorated in this paragraph:

Area	Prorated herein	Quotas including prorations herein and in para. (b) of this section
	Short tons, raw value	
Domestic beet sugar	223,695	2,255,874
Mainland cane sugar	68,833	694,154
Hawaii	0	1,090,496
Puerto Rico	0	1,140,253
Virgin Islands	0	15,549
Cuba	330,372	3,331,697

Quotas for foreign countries other than Cuba remain as established in § 811.3.

STATEMENT OF BASES AND CONSIDERATIONS

On May 23, prior to the end of the strike which disrupted sugar production in Hawaii, a determination was made that the supply of Hawaiian sugar available for entry into the continental United States in 1958 would not likely exceed 765,000 short tons, raw value. Immediately after resumption of production, the Hawaiian industry estimated that total production in 1958 would be 820,000 tons. It was then possible that production might be somewhat larger. Since then, however, the weekly record of operations through September 6, does not support that possibility. Furthermore, the industry in mid-September again estimated production at 820,000 tons.

The quantity of Hawaiian sugar which can arrive at United States ports before December 31, 1958, is now expected to approximate 700,000 tons since a portion of the year's production will occur in late December and approximately 43,000 tons of sugar will be needed for consumption in the Islands.

The deficit herein established for the Virgin Islands is based on entries of approximately 6,100 tons, the total available in 1958. The deficit as previously established for Puerto Rica is unchanged.

Inasmuch as production has been completed in both Puerto Rico and the Virgin Islands, it is possible now to estimate accurately the entries against those quotas during the full year 1958. The declared deficits reflect such estimates. On the other hand, a substantial part of Hawaiian production will occur between now and the end of the year. Even though the adjusted quota for that area has now been reduced to 700,000 tons, additional sugar may be entered if the level of production permits. The act reserves to each of the areas the right to enter its full quota even though deficits may have been declared and reallotted to other areas.

Accordingly, deficits of 390,496, 325,253 and 9,449 short tons, raw value, in the mainland quotas for Hawaii, Puerto Rico and the Virgin Islands, respectively, are hereby determined and pursuant to section 204 (a) of the act, 102, 298 tons are prorated to domestic areas able to market additional sugar on the basis of the quotas for such areas as established in S. R. 811, Amendment 5 (23 F. R. 4597), and 622,900 tons are prorated to such domestic areas and Cuba on the basis of the quotas in effect after proration of the 102,298 tons.

(Sec. 403, 61 Stat. 932; 7 U. S. C. 1153. Interprets or applies secs. 202, 204; 61 Stat. 924, 925; 7 U. S. C. 1112, 1114)

Done at Washington, D. C., this 19th day of September 1958.

[SEAL] TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 58-7885; Filed, Sept. 25, 1958; 8:51 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

Subchapter A—Civil Air Regulations

[Supp. 3]

PART 1—CERTIFICATION, IDENTIFICATION, AND MARKING OF AIRCRAFT AND RELATED PRODUCTS

CERTIFICATION OF RADIO EQUIPMENT

This supplement corrects Civil Aeronautics Administration policy concerning the certification of radio equipment contained in § 1.11–1 and the list in § 1.12–1 (a). The correction is necessitated by the revocation of Part 16 of the Civil Air Regulations.

1. Revise § 1.11–1 to read as follows:

§ 1.11–1 *Appliances (CAA policies which apply to § 1.11).* Inasmuch as Parts 15 and 16 of this subchapter have been rescinded, type certificates are no longer issued for appliances. Types of appliances formerly type certificated under the provisions of Parts 15 and 16 of this subchapter are acceptable for use on aircraft if the appliance complies with a Technical Standard Order issued by the Administrator or is approved as part of the aircraft.

2. Revise the list in § 1.12–1 (a) to read as follows:

§ 1.12–1 *Requirements for issuance of type certificates (CAA policies which apply to § 1.12).* (a) * * *

(1) Part 3—Airplane Airworthiness; Normal, Utility, and Acrobatic Categories.

(2) Part 4b—Airplane Airworthiness: Transport Categories.

(3) Part 5—Glider Airworthiness.

(4) Part 6—Rotorcraft Airworthiness: Normal Category.

(5) Part 7—Rotorcraft Airworthiness: Transport Categories.

(6) Part 8—Aircraft Airworthiness: Restricted Category.

(7) Part 9—Aircraft Airworthiness: Limited Category.

(8) Part 10—Certification and Approval of Imported Aircraft and Related Products.

(9) Part 13—Aircraft Engine Airworthiness.

(10) Part 14—Aircraft Propeller Airworthiness.

This supplement shall become effective October 20, 1958.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

[SEAL] JAMES T. PYLE,
Administrator of Civil Aeronautics.

SEPTEMBER 19, 1958.

[F. R. Doc. 58-7862; Filed, Sept. 25, 1958; 8:45 a. m.]

[Supp. 32]

PART 3—AIRPLANE AIRWORTHINESS; NORMAL, UTILITY, AND ACROBATIC CATEGORIES

FUEL INJECTION PUMPS

This supplement clarifies the phrase "fuel injection pumps" contained in § 3.449 of the Civil Air Regulations.

1. A new § 3.449–1 is added to read:

§ 3.449–1 *Fuel injection pump (CAA interpretations which apply to § 3.449 (b)).* The phrase "fuel injection pump" means a pump that supplies proper flow and pressure conditions for fuel injection [1] when such injection is not accomplished in a carburetor.

This supplement becomes effective October 20, 1958.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies sec. 601, 52 Stat. 1007; 49 U. S. C. 551)

[SEAL] JAMES T. PYLE,
Administrator of Civil Aeronautics.

SEPTEMBER 19, 1958.

[F. R. Doc. 58-7863; Filed, Sept. 25, 1958; 8:46 a. m.]

[Supp. 39]

PART 4b—AIRPLANE AIRWORTHINESS; TRANSPORT CATEGORIES

MISCELLANEOUS AMENDMENTS

This supplement revises the table for engine power corrections in § 4b.110–1; clarifies the phrase "fuel injection pumps" outlined in § 4b.430 of the Civil Air Regulations; establishes in § 4b.606–2 new policies concerning the location and installation details for flight recorders; limits the effect of the addition or deletion of an instrument on the accuracy of required duplicate instruments in § 4b.612–5; and amends CAA policy con-

[1] Fuel injection is a special form of carburetion: the charging of air or gas with volatile carbon compounds. It is either an intermittent charging of air by discrete, metered quantities of fuel such as occurs in a Diesel cylinder or it is a continuous charging of air by fuel, the fuel flow being proportioned to the airflow through the engine. Examples of continuous injection are injections into the supercharger section of a reciprocating engine or into the combustion chambers of a turbine engine.

tained in § 4b.740–1 (b) (9) by specifying the applicable windshield temperature limits to be included in the flight manual.

1. Revise § 4b.110–1 (a) to read as follows:

§ 4b.110–1 *Engine power corrections (CAA policies which apply to § 4b.110)*—(a) *Engine power corrections for vapor pressure.* The following standard vapor pressures, specific humidities, and densities versus altitude have been established for the purpose of correcting airplane performance data in accordance with § 4b.110.

Altitude H (Ft.)	Vapor pressure e (In. Hg.)	Specific humidity w (lb. moisture per lb. dry air)	Density ratio $\sigma = \frac{\rho}{.0023769}$
0	0.403	0.00849	0.99508
1,000	.354	.00773	.96672
2,000	.311	.00703	.93895
3,000	.272	.00638	.91178
4,000	.238	.00578	.88514
5,000	.207	.00523	.85910
6,000	.1805	.00472	.83361
7,000	.1566	.00425	.80870
8,000	.1356	.00382	.78434
9,000	.1172	.00343	.76053
10,000	.1010	.00307	.73722
15,000	.0463	.001710	.62868
20,000	.01978	.000895	.53263
25,000	.00778	.000436	.44806

2. A new § 4b.430–1 is added to read:

§ 4b.430–1 *Fuel injection pump (CAA interpretations which apply to § 4b.430).* The phrase "fuel injection pump" means a pump that supplies the proper flow and pressure conditions for fuel injection [1] when such injection is not accomplished in a carburetor.

3. Section 4b.606–2 is amended to read:

§ 4b.606–2 *Installation of flight recorders (CAA policies which apply to § 4b.606).* Flight recorders required under Parts 40, 41, and 42 of this subchapter as amended should be installed in the airplane in conformance with the following:

(a) *Location of flight recorder.* The recorder should be located in accordance with the applicable type in the following:

Type I—Unrestricted location.
Type II—Restricted to any location more than one-half of the wing root chord from the main wing structure through the fuselage and from any fuel tanks.
Type III—Unrestricted location.

(b) *Vertical acceleration sensing.* (1) The vertical acceleration forces should be sensed at a location within or adjacent to the fuselage, and within or as close to the center of gravity range of the airplane as practicable.

(2) The vertical acceleration sensor, or the unit in which it is contained, should be attached to a rigid structural member of the airplane so that vertical acceleration forces present in that area can be sensed with a minimum of error.

(3) Sensing of only the in-flight vertical acceleration forces is necessary; impact forces need not be sensed.

(c) *Connection to sources of data.* The air speed, altitude, and heading data should be obtained from either [2] a required duplicate instrument, or from a source independent of required flight and navigation instrument systems, or a combination thereof. No connection should be made within the case itself of the required altimeter indicators. If data are obtained from an independent source, such source should provide data which has an accuracy equivalent to corresponding data furnished by required flight and navigation instrument systems. Provisions need not be made to disconnect or isolate the recorder in flight from sources of data which are independent of required flight and navigation instruments.

(d) *Connection to electrical power.* The flight recorder should be connected to a bus of maximum reliability when such connection does not jeopardize service to essential or emergency loads. If service to such loads is affected, the recorder should be connected to a bus of the next lower reliability.

4. Section 4b.612–5 is amended to read:

§ 4b.612–5 *Connection of additional instruments to duplicate instrument system (CAA policies which apply to § 4b.612 (f)).* Neither the accuracy nor the performance of any required duplicate instrument should be reduced below the minimum required by the pertinent Civil Air Regulations when an additional instrument is connected to or is subsequently disconnected from the system.

4. Amend § 4b.740–1 (b) (9) by adding a new subdivision (v) to read:

(v) The windshield temperature limits or head adjustment setting should be specified if resistance to bird penetration is dependent upon operation within a particular windshield temperature range.

This amendment shall become effective October 20, 1958.

(Sec. 205, 52 Stat. 984, 49 U. S. C. 425. Interprets or applies secs. 601, 603, 52 Stat. 1007, as amended, 1009, as amended; 49 U. S. C. 551, 553)

[SEAL] JAMES T. PYLE,
Administrator of Civil Aeronautics.

SEPTEMBER 19, 1958.

[F. R. Doc. 58–7864; Filed, Sept. 25, 1958; 8:46 a. m.]

[1] Fuel injection is a special form of carburetion: the charging of air or gas with volatile carbon compounds. It is either an intermittent charging of air by discrete, metered quantities of fuel such as occurs on a Diesel cylinder or it is a continuous charging of air by fuel, the fuel flow being proportioned to the airflow through the engine. Examples of continuous injection are injections into the supercharger section of a reciprocating engine or into the combustion chambers of a turbine engine.

[2] See § 4b.612 (f) for requirements concerning the connection of additional instruments to required duplicate and duplicated instrument systems.

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 11]

PART 507—AIRWORTHINESS DIRECTIVES

MISCELLANEOUS AMENDMENTS

This amendment to Part 507 contains the Airworthiness Directives amended or issued during August 1958. Individual notice of the Airworthiness Directives contained herein has been given to operators and other interested persons who are subscribers to a Civil Aeronautics Administration mailing service.

In the interest of safety, compliance with the notice, procedures and effective date provisions of section 4 of the Administrative Procedure Act is impracticable and contrary to the public interest, and therefore, is not required.

Section 507.10 (a) is amended as follows:

1. 58–5–2 Vickers Viscount 700 series as it appeared in 23 F. R. 2568 is revised by replacing the entire text of paragraph C with the following:

C. Inspections and modifications to the catenary floor (forward of station 132) are required in accordance with PTL NR 120 issue 4 and modifications D.1884 Part B and D.2313. These modifications should if possible be embodied together. For aircraft that have had the cabin differential pressure set at 6.5 psi since commencement of operation, modification D.1884 Part B must be embodied at or before 4750 flights, and modification D.2313 at or before 1500 flights after the incorporation of modification D.1884 Part B, if not concurrently embodied. For aircraft that have operated at a maximum of 5.5 psi cabin differential pressure since commencement of operation, modification D.1884 Part B must be embodied at or before 6500 flights, and modification D.2313 at or before 2100 flights after the incorporation modification D.1884 Part B if not concurrently embodied.

2. 58–10–9 Vickers Viscount 700 series as it appeared in 23 F. R. 4726 is revised by changing the text of paragraphs (4) and (5) to:

(4) If the length or depth of the cracks exceed the limits quoted in item 3, the part is no longer considered serviceable and must be replaced with new cylinder, in accordance with Vickers Mod. No. D.2694.

(5) After embodiment of the new cylinders to either Part (a) or (c) of Mod. D.2694, the above inspections may be discontinued.

The final statement is also changed to read:

(Vickers-Armstrongs PTL 191, Issue 2, and Modification D.2694 cover this subject.)

3. The following new airworthiness directives are added:

58–16–1 PIPER. Applies to Piper Model PA–20 Serial Numbers 20–1 to 20–1121, Inclusive, and Model PA–22 Serial Numbers 22–1 to 22–6087, Inclusive, That Have Cigar Lighters Installed.

Compliance required within next 100 hours operation.

To preclude the possibility of blowing the master fuses, due to a short circuit caused by a faulty cigar lighter element, install a 15 ampere standard fuse, Bussman No. AGC–15 or equivalent, in the wire between the cigar lighter and the ammeter.

(Piper Service Bulletin Number 163A covers the same subject.)

58-17-1 BELL. Applies to All 47J Helicopters. Compliance required as indicated.

To preclude the possibility of failure of the 47-110-287-9 counterweight bracket assembly, the service life of this part has been established at 300 hours. All 47-110-287-9 bracket assemblies which have accumulated 300 hours or more of service must be replaced no later than August 31, 1958, and every 300 hours of service thereafter.

This replacement consists of the removal of the two 47-110-287-9 main rotor counterweight bracket assemblies, and the installation of new counterweight bracket assemblies. Change and replace bracket assemblies in accordance with applicable instructions contained in the Maintenance and Overhaul Instruction Handbook.

(Bell's Service Bulletin Number 127 SB dated 7/14/58 covers this same subject.)

58-17-2 CURTISS-WRIGHT. Applies to All C-46 Series Aircraft Including The Models C-46R and C-46/CW20-T Aircraft.

Compliance required as noted.

Due to recurrent fatigue cracking on the horizontal tail surfaces the following inspections must be accomplished:

(1) Conduct a daily visual external inspection of the horizontal tail surfaces for cracks with especial reference to cracks developing in the skin and ribs in the area of the elevator balance weights and the elevator hinge cut-outs.

(2) A detailed visual inspection of the horizontal tail surfaces must be conducted at intervals not to exceed 60 hours of operation. Particular attention should be paid to cracks developing in the area of the balance weights on the elevator, elevator nose ribs, elevator main spar, and elevator and stabilizer hinge ribs.

(3) Any cracks found must be repaired in accordance with the structural repair manual or other approved repair method prior to the next flight. Stop drilling of cracks is not considered a repair but may form part of a repair.

58-17-3 CURTISS-WRIGHT AND MARTIN. Applies to 202, 202A, 404 and C-46 Series (Including C-46/CW20-T) Aircraft Having Propeller Hydraulic Feathering Lines Routed Over or Attached to Engine Cylinder Assemblies.

Compliance recommended at the next engine overhaul but required by June 1, 1959.

Several cases of engine cylinder failures have occurred in which it was subsequently impossible to feather the propeller. In these cases the feathering line, which was routed over a front row cylinder, was severed by a dislodged cylinder, thus preventing feathering and causing an additional fire hazard from oil being pumped over the engine. The record of cylinder failures from studs loosening or breaking indicates that the front row cylinders are mainly involved.

To prevent loss of feathering control from such failures, either of the following is required:

(1) The propeller feathering line must be routed between cylinders. It must be supported in a manner avoiding attachment to a cylinder, and the line located at least three to four inches from the cylinder flanges.

(2) The propeller feathering line must be routed between cylinders on the front row of cylinders, in the manner described above. However, it will be acceptable for the line to be routed over a rear row cylinder provided it can be determined that sufficient flexibility is provided to prevent feathering line damage in the event of cylinder failure.

58-17-4 PIAGGIO. Applies to All Model P.136-L1 and P.136-L2 Aircraft.

Compliance required by December 1, 1958.

Several cases have occurred where the water rudder inadvertently dropped into the extended position during water landings. In order to avoid future occurrences, Piaggio & Co. recommends that a hook be incorporated at the water rudder retraction cylinder, which is controllable by the pilot. In addition, the forward section of the water rudder should be cut off, in order to prevent any interference with the retraction of the water rudder because of the accumulation of debris.

This modification is considered mandatory by the Registro Areonautico Italiano. The CAA concurs and considers compliance therewith mandatory.

(Piaggio & Co. Change Order No. 36 L-42, dated May 29, 1958, covers the same subject.)

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601, 603, 52 Stat. 1007, 1009, as amended; 49 U. S. C. 551, 553)

[SEAL] JAMES T. PYLE,
Administrator of Civil Aeronautics.

SEPTEMBER 19, 1958.

[F. R. Doc. 58-7860; Filed, Sept. 25, 1958; 8:45 a. m.]

[Amdt. 235]

PART 608—RESTRICTED AREAS

MISCELLANEOUS AMENDMENTS

The restricted area alterations appearing hereinafter have been coordinated with the civil operators involved, the Army, the Navy and the Air Force, through the Air Coordinating Committee, Airspace Division, and are adopted to become effective when indicated in order to promote safety of the flying public. Since a military function of the United States is involved, compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act is not required.

Part 608 is amended as follows:

1. In § 608.12, the Ajo, Arizona, area (R-309) amended on January 31, 1952, in 17 F. R. 910 is further amended by changing the "Designated Altitudes" column to read: "Surface to 40,000 feet MSL".

2. In § 608.12, the Gila Bend, Arizona, area (R-398) amended on January 31, 1952, in 17 F. R. 910 is further amended by changing the "Designated Altitudes" column to read: "Surface to 40,000 feet MSL" and the "Time of Designation" column to read: "Sunrise to Sunset, VFR, Mondays through Fridays".

3. In § 608.12, the Gila Bend, Arizona, area (R-501) amended on May 25, 1956, in 21 F. R. 3496 is further amended by changing the "Designated Altitudes" column to read: "40,000 feet MSL" and the "Time of Designation" column to read: "Sunrise to Sunset".

4. In § 608.14, the Cuddeback Dry Lake, California, area (R-447) amended on February 26, 1955, in 20 F. R. 1209 is further amended by changing the "Time of Designation" column to read: "Continuous VFR".

5. In § 608.14, the Salton Sea, California, area (R-303) amended on August 12, 1955, in 20 F. R. 5850 is further amended by changing the "Controlling Agency" column to read: "Atomic Energy Commission, Salton Sea Test Base".

6. In § 608.15, the Parker, Colorado, area (R-195) amended on January 3, 1958, in 23 F. R. 53 is further amended by changing the "Time of Designation" column to read: "Sunrise to Sunset".

7. In § 608.39, the Melrose, New Mexico, area (R-185) amended on February 5, 1958, in 23 F. R. 747 is further amended by changing the "Designated Altitudes" column to read: "50,000 feet MSL"; "Controlling Agency" column to read: "Commander, 832d Air Division, Cannon AFB, New Mexico"; "Time of Designation" column to read: "Sunrise to Sunset".

8. In § 608.39, the Melrose, New Mexico, area Number 2 (R-529) amended on March 18, 1958, in 23 F. R. 1807 is further amended by changing the "Controlling Agency" column to read: "Commander, 832d Air Division, Cannon AFB, New Mexico".

9. In § 608.62, the Mokuhooniki Rock, Molokai, Territory of Hawaii, area (R-326) amended on October 31, 1951, in 16 F. R. 11066 is rescinded.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

This amendment shall become effective on October 23, 1958.

[SEAL] JAMES T. PYLE,
Administrator of Civil Aeronautics.

SEPTEMBER 19, 1958.

[F. R. Doc. 58-7861; Filed, Sept. 25, 1958; 8:45 a. m.]

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

LABELING OF DETERGENT SUBSTANCES, OTHER THAN SOAP, INTENDED FOR USE IN CLEANSING THE BODY

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 701 (a), 52 Stat. 1055, as amended; 21 U. S. C. 371) and delegated to the Commissioner of Food and Drugs by the Secretary (22 F. R. 1045), and pursuant to the Administrative Procedure Act (sec. 3, 60 Stat. 237; 5 U. S. C. 1002), the following statement of interpretation is issued:

§ 3.652 *Labeling of detergent substances, other than soap, intended for use in cleansing the body.* (a) In its definition of the term "cosmetic," the Federal Food, Drug, and Cosmetic Act specifically excludes soap. The term "soap" is nowhere defined in the act. In administering the act, the Food and Drug Administration interprets the term "soap" to apply only to articles that meet the following conditions:

(1) The bulk of the nonvolatile matter in the product consists of an alkali salt of fatty acids and the detergent properties of the article are due to the alkali-fatty acid compounds; and

(2) The product is labeled, sold, and represented only as soap.

(b) Products intended for cleansing the human body and which are not "soap" as set out in paragraph (a) of

this section are "cosmetics," and accordingly they are subject to the requirements of the act and the regulations thereunder. For example, such a product in bar form is subject to the requirement, among others, that it shall bear a label containing an accurate statement of the weight of the bar in avoirdupois pounds and ounces, this statement to be prominently and conspicuously displayed so as to be likely to be read under the customary conditions of purchase and use.

(Sec. 701 (a), 52 Stat. 1055, as amended; 21 U. S. C. 371 (a). Interpret or apply secs. 201 (i), 602 (b) (2), 52 Stat. 1041, 1054; 21 U. S. C. 321 (i), 362 (b) (2))

Dated: September 22, 1958.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F. R. Doc. 58-7886; Filed, Sept. 25, 1958; 8:51 a. m.]

TITLE 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

[T. D. 6317]

PART 18—TEMPORARY REGULATIONS RELATING TO CERTAIN INCOME TAX MATTERS UNDER THE TECHNICAL AMENDMENTS ACT OF 1958

ELECTION OF SMALL BUSINESS CORPORATIONS

The following rules, prescribed under the Technical Amendments Act of 1958, 72 Stat. 1606, relate to certain elections or other actions by taxpayers under the provisions of such act.

The rules set forth herein are temporary rules designed to inform taxpayers as to how, when, and where to perform certain acts required or permitted under the Technical Amendments Act of 1958. More comprehensive rules with respect to the subjects involved will be incorporated in subsequent regulations under the act. The inclusion in this Treasury decision of rules relating to certain acts is intended to assist taxpayers in the performance of such acts. Rules with respect to other acts required or permitted by other provisions of the act will be covered in subsequent regulations.

In order to prescribe temporary rules with respect to certain small business corporations and their shareholders making an election under the provisions of subchapter S, as added by section 64 of the Technical Amendments Act of 1958, the following regulations are hereby adopted:

§ 18.1-1 *Election of certain small business corporations*—(a) *In General.* Section 64 of the Technical Amendments Act of 1958 (72 Stat. 1650) amends the Internal Revenue Code of 1954 by adding at the end of chapter 1 a new subchapter S, comprising sections 1371 through 1377, and by adding a new section 6037, relating to information returns. Subchapter S permits a "small business corporation" (as defined in section 1371 (a)) to elect under section 1372 (a) (with the consent of all its shareholders) not to be subject to the income tax imposed by chapter 1. The election may be made only if the corporation is a domestic corporation; is not a member of an affiliated group of corporations (as defined in section 1504); and does not have (1) more than one class of stock, (2) more than 10 shareholders, (3) a shareholder (other than an estate) who is not an individual, or (4) a shareholder who is a nonresident alien. An election under section 1372 (a) may be made only with respect to a taxable year beginning after December 31, 1957, and ending after September 2, 1958. The election shall be effective for the taxable year of the corporation for which it is made and for all succeeding taxable years unless it is terminated under section 1372 (e). The taxable income of an electing small business corporation, to the extent that it exceeds dividends distributed in money out of earnings and profits of the taxable year, is taxed directly to the shareholders to the extent that it would have constituted a dividend if it had been distributed on the last day of the corporation's taxable year.

(b) *Manner of making election*—(1) *In general.* The election under section 1372 (a) should be made by the corporation by filing Form 2553, containing the information required by such form, and by filing, in the manner provided in subparagraph (3) of this paragraph, a statement of the consent of each shareholder of the corporation. If the Form 2553 is not available, the election may be made by filing a statement containing the information required by Form 2553. Copies of Form 2553 or a description of the information required by such form will be furnished by district directors upon request. The election shall be signed by the person or persons who are authorized to sign the return required under section 6037 and shall be filed with the district director with whom such return is to be filed.

(2) *Time of making election.* (i) Except as provided in subdivision (ii) of this subparagraph, the election under section 1372 (a) and subparagraph (1) of this paragraph shall be filed for any taxable year either (*a*) during the first calendar month of such taxable year, or (*b*) during the calendar month preceding such first calendar month.

(ii) For any taxable year of a corporation which begins after December 31, 1957, and before September 3, 1958, and which ends after September 2, 1958, the election under section 1372 (a) and subparagraph (1) of this paragraph shall be made on or before December 1, 1958, or on or before the last day of the corporation's taxable year, whichever is earlier. An election for such taxable year may be made, however, only if the corporation has been a small business corporation (as defined in section 1371 (a)) on each day after September 2, 1958, and before the day of election.

(3) *Statement of shareholder consent.* (i) An election under section 1372 (a) shall be valid only if all persons who are shareholders of the corporation on the first day of the corporation's taxable year, or on the day of election (whichever is later) consent to such election. Such shareholder consent shall be in the form of a statement signed by the shareholders in which each such shareholder consents to the election of the corporation under section 1372 (a). The statement shall set forth the name and address of the corporation and of each shareholder, the number of shares of stock owned by each shareholder, and the date (or dates) on which such stock was acquired. The consents of all shareholders shall be attached to the election of the corporation filed with the district director. If the election is made before the first day of the corporation's taxable year, the consents of persons who become shareholders after the date of election and on or before such first day shall be filed with the district director with whom the election was filed as soon as practicable after such first day. In the case of a consent filed after the date of election, a copy of the consent shall be filed with the return required to be filed under section 6037. In no event will an election under section 1372 (a) be valid if the consents are filed after the last day prescribed for making the election.

(c) *New shareholders.* Section 1372 (e) (1) provides that an election under section 1372 (a) shall terminate if any person who was not a shareholder on the first day of the first taxable year for which the election is effective, or on the day on which the election is made (whichever is later), becomes a shareholder and does not consent to the election under section 1372 (a). Such termination shall be effective for the taxable year of the corporation in which such person becomes a shareholder and for all succeeding taxable years of such corporation. Any such consent by a new shareholder shall be made in a statement filed with the district director with whom the election was filed. Such statement of consent shall be filed within a period of 30 days beginning on the day on which such person becomes a new shareholder. Such statement shall state that such person consents to the election under section 1372 (a) and shall contain the name and address of the corporation and of such person, the number of shares of stock owned by such person, the date on which such shares were acquired, and the name and address of each person from whom such shares were acquired. A copy of the consent of a new shareholder shall be filed with the return required to be filed under section 6037 for the taxable year to which such consent applies.

(d) *Revocation of election.* Under section 1372 (e) (2) an election under section 1372 (a) may be revoked by the corporation (with the consent of all its shareholders) for any taxable year of the corporation after the first taxable year for which the election is effective. Such revocation shall be made by the corporation by filing a statement that the corporation revokes the election made under section 1372 (a). The statement shall be signed by the person or persons who are authorized to sign the return of the corporation required under section 6037 and shall be filed with the district director with whom the election was filed. In addition, there shall be attached to the statement of revocation

a statement of consent, signed by each person who is a shareholder of the corporation on the day on which such statement of revocation is filed, in which each such shareholder consents to the revocation by the corporation of the election under section 1372 (a). Such revocation, if made before the close of the first month of the corporation's taxable year, shall be effective for the taxable year in which the revocation is made and for all succeeding taxable years of the corporation. If the revocation is made after the close of the first month of the corporation's taxable year, such revocation shall be effective for the taxable year of the corporation following that in which the revocation is made and for all succeeding taxable years of the corporation.

(e) *Return of electing small business corporation.* Section 6037 of the 1954 Code requires that every electing small business corporation (as defined in section 1371 (b)) shall make a return for each taxable year for which the election is effective. The return shall be filed on such form as shall be prescribed therefor and shall contain the information required by section 6037 and by such form. The return shall be signed by the person or persons who are authorized to sign a return under section 6062 and shall be filed with the district director with whom the income tax return of the corporation would be filed if the corporation were subject to the tax imposed by chapter 1. The return required under section 6037 shall be filed on or before the 15th day of the third month following the close of the taxable year of the corporation.

Because the time for making the election provided in section 1372 will in some cases expire in less than 15 days, it is found impracticable to issue this Treasury decision with notice and public procedure thereon under section (4) (a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4 (c) of that act.

(Sec. 7805, 68A Stat. 917; 26 U. S. C. 7805. Interprets or applies secs. 1372, 6037, 72 Stat. 1650, 1656; 26 U. S. C. 1372, 6037)

[SEAL] O. GORDON DELK,
Acting Commissioner of Internal Revenue.

Approved: September 22, 1958.

NELSON P. ROSE,
Acting Secretary of the Treasury.

[F. R. Doc. 58-7869; Filed, Sept. 25, 1958; 8:47 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

SUBPART B—VETERANS' READJUSTMENT ACT OF 1952

RATES OF EDUCATION AND TRAINING ALLOWANCE

In § 21.2052, paragraph (a) (1) (iv) is amended to read as follows:

§ 21.2052 *Rates of education and training allowances*—(a) *Institutional training; full- and part-time rates.* (1) * * *

(iv) If such program is pursued on a less than half-time basis, such allowance will be computed at the rate of (*a*) the established charges for tuition and fees, for the certified period of enrollment, which the institution requires similarly circumstanced nonveterans enrolled in the same course to pay, or (*b*) $110 per month for a full-time course, whichever is the lesser.

Example: A veteran is enrolled for a 5-semester-hour course which begins on September 1, 1957, and ends February 1, 1958. Charges for tuition and fees for the period of certified enrollment are $90. The veteran's period of enrollment is certified to extend from October 1, 1957, to February 1, 1958. The monthly rate of educational allowances is computed as follows:

$90 ÷ 4 mo. (period of enrollment) = $22.50
$110 × 5/14 = $39.29

The monthly rate payable is the lesser of the two, i. e., $22.50.

(Sec. 210, 71 Stat. 91; 38 U. S. C. 2210. Interpret or apply secs. 201-274, 66 Stat. 663-682, as amended; 38 U. S. C. 911-984)

This regulation is effective September 26, 1958.

[SEAL] ROBERT J. LAMPHERE,
Acting Deputy Administrator.

[F. R. Doc. 58-7912; Filed, Sept. 25, 1958; 8:57 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 296]

MISCELLANEOUS REGULATIONS RELATING TO TOBACCO MATERIALS, TOBACCO PRODUCTS, AND CIGARETTE PAPERS AND TUBES

NOTICE OF PROPOSED RULEMAKING

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U. S. C. 7805).

[SEAL] O. GORDON DELK,
Acting Commissioner of Internal Revenue.

1. Section 6423 of the Internal Revenue Code of 1954, as amended, reads as follows:

SEC. 6423. *Conditions to allowance in the case of alcohol and tobacco taxes*—(a) *Conditions.* No credit or refund shall be allowed or made, in pursuance of a court decision or otherwise, of any amount paid or collected as an alcohol or tobacco tax unless the claimant establishes (under regulations prescribed by the Secretary or his delegate)—

(1) That he bore the ultimate burden of the amount claimed; or

(2) That he has unconditionally repaid the amount claimed to the person who bore the ultimate burden of such amount; or

(3) That (A) the owner of the commodity furnished him the amount claimed for payment of the tax, (B) he has filed with the Secretary or his delegate the written consent of such owner to the allowance to the claimant of the credit or refund, and (C) such owner satisfies the requirements of paragraph (1) or (2).

(b) *Filing of claims.* No credit or refund of any amount to which subsection (a) applies shall be allowed or made unless a claim therefor has been filed by the person who paid the amount claimed, and, except as hereinafter provided in this subsection, unless such claim is filed after April 30, 1958, and within the time prescribed by law, and in accordance with regulations prescribed by the Secretary or his delegates. All evidence relied upon in support of such claim shall be clearly set forth and submitted with the claim. Any claimant who has on or before April 30, 1958, filed a claim for any amount to which subsection (a) applies may, if such claim was not barred from allowance on April 30, 1958, file a superseding claim after April 30, 1958, and on or before April 30, 1959, conforming to the requirements of this section and covering the amount (or any part thereof) claimed in such prior claim. No claim filed before May 1, 1958, for the credit or refund of any amount to which subsection (a) applies shall be held to constitute a claim for refund or credit within the meaning of, or for purposes of, section 7422 (a); except that any claimant who instituted a suit before June 15, 1957, for recovery of any amount to which subsection (a) applies shall not be barred by this subsection from the maintenance of such suit as to any amount claimed in such suit on such date if in such suit he establishes the conditions to allowance required under subsection (a) with respect to such amount.

(c) *Period not extended.* Any suit or proceeding, with respect to any amount to which subsection (a) applies, which is barred on April 30, 1958, shall remain barred. No claim for credit or refund of any such amount which is barred from allowance on April 30, 1958, shall be allowed after such date in any amount.

(d) *Application of section.* This section shall apply only if the credit or refund is claimed on the grounds that an amount of alcohol or tobacco tax was assessed or collected erroneously, illegally, without authority, or in any manner wrongfully, or on the grounds that such amount was excessive. This section shall not apply to—

(1) Any claim for drawback,

(2) Any claim made in accordance with any law expressly providing for credit or refund where a commodity is withdrawn from the market, returned to bond, or lost or destroyed, and

(3) Any amount claimed with respect to a commodity which has been lost, where a suit or proceeding was instituted before June 15, 1957.

(e) *Meaning of terms.* For purposes of this section—

(1) *Alcohol or tobacco tax.* The term "alcohol or tobacco tax" means—

(A) Any tax imposed by chapter 51 (other than part II of subchapter A, relating to occupational taxes) or by chapter 52 or by any corresponding provision of prior internal revenue laws, and

(B) In the case of any commodity of a kind subject to a tax described in subparagraph (A), any tax equal to any such tax, any additional tax, or any floor stocks tax.

(2) *Tax.* The term "tax" includes a tax and an exaction denominated a "tax", and any penalty, addition to tax, additional amount, or interest applicable to any such tax.

(3) *Ultimate burden.* The claimant shall be treated as having borne the ultimate burden of an amount of an alcohol or tobacco tax for purposes of subsection (a) (1), and the owner referred to in subsection (a) (3) shall be treated as having borne such burden for purposes of such subsection, only if—

(A) He has not, directly or indirectly, been relieved of such burden or shifted such burden to any other person,

(B) No understanding or agreement exists for any such relief or shifting, and

(C) If he has neither sold nor contracted to sell the commodities involved in such claim, he agrees that there will be no such relief or shifting, and furnishes such bond as the Secretary or his delegate may require to insure faithful compliance with his agreement.

* * * * *

In order to implement the Internal Revenue Code of 1954, as amended, with respect to the above provisions of law, 26 CFR Part 296, "Miscellaneous Regulations Relating to Tobacco Materials, Tobacco Products, and Cigarette Papers and Tubes," is promulgated.

Subpart A—Application of Section 6423, Internal Revenue Code of 1954, as Amended, to Refund or Credit of Tax on Tobacco Materials, Tobacco Products, and Cigarette Papers and Tubes

GENERAL

CLAIM PROCEDURE

BONDS

PENALTIES

SUBPART A—APPLICATION OF SECTION 6423, INTERNAL REVENUE CODE OF 1954, AS AMENDED, TO REFUND OR CREDIT OF TAX ON TOBACCO MATERIALS, TOBACCO PRODUCTS, AND CIGARETTE PAPERS AND TUBES

GENERAL

§ 296.1 *Scope of regulations in this subpart.* The regulations in this subpart relate to the limitations imposed by section 6423, I. R. C., on the refund or credit of tax paid or collected in respect to any article of a kind subject to a tax imposed by chapter 52, I. R. C., or by any corresponding provision of prior internal revenue laws.

§ 296.2 *Meaning of terms.* When used in this subpart, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section.

Article. The commodity in respect to which the amount claimed was paid or collected as a tax.

Assistant regional commissioner. An assistant regional commissioner (alcohol and tobacco tax) who is responsible to, and functions under the direction and supervision of, a regional commissioner of internal revenue.

Claimant. Any person who files a claim for a refund or credit of tax under this subpart.

Director. The Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Treasury Department, Washington 25, D. C.

I. R. C. Internal Revenue Code of 1954, as amended.

Owner. A person who, by reason of a proprietary interest in the article, furnished the amount claimed to the claimant for the purpose of paying the tax.

Person. An individual, a trust, estate, partnership, association, company, or corporation.

Regional Commissioner. The regional commissioner in a region.

Tax. Any tax imposed by chapter 52, I. R. C., or by any corresponding provision of prior internal revenue laws, and in the case of any commodity of a kind subject to a tax under such chapter, any tax equal to any such tax, any additional tax, or any floor stocks tax. The term includes an exaction denominated a "tax", and any penalty, addition to tax, additional amount, or interest applicable to any such tax.

§ 296.3 *Applicability to certain credits or refunds.* The provisions of this subpart apply only where the credit or refund is claimed on the grounds that an amount of tax was assessed or collected erroneously, illegally, without authority, or in any manner wrongfully, or on the grounds that such amount was excessive. This subpart does not apply to:

(a) Any claim for drawback,

(b) Any claim made in accordance with any law expressly providing for credit or refund where an article is withdrawn from the market, returned to bond, lost, or destroyed,

(c) Any amount claimed with respect to an article which has been lost, where a suit or proceeding was instituted before June 15, 1957, and

(d) Any claim based solely on errors in computation of the quantity of an article subject to tax or on mathematical errors in computation of the amount of the tax due, or to any claim in respect of tax collected or paid on an article seized and forfeited, or destroyed, as contraband.

Any suit or proceeding, with respect to any amount to which the provisions of this subpart would apply, which was barred on April 30, 1958, shall remain barred, and no claim for credit or refund of any such amount which was barred from allowance on April 30, 1958, shall be allowed after such date in any amount.

§ 296.4 *Ultimate burden.* For the purposes of this subpart, the claimant, or owner, shall be treated as having borne the ultimate burden of an amount of tax only if:

(a) He has not, directly or indirectly, been relieved of such burden or shifted such burden to any other person,

(b) No understanding or agreement exists for any such relief or shifting, and

(c) If he has neither sold nor contracted to sell the articles involved in such claim, he agrees that there will be no such relief or shifting, and furnishes bond as provided in § 296.10.

§ 296.5 *Conditions to allowance of credit or refund.* No credit or refund to which this subpart is applicable shall be allowed or made, pursuant to a court decision or otherwise, of any amount paid or collected as a tax unless a claim therefor has been filed, as provided in this subpart, by the person who paid the tax and the claimant, in addition to establishing that he is otherwise legally entitled to credit or refund of the amount claimed, establishes:

(a) That he bore the ultimate burden of the amount claimed, or

(b) That he has unconditionally repaid the amount claimed to the person who bore the ultimate burden of such amount, or

(c) That (1) the owner of the article furnished him the amount claimed for payment of the tax, (2) he has filed with the assistant regional commissioner the written consent of such owner to the allowance to the claimant of the credit or refund, and (3) such owner satisfies the requirements of paragraph (a) or (b) of this section.

§ 296.6 *Requirements for persons intending to file claim.* Any person who, having paid the tax with respect to an article, desires to claim refund or credit of any amount of such tax to which the provisions of this subpart are applicable must:

(a) File a claim, as provided in § 296.7,

(b) Comply with any other provisions of law or regulations which may apply to the claim, and

(c) If, at the time of filing the claim, neither he nor the owner has sold or contracted to sell the articles involved in the claim, file a bond on Form 2490, as provided by § 296.10.

CLAIM PROCEDURE

§ 296.7 *Execution and filing of claim.* Claims to which this subpart is applicable shall be executed on Form 843 (original only) in accordance with instructions on the form and shall be filed with the district director of internal revenue for the district where the tax was paid, who will refer such claims to the assistant regional commissioner (alcohol and tobacco tax) for the region. The claim must set forth each ground upon which the claim is made in sufficient detail to apprise the assistant regional commissioner of the exact basis therefor. Allegations pertaining to the bearing of the ultimate burden relate to additional conditions which must be established for a claim to be allowed and are not in themselves legal grounds for allowance of a claim. There shall also be attached to the form and made a part of the claim the supporting data required by § 296.8. All evidence relied upon in support of such claim shall be clearly set forth and submitted with the claim.

§ 296.8 *Data to be shown in claim.* Claims to which this subpart is applicable, in addition to the requirements of § 296.7, must set forth or contain the following:

(a) A statement that the claimant paid the amount claimed as a "tax" as defined in this subpart.

(b) If the claim is a superseding claim covering an amount (or any part thereof) claimed in a claim filed on or before April 30, 1958, a statement setting forth the place of filing of such claim, the date of filing thereof, the amount claimed, and information showing that such prior claim was not barred from allowance on April 30, 1958.

(c) Full identification (by specific reference to the form number, the date of filing, the place of filing, and the amount paid on the basis of the particular form or return) of the tax forms or returns covering the payments for which refund or credit is claimed.

(d) The written consent of the owner to the allowance of the refund or credit to the claimant (where the owner of the article in respect of which the tax was paid furnished the claimant the amount claimed for the purpose of paying the tax).

(e) If the claimant or the owner, as the case may be, has neither sold nor contracted to sell the articles involved in the claim, a statement that the claimant or the owner, as the case may be, agrees not to shift, directly or indirectly in any manner whatsoever, the burden of the tax to any other person.

(f) If the claim is for refund of a floor stocks tax, or of an amount resulting from an increase in rate of tax applicable to an article, a statement as to whether the price of the article was increased on or following the effective date of such floor stocks tax or rate increase, and, if so, the date of the increase, together with full information as to the amount of such price increase.

(g) Specific evidence (such as relevant records, invoices, or other documents, or affidavits of individuals having personal knowledge of pertinent facts) which will satisfactorily establish the conditions to allowance set forth in § 296.5.

The assistant regional commissioner may require the claimant to furnish as a part of the claim such additional information as he may deem necessary.

§ 296.9 *Time for filing claim*—(a) *General.* Except as provided in paragraph (c) of this section credit or refund of any amount of tax to which the provisions of this subpart apply shall not be made unless the claimant files a claim therefore after April 30, 1958, and within the time prescribed by law and in accordance with the provisions of this subpart, and no claim filed before May 1, 1958, for the credit or refund of any amount of tax to which this subpart is applicable shall be held to constitute a claim for refund or credit within the meaning of, or for the purposes of, section 7422 (a), I. R. C.

(b) *Superseding claims.* Any claimant who on or before April 30, 1958, filed a claim for any amount to which this subpart applies may, if such claim was not barred from allowance on April 30, 1958, file a superseding claim after April 30, 1958, and on or before April 30, 1959, conforming to the requirements of this subpart and covering the amount (or any part thereof) claimed in the prior claim.

(c) *Suits instituted before June 15, 1957.* Any claimant who instituted a suit before June 15, 1957, for recovery of any amount to which this subpart applies, shall not be barred by this section from the maintenance of such suit as to any such amount claimed in such suit on such date if in such suit he establishes the conditions to allowance in this subpart with respect to such amount.

BONDS

§ 296.10 *Bond, Form 2490.* Each claim for a refund or credit of tax on articles which the claimant or the owner, as the case may be, has neither sold nor contracted to sell at the time of filing of the claim must be accompanied by a bond on Form 2490. The bond shall be executed by the claimant or the owner of the articles, as the case may be, in accordance with the provisions of this subpart and the instructions printed on the form. Such bond shall be conditioned that there will be no relief or shifting of the ultimate burden of the tax to any other person. The penal sum shall not be less than the amount of tax claimed on all articles which have not been sold or contracted for sale at the time of filing of the claim. Bonds required by this subpart shall be given with corporate surety or with collateral surety. A separate bond must be filed for each claim.

§ 296.11 *Corporate surety.* Surety bonds required by this subpart may be given only with corporate sureties holding certificates of authority from and subject to the limitations prescribed by the Secretary of the Treasury as set forth in Treasury Department Form 356—Revised. Powers of attorney and other evidence of appointment of agents and officers to execute bonds on behalf of corporate sureties are required to be filed with, and passed on by, the Commissioner of Accounts, Surety Bonds Branch, Treasury Department.

§ 296.12 *Deposit of securities in lieu of corporate surety.* In lieu of corporate surety, the principal may pledge and deposit securities which are transferable and are guaranteed as to both interest and principal by the United States, in accordance with the provisions of 31 CFR Part 225.

§ 296.13 *Authority to approve bonds.* Assistant regional commissioners are authorized to approve all bonds required by this subpart.

§ 296.14 *Termination of liability.* Bonds on Form 2490 will be terminated by the assistant regional commissioner on receipt of satisfactory evidence that the person giving the bond has disposed of the articles covered by the bond and that he bore the ultimate burden of the amount claimed and that no understanding or agreement exists whereby he will be relieved of such burden or shift such burden to another person.

§ 296.15 *Release of pledged securities.* Securities of the United States, pledged and deposited as provided by § 296.12, shall be released only in accordance with the provisions of 31 CFR Part 225. When the assistant regional commissioner is satisfied that they may be released, he shall fix the date or dates on which a part or all of such securities may be released. At any time prior to the release of such securities, the assistant regional commissioner may, for proper cause, extend the date of release for such additional length of time as he deems necessary.

PENALTIES

§ 296.16 *Penalties.* It is an offense punishable by fine and imprisonment for anyone to make or cause to be made any false or fraudulent claim upon the United States, or to make any false or fraudulent statements, or representations, in support of any claim, or to falsely or fraudulently execute any documents required by the provisions of the internal revenue laws, or any regulations made in pursuance thereof.

[F. R. Doc. 58-7868; Filed, Sept. 25, 1958; 8:47 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 51]

U. S. CONSUMER STANDARDS FOR BEET GREENS [1]

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the United States Department of Agriculture is considering issuance of United States Consumer Standards for Beet Greens pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., as amended; 7 U. S. C. 1621 et seq.).

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

All persons who desire to submit written data, views or arguments for consideration in connection with the proposed standards should file the same with the Chief, Fresh Products Standardization and Inspection Branch, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, South Building, Washington 25, D. C., not later than October 10, 1958.

The proposed standards are as follows:

GENERAL

Sec.
51.3170 General.

GRADES

51.3171 U. S. Grade A.

OFF-GRADE

51.3172 Off-grade.

BASIS FOR CALCULATING PERCENTAGES

51.3173 Basis for calculating percentages.

DEFINITIONS

51.3174 Similar varietal characteristics.
51.3175 Fresh.
51.3176 Clean.
51.3177 Fairly tender.
51.3178 Well trimmed.
51.3179 Whole plant.
51.3180 Clusters.
51.3181 Damage.
51.3182 Diameter.
51.3183 Serious damage.

AUTHORITY: §§ 51.3170 to 51.3183 issued under sec. 205, 60 Stat. 1090, as amended; 7 U. S. C. 1624.

GENERAL

§ 51.3170 *General.* The standards contained in this subpart are applicable to beet greens consisting of either plants (with or without attached roots) or cut leaves, but they shall not be applicable to a mixture of plants and cut leaves in the same container. The standards apply only to the common red-rooted table varieties of beets (Beta vulgaris) but not to mangel wurzel varieties primarily grown for stock feed, or to sugar beets (Beta vulgaris var. saccarifera).

GRADES

§ 51.3171 *U. S. Grade A.* "U. S. Grade A" consists of washed beet greens of similar varietal characteristics which are fresh, clean, fairly tender, well trimmed, and free from other kinds of leaves, weeds, grass or other foreign material, and decay; which are free from damage caused by discoloration, freezing, disease, insects or mechanical or other means; and which are not infested by insects, larvae, or worms.

(a) In the case of beet greens with roots attached, the roots shall be free from damage by any cause and the maximum diameter of the root shall not be larger than five-eighths inch.

(b) The leaf blades of beet greens shall not be longer than six and one-half inches.

(c) Incident to proper grading and handling, the following tolerances shall be permitted in any lot (see § 51.3173):

(1) *For over-size roots.* 5 percent for beet greens with roots in any lot which are larger than five-eighths inch in diameter;

(2) *For over-size leaf blades.* 3 percent for beet leaves in any lot which are longer than six and one-half inches;

(3) *For small pieces.* 3 percent for pieces of beet leaf blades in any lot which are smaller than a circle three-fourths inch in diameter;

(4) *For mixtures of whole plants, clusters and leaves.* Not more than 10 percent of the beet greens may consist of cut leaves in a lot consisting of plants and not more than 3 percent of the beet greens may consist of whole plants and clusters in a lot consisting of cut leaves;

(5) *For leaves other than beet leaves, weeds, grass or other foreign material.* Not more than 3 pieces in a one-pound sample; and,

(6) *For other defects.* Not more than a total of 5 percent, but not more than two-fifths of this tolerance, or 2 percent, shall be allowed for defects causing serious damage, including therein not more than one percent for decay.

OFF-GRADE

§ 51.3172 *Off-grade.* "Off-grade" consists of beet greens which fail to meet the requirements of the foregoing grade.

BASIS FOR CALCULATING PERCENTAGES

§ 51.3173 *Basis for calculating percentages.* Percentages shall be calculated on the basis of weight or an equivalent basis, except that the amount of leaves other than beet leaves, blades of grass, weeds or other foreign material shall be calculated on the basis of count, using one pound of beet greens as the sample. In inspecting the sample, the unit shall be the plant or leaf exactly as it occurs in the sample. A plant or portion of plant shall not be broken to remove the defective portion, but shall be considered as a unit.

DEFINITIONS

§ 51.3174 *Similar varietal characteristics.* "Similar varietal characteristics" means that the beet greens in any container are similar in color and type.

§ 51.3175 *Fresh.* "Fresh" means that the greens are not more than slightly wilted.

§ 51.3176 *Clean.* "Clean" means that the beet greens do not show more than a trace of grit, sand, dirt, silt, muck or other similar water insoluble, inorganic material.

§ 51.3177 *Fairly tender.* "Fairly tender" means that the beet greens are not tough, or excessively fibrous.

§ 51.3178 *Well trimmed.* "Well trimmed" in the case of cut leaf beet greens means that the length of leaf stem or petiole is not more than the length of the leaf blade and that the overall length of the leaf including blade and petiole is not more than 11 inches.

§ 51.3179 *Whole plant.* "Whole plant" means a single beet plant having all its component parts—root, petioles, and leaf blades.

§ 51.3180 *Clusters.* "Clusters" means that there are more than 3 leaves attached, except that clusters of heart leaves with any number of leaves shall not be considered as a cluster: *Provided*, That the length of the longest leaf in the cluster is not over 3 inches.

§ 51.3181 *Damage.* "Damage" means any defect which materially affects the appearance, or the edible or shipping quality of the individual leaf, or plant, or the general appearance of the beet greens in the container. Any one of the following defects, or any combination of defects the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:

(a) Discoloration when the appearance of the individual leaf or plant is materially affected by yellowing, spotting, or any other type of discoloration, except that leaves showing a reddish color, often caused by cold weather, shall not be considered as damaged by discoloration. Plants which have small dried, withered, or slightly yellowed leaves at the base of the plant shall not be considered as damaged by discoloration unless the general appearance of the plant or of the plants in the container is materially affected; and,

(b) Mechanical damage when the individual leaf is badly crushed, torn or broken.

§ 51.3182 *Diameter.* "Diameter" means the greatest dimension of the root measured at right angles to a line from the center of the crown to the base of the root.

§ 51.3183 *Serious damage.* "Serious damage" means any defect which seriously affects the appearance, or the edible or shipping quality of the individual beet leaf, or plant, or the general appearance of the beet greens in the container. Any one of the following defects, or any combination of defects the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as serious damage:

(a) Discoloration when the individual leaf, or plant is badly discolored;

(b) Insects when the individual leaf or plant is mutilated by feeding or other means to the extent that the appearance or edibility is affected; and,

(c) Decay.

Dated: September 23, 1958.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Marketing Services.

[F. R. Doc. 58-7854; Filed, Sept. 25, 1958; 8:51 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 12274; FCC 58-891]

DAYTIME STANDARD BROADCAST SERVICES

EXTENTION OF HOURS OF BROADCASTING

In the matter of amendment of Part 3 of the rules to permit extended hours of broadcasting for daytime standard broadcast station; Docket No. 12274.

1. The Commission has before it for consideration its Notice of Proposed Rule Making (FCC 57-1387) issued in this proceeding on December 19, 1957, in response to a petition filed December 9, 1955, by the Daytime Broadcasters As-

sociation, Inc. (DBA), requesting inter alia, that all daytime standard broadcast stations be authorized to operate from 5:00 a. m. or local sunrise (whichever is earlier) to 7:00 p. m. or local sunset (whichever is later), in lieu of the sunrise to sunset hours provided for in the present rules.

FUNDAMENTALS OF STANDARD BROADCAST ALLOCATIONS

2. Since the DBA proposal, if adopted, would permit general operation by daytime stations during hours other than daytime, it involves a departure from the long-established system of standard broadcast (AM) allocations. Hence, a brief discussion of present allocation principles is helpful in comprehending the effects and implications of the proposed action.

3. The portion of the radio spectrum allocated for standard broadcasting is between 535 and 1605 kc. Within this range there are 107 channels of 10 kc each, on which over 3,300 standard broadcast stations are presently assigned. Under the Commission's basic allocation pattern, different channels are designated for use by different classes of stations, which operate with different amounts of power and are intended to render service varying in extent. The number of stations which may be assigned to any particular frequency is limited by the fact that under favorable transmission conditions standard broadcast signals travel long distances, and create interference to the service of stations located on the same frequency or adjacent frequencies. A salient fact which must be borne in mind is that these signals cause destructive interference over an area much greater than that to which they provide useful service. Where two signals on the same frequency (co-channel) are involved, under the Commission's standards objectionable interference is present where the strength of the interfering signal is one-twentieth or more of the strength of the desired signal. Further, the range of AM radio signals—both those providing a usable service and those farther from the transmitter causing destructive interference—varies considerably as between the daytime and nighttime hours, because of the characteristics of skywave propagation.

4. The energy radiated from the transmitting antenna of a broadcast station is affected differently by the earth's surface and the upper atmosphere. Part of the energy, called the groundwave, travels closely along the surface, where its intensity in a given location remains almost constant day and night and from season to season. It is affected principally by the station frequency and power, and the character of the terrain over which it travels. At night, in addition to groundwave transmission, radio signals are propagated by skywave transmission, consisting of energy travelling upward and outward from the transmitter to an electrified layer called the ionosphere, from which it is reflected back to earth at distances much greater than the reach of groundwave signals. The range of skywave signals is affected by many more variables than groundwave signals, including latitude, time of year, the current stage of the sunspot cycle, and, particularly and most substantially, the time of day. Caused principally by the sun's radiation, the ionization of the upper atmosphere exhibits diurnal variations of such nature and extent that skywave signals, returned to earth with negligible intensity during most of the day, are reflected with great efficiency at night, where with varying intensity they reach distances far beyond the range of the groundwave. Skywave signals begin a measurable buildup about two hours before sunset, reach quasi-maximum values about two hours after sunset, maintain approximately that level until about two hours prior to sunrise, and then progressively detriorate until they again reach insignificant levels about two hours after sunrise. Such signals are less constant in intensity than groundwave signals, because of the continuous change in the characteristics of the ionosphere, resulting in "fading" from time to time in skywave reception.

5. Skywave signals render a useful service over wide areas, although because of their somewhat intermittent nature such service is, under the Commission's rules, considered secondary service, whereas the more constant groundwave service is considered primary service. Such service by skywave transmission is possible, however, only under highly restricted conditions. Both transmitter power sufficient to propagate usable signals over long distances, and freedom from objectionable electrical interference which might prevent service of an acceptable standard, are required.

6. With the aforementioned radio propagation characteristics in mind, rules were adopted governing the assignment of standard broadcast stations to specific frequencies. These rules seek to achieve to the greatest possible extent the following three objectives:

(a) To provide some service of satisfactory signal strength to all areas in the nation;

(b) To provide as many program choices to as many listeners as possible;

(c) To provide locally originated service to as many communities as possible.

7. The effective implementation of these three objectives produces inevitable conflict. Maximum area coverage can be obtained by using a single station or a very few high-powered stations on a given channel. On the other hand, the assignment of numerous stations on a channel to provide local outlets for as many communities as possible can only be accomplished by severely restricting station coverage to small areas ringed by interference from the numerous other stations on the channel. Similar conflicts affect the maximum attainment of objective (b). In view of the aforementioned marked differences between daytime and nighttime propagation of AM radio signals, the conflicts in implementing the three basic objectives are much greater during nighttime than during daytime. It is not engineeringly feasible to cover the entire United States with interference-free groundwave (primary) signals at night. It is generally agreed that approximately half of the land area of the United States and some 20,000,000 persons must depend on skywave (secondary) signals for nighttime radio service.

8. The impossibility of simultaneously implementing all three of the above-listed objectives on any single channel led to the classification of broadcast frequencies into separate groups, with different rules for the assignment of stations, depending upon the purpose for which each class of channels was established: (a) Clear channel frequencies designed to provide primary (groundwave) and secondary (skywave) service over an extended area and at relatively long distances by high-powered stations known as Class I stations; (b) regional frequencies designed for stations (known as Class III stations) to render service primarily to metropolitan districts and the rural areas contiguous thereto; and (c) local frequencies designed for stations (known as Class IV stations) to render service primarily to cities and/or towns and the suburban and rural areas contiguous thereto. This pattern of allocation dates from the adoption of the Commission's rules and standards, essentially in their present form as far as standard broadcasting is concerned, in 1939. Because of the relative inefficiency of skywave transmission during daylight hours, it is possible to assign many more stations to a given channel for daytime operation. Moreover, the assignment of daytime stations permits more efficient channel utility than would otherwise result. It has therefore been possible, and in furtherance of the basic objective of providing as much service and as many local broadcast outlets as possible, for the Commission to assign additional stations on the clear and regional channels in various parts of the country limited to operation during the daytime hours, as well as to permit unlimited time stations to operate with increased facilities during these hours. There are now about 1400 daytime stations,[1] of which about 850 are assigned to regional channels and all but one of the remaining 550 to clear channels.

9. From the foregoing, it is apparent that the authorization of daytime stations was specifically intended to permit the utilization of spectrum space which, after accommodating other stations (i. e., clear channel and full-time regional stations), was available during the day but not at night. By long-standing domestic usage and international agreement the hours for daytime broadcasts are those between sunrise and sunset. The subject DBA proposal would permit daytime stations to operate during the nighttime (post-sunset and pre-sunrise) period during several months of the year.

[1] The term "daytime station" as used herein includes approximately 15 stations which are licensed on clear channels as "limited time" stations. The only difference between the two groups is that where a limited time station is located east of the dominant station on the same frequency it may operate until sunset at the dominant station, while daytime stations may operate only until local sunset.

RELATION BETWEEN INSTANT PROCEEDING AND CLEAR CHANNEL (DOCKET NO. 6741) AND DAYTIME SKYWAVE (DOCKET NO. 8333) RULE MAKING PROCEEDINGS

10. A grant of the instant DBA proposal would have a direct bearing upon two current rule-making proceedings. As stated in Paragraph 4, above, the appearance and disappearance of skywave transmission is not, as our present allocation rules might imply, an instantaneous phenomenon commencing precisely at sunset and ending precisely at sunrise. Data which have been accumulated from field intensity recordings of numerous stations have shown that skywave transmission, which is negligible during most of the day, builds up progressively in a significant degree at about two hours before sunset and reaches its approximate maximum at about two hours after sunset.[2] Likewise, nighttime skywave transmission, which begins to deteriorate progressively about two hours before sunrise, is present to a limited degree as long as two hours after sunrise. As a result, operation of daytime stations even within the period between sunrise and sunset causes progressively diminishing or increasing skywave interference to stations sharing the use of the channel and, to some extent, adjacent channel stations. This interference is sufficiently severe to impinge substantially on the service areas of stations which under the Commission's present allocation rules are entitled to protection from objectionable interference over the wide areas that they are intended to serve.

11. In 1947 the Commission initiated a rule-making proceeding (Docket No. 8333) to determine the existence, nature and extent of daytime skywave transmission of standard broadcast signals and to ascertain what, if any, changes should be made in the rules as a result of its findings. In March, 1954, the Commission issued a proposed report and order in that proceeding (10 Pike and Fischer RR 1541), embodying amendments to the rules and technical standards which would restrict the daytime skywave radiation of interfering stations toward desired Class I stations to a specifically prescribed degree. This could be achieved by reducing power, directionalizing interference signals away from the desired station, or both. While affording some degree of protection from daytime skywave interference, the proposed amendments reflect a compromise in that the restrictions were not so limited as to afford the co-channel Class I stations the full degree of protection which was sought by these stations. In July, 1954, the Commission held oral argument on the proposed rules, and subsequently received written comments concerning whether the proposed restrictions should be confined to new or changed station assignments or should be applied also to existing stations. The Commission has not yet reached a final conclusion in that proceeding.

12. The Daytime Skywave proceeding (Docket No. 8333) in turn is intimately related to far broader issues concerning even more basic questions of revision of the standard broadcast allocations pattern which are under review in the Clear Channel proceeding (Docket No. 6741).[3] Under the present allocation, a total of 46 frequencies are assigned as U. S. Clear Channels. 24 of these clear channels are reserved for the exclusive use at night of a single Class I-A station. On the remaining 22 U. S. clear channels more than one Class I-B dominant station may be assigned, such stations affording each other mutual protection through the use of directional antennas. The assignment of secondary or Class II stations is permitted on all of the clear channels. On the clear channels assigned for Class I-A use, only daytime Class II stations are permitted; whereas on clear channels assigned for Class I-B use, unlimited time Class II stations affording day and night protection to the dominant Class I-B stations are permitted. On April 15, 1958, the Commission issued a Further Notice of Proposed Rule Making in Docket No. 6741, inviting comments on a proposal to assign additional unlimited time stations on 12 of the 24 U. S. Class I-A clear channels in order to improve service in certain areas. On five of these 12 channels new Class I-B station assignments would be permitted in specified Western states with directional antennas to protect both new and existing Class I stations. The proposal also contemplates that Class II (secondary) stations could also use these channels at night under certain conditions. It further provides that on the other seven of the twelve Class I-A clear channels mentioned, additional Class II stations would be authorized in locations where they would provide needed primary service in areas now lacking it. While no action was taken with respect to the other 12 Class I-A clear channels, the Commission asserted that it will consider at a later date the advisability of authorizing the use of higher power on these channels. Comments in response to the April 15 Further Notice were filed on and before August 15, 1958, and reply comments are due by September 29, 1958.

13. It is evident that the entire clear channel problem embraces the daytime skywave problem as one large facet, and that the latter in turn affects the basis on which it would be possible to approach the questions raised by the instant DBA proposal for extended hours of daytime stations. The DBA proposal contemplates an action diametrically opposed to the tentative conclusions announced by the Commission in its March 1954 proposed Report and Order in Docket No. 8333. Thus, insofar as the instant proposal concerns daytime stations on clear channels, it could not be granted in whole or in part without having a direct bearing upon the aforementioned clear channel and daytime skywave proceedings, and involving a prejudgment of the issues therein. Denial of the instant proposal, of course, would not involve such prejudgment.[4]

RECORD IN THIS PROCEEDING

14. Comments favoring the proposal were filed by the Daytime Broadcasters Association (DBA), an organization representing about 150 daytime stations, and by the licensees of over 100 daytime broadcasting stations. Oppositions were filed by the Clear Channel Broadcasting Service (an association representing 14 non-network-owned Class I–A stations), the National Grange, and by the licensees of over 240 clear channel and full-time regional stations. A large volume of correspondence from individuals and groups favoring the proposal, and a smaller quantity of informal communications opposing it, were received.

15. The proposed extended hours of operation prior to local sunrise and after local sunset by daytime only stations would automatically involve extended hours of interference to full-time stations operating on the same frequencies.[5] Thus, the ultimate question in this proceeding—apart from international considerations—is whether or not the public interest would be better served by permitting all daytime stations wishing to do so to broadcast during these extended hours, despite resultant interference to unlimited time stations, or whether the public interest would be better served by retaining the present rules prohibiting the operation of daytime stations during nighttime hours. In our Notice we stated that, in order to resolve this question and to evaluate adequately DBA's proposal, we needed reliable information on which to make a reasonable assessment of the probable resultant losses of service as well as a showing of the extent of the service gains which could be achieved through its adoption. Accordingly, we requested reasonably complete and accurate data concerning:

(a) The times during which, the areas in which and the populations for whom the DBA proposal would result in added primary service.

(b) The extent to which such primary service gains would occur where no other primary service is available;

[2] The order of magnitude of the increase is indicated by data in Docket No. 8333. As an example, on a frequency in the middle of the standard broadcast band, a signal will increase roughly forty times in intensity from 2 hours before sunset to sunset and will reach approximately 150 times the two-hour-before-sunset intensity at two hours after sunset. The variation between pre-sunset and post-sunset signal intensity is more pronounced at lower frequencies and less pronounced at higher frequencies.

[3] Docket Nos. 6741 and 8333 were consolidated in 1947 but in 1953 were severed in order to permit separate consideration of the daytime skywave proceeding (Docket No. 8333).

[4] On August 15, 1958, WCAR, Inc., Licensee of Station WCAR, Detroit, Michigan, filed a petition requesting that the Commission consolidate the instant proceeding with the clear channel and the daytime skywave proceeding (Docket Nos. 6741 and 8333). Other parties in their comments in this proceeding also requested consolidation. For the reasons set forth in this Report, and in view of our action herein, to the extent that these requests ask consolidation of Dockets 6741 and 8333 with the instant proceeding, they are denied.

[5] None of the formal comments filed in this proceeding challenged this assertion.

(1) From any other station.

(2) From any other station located in the same city or town.

(c) The periods during which, the areas, in which, and the populations for whom primary service available under the present rules would be subjected to objectionable interference to the signals of U. S. Class I–A, I–B, unlimited time Class II and Class III stations.

(d) The extent to which the foregoing losses of service would occur in areas and for populations receiving no other primary service.

(e) A showing similar to (c) and (d) with respect to losses of skywave service within the 0.5 mv/m 50 percent skywave contours of Class I stations.

(f) The extent to which limitations set out in the above-referenced international agreements would be infringed.

(g) Views of the parties concerning the need for the additional services which would be made possible by extending the hours of operation of daytime stations and the effect on the public interest of the consequent losses of service from other classes of stations.

16. The comments of DBA and the other proponents, while containing some material as to hours of operation and the communities in which daytime stations are the only local radio outlets, supply no data on areas and populations which would gain or lose service by adoption of the proposal. They urge that such data is of little use because service from distant high-power stations is not of value to local communities, even if available, because the programming of such stations is not designed for or of interest to the populations of distant communities. This argument, aimed primarily at clear channel rather than regional stations, is considered below. The opponents assert that there is great need for any data which may shed light on the probable or possible effects of the DBA proposal in terms of services to be gained or lost by the public. Many of the opponents have filed engineering statements setting forth the results of studies concerning the nature of the proposal. While most of these statements are admittedly not as comprehensive in scope and detail as the Commission's Notice called for, the opponents express the view that they are nonetheless adequate to establish, for the frequencies and locations which have been studied, that severe losses in area and population now receiving interference-free night-time primary groundwave service and secondary skywave service would result from operation of daytime-only stations beyond local sunset hours and, likewise, that interference effects suffered by daytime-only stations after local sunset would markedly reduce any gain in service by these stations.

17. Much of the data which has been filed is tabulated in summary form in the appendices * attached hereto. While our consideration is by no means limited to data therein, these appendices serve as a convenient vehicle and ready reference for a substantial quantity of the technical data which has been filed in this proceeding.

18. Appendix I * shows the areas and populations served by daytime stations and the service which would be afforded if these stations were authorized to operate at night after local sunset or before local sunrise. Appendix II * shows the areas and populations receiving primary service nighttime from stations authorized for nighttime operation and the areas and populations which would lose this service as a result of interference under the DBA proposal. Appendix III * shows the areas and populations receiving nighttime secondary service and the areas and populations which would lose this service under the DBA proposal.

19. Interference computations were made using the average skywave field intensity charts contained in § 3.190 of the Commission's rules, which are based on the average field intensity corresponding to the second hour after sunset. In addition, the diurnal variation curves contained in Figure 5 of the Commission's Exhibit 1 in Docket No. 8333 were used by some parties on the basis that these curves are more appropriate for the first hour after sunset or before sunrise. Where data was supplied on both bases, the appendices show both values. We believe these field intensity charts and diurnal variation curves and the various other engineering tools and assumptions—based upon professional engineering experience—are sufficiently valid to render the data submitted by these parties of practical use to the Commission in reaching our decision herein.

We proceed to consider the seven propositions set out above.

(a) The times during which, the areas in which, and the populations for whom the DBA proposal would result in added primary service.

20. The stations licensed for daytime operation only for which data has been filed are listed in Appendix I. Although in some instances not complete, data requested by the Notice herein has been filed for 81 stations. Sunrise and sunset hours for the months of March and December are shown in the Appendix for each station. Thus the hours of operation requested by the petition may be determined for each station by comparing the sunrise and sunset time shown in the Table with the 5 a. m. to 7 p. m. hours requested by the petition. For example, sunrise and sunset at Texas City, Texas in March is 6:30 a. m. and 6:30 p. m.; in December it is 7:00 a. m. and 5:15 p. m. When compared with 5:00 a. m. to 7:00 p. m., the early morning operation involved amounts to 1½ hours and evening operation for ½ hour during March and 2 hours and 1¾ hours, respectively, during December.

21. The month of March has been chosen as representative of spring and fall (October) conditions and December as representative of the conditions during the winter. In general, during summer 5 a. m. follows sunrise and 7 p. m. precedes local sunset. Thus, sunrise and sunset hours for June, as representative of summer, are not shown.

22. Disregarding the summer season, during which slight if any additional operation is involved, the additional morning hours of operation from the table range from a minimum of 1 hour during March to a maximum of 3¼ hours during December, with an average of 1.5 hours during March and 2.4 hours during December.

23. Since the stations licensed for daytime operation only do not now operate after local sunset or before local sunrise, any primary service which would be provided by such stations during the extended hours requested by the petition would result in added primary service. The data tabulated in Appendix I shows that 7,977,444 persons within 36,800 square miles would receive primary service from 50 stations on which sufficiently complete data has been supplied, based upon the interference conditions during the second hour after sunset. By way of comparison, 44,567,568 persons within 540,223 square miles receive service from these same stations during their daytime operation. Thus, these stations would, in the aggregate, afford service during the additional hours requested to 17.9 percent of the population and 6.8 percent of the area that they serve during daytime hours. For conditions during the first hour following sunset or before sunrise (two hours of the total additional operating hours requested in the petition are under first hour conditions) the data shows that 8,421,166 persons within 20,285 square miles would receive primary service from the 24 stations for which first hour data is available. During these hours the daytime stations would serve in the aggregate 31.1 percent of the population of 27,100,159 and 6.1 percent of the area of 334,484 square miles served by the same stations during daytime hours.

(b) The extent to which such primary service gains would occur where no other primary service is available:

(1) From any other station.

(2) From any other station located in the same city or town.

24. Based on data for the entire 81 stations listed in Appendix I, of the total area and population which would receive added primary service only 64,151 persons in approximately 330 square miles do not now receive primary service from any other station during nighttime hours. 1,541,153 persons in 28 communities do not receive nighttime primary service from any other station located in the same city or town in which the daytime station is located, although other nighttime primary service is available.*

25. The above population, area, and percentage figures are limited to the stations for which coverage data has been submitted in this proceeding. These stations comprise a minor percentage of the stations licensed for daytime operation. It is thus appropriate to consider

* Filed as part of original document.

* In several instances such primary service is received from the principal city of the urbanized area in which the community is located. In this connection see footnote 16.

carefully the question whether such data is adequate for our use herein. Upon careful consideration it is our view that the data is typical of all daytime stations and is thus fully adequate. The electrical interferences to the signals of the various stations, which limit their coverage, extend over great distances at night, and thus affect those stations for which no data has been filed as well as those for which data has been filed. The extent of the interference on each channel for which data was filed will be greatly increased under the operation proposed by DBA as compared to the interference now existing. Such interference will prove to be at least as severe as additional stations are considered in the data. Finally, our examination extends to daytime and unlimited time station coverages under the data which has been filed. Thus, a substantial number of stations are included, and on these our most careful evaluation convinces us that the daytime stations for which data has been filed are in no way atypical but are fully representative of all daytime stations, both those now licensed and those which may be granted in the future. While additional data could serve to provide greater detail to buttress our decision herein, and to that extent would be desirable, no additional data is necessary in order to support our conclusion herein.

26. One additional and somewhat countervailing factor is appropriate for consideration here. There are listed in Appendix IV all of the cities and towns within nighttime "white areas" (i. e., areas receiving no nighttime primary service) in which daytime stations now operate. The proposed nighttime operations would afford immediate primary service to these communities to the extent that such service would not be prevented by electrical interference. It is reasonable to assume, moreover, than in most instances centrally located transmitter sites could be found which would provide service to all persons in these cities and towns.

(c) The periods during which, the areas in which, and the populations for whom primary service available under the present rules would be subjected to objectionable interference to the signals of U. S. Class I–A, I–B, unlimited time Class II and Class III stations.

27. The unlimited time stations for which primary service data has been filed are listed in Appendix II. This data, although incomplete for some stations, has been filed for 169 stations.

28. The loss in the service of 132 stations based on second hour conditions aggregates a total of 94,591,111 persons in areas totalling 1,289,827 square miles. The loss of service amounts to 43.7 percent of the populations and 68.6 percent of the areas now served at night by these stations.[5a]

[5a] The present service areas that would be lost by a number of these 132 stations overlap. Thus, while many persons would lose two or more services, the total population and areas which would lose one or more services is considerably less than the aggregate totals of 94,591,111 persons, and 1,289,827 square miles.

29. Based on first hour conditions, the interference shown in the Appendix for 24 stations for which such data is available totals 27,513,881 persons in 646,989 square miles. The loss amounts to 30.8 percent of the population and 53.9 percent of the area now served by these stations during these hours.

30. Sunrise and sunset hours are not shown in Appendix II because those appearing in Appendix I are considered to be more meaningful. It is from these that the extended hours of operation by daytime stations, and thus the duration of interference causing the loss of service of unlimited time stations, can be determined. Moreover, the periods during which interference would be encountered would not prove appreciably different if computed upon the basis of sunrise and sunset hours at the slightly different locations represented in Appendix II, these being generally similar in geographical latitude and longitude.

(d) The extent to which the foregoing losses of service would occur in areas and for populations receiving no other primary service.

31. No data has been tabulated in the appendices showing the other primary services in the area which would lose service if the DBA proposal is adopted, since very little data on this point was submitted in this proceeding. In any event the significance of such data, if it had been tendered, would have been minimal because of the reduction in primary service by substantially all unlimited time stations which would result from adoption of the subject proposal. It is evident from Appendix II that all of the unlimited-time stations on frequencies on which daytime stations are or may be licensed will lose service. The effect of these losses cannot be considered by measuring the loss of service of any one station but must be considered when all of the service losses are combined. While data has been supplied in various comments showing that substantial "white" areas would be created by loss of service from an existing station, a summation thereof has not been feasible at this time in view of the incompleteness of the data submitted. We are certain, however, that very considerable "white" area would result if the proposal were adopted.

(e) A showing similar to (c) and (d) with respect to losses of skywave service within the 0.5 mv/m 50 percent skywave contours of Class I stations.

32. Secondary service is provided to those areas in which a skywave signal has sufficient strength to render satisfactory service and is free from interference from other stations. Under our rules only Class I stations provide secondary service. Such service is considered to begin at sunset and end at sunrise the following day, coincident with the required sign-off and sign-on, respectively, of the stations licensed to operate on the same channel during the daytime hours.[1]

[1] The exact build-up of skywave service depends both upon the increasing strength of skywave signals and the elimination of interfering signals. Sunset time for two or more daytime stations may be somewhat different for each location. Thus, a reduction of interference will be realized as each leaves the air, until the interference is entirely eliminated. During morning hours an inverse sequence is followed, each daytime station commencing operation at its own local sunrise.

The full coverage potential of secondary service is not realized during the first hour following sunset (or before sunrise), however, as the 50 percent-time skywave service signals increase in strength in accordance with the diurnal curve. The increase in strength and thus in service potential of these signals does not depart significantly from the increase in strength of the interfering signals governed by the same diurnal effects. The exact amount of skywave service destroyed under the DBA proposal will thus vary from day-to-day and from time-to-time in any given day because the time in which the interference occurs includes the time during which the skywave service is in the process of increasing or of decreasing. We conclude, however, that all or substantially all such service would be subjected to objectionable interference under the proposal during all nighttime hours that daytime stations would operate, particularly in view of the large number of pending applications that request operation during these hours.

33. DBA and other proponents assert that nighttime skywave signals from the clear channel stations are too weak, intermittent and undependable to provide service throughout large areas of the USA. These proponents urge adoption of the DBA proposal as a remedy for this asserted lack of service. However, after carefully studying the technical data submitted in comments in this proceeding, in addition to other engineering information in the Commission's files, we are of the view that the "cure" would be worse than the "sickness," if any. The DBA plan would deprive vast populations of all secondary service without providing any replacement for most of the areas concerned. A multiplicity of skywave service is necessary for adequate secondary service due to the intermittent character of skywave transmission. The destructive effect of the proposal is only very slightly mitigated by the fact that on a few of the clear channels (such as 670 kc, 720 kc and 1200 kc) there would be no co-channel interference at the present time because there are no daytime-only stations assigned on these frequencies. As a specific example of the effect of the destruction of secondary service, it might be noted that in Idaho and Montana there is an area of about 7,000 square miles, containing about 10,000 persons, to which there is available no primary service and only two secondary services during non-daytime hours. Both of these secondary services would be completely destroyed during certain hours under the proposal, leaving this area and population with no radio service whatsoever.

34. Although not in its original petition for rule making, DBA in its comments suggests that the Comission permit full-time stations operating with different facilities day and night to op-

erate with their daytime facilities during the same extended hours that daytime stations are permitted to operate. Such an additional change in allocation policy would of course increase by a considerable amount the interference which would prevail during non-daytime hours. Some opponents of the proposal in their engineering analyses have assumed that a grant of extended hours for daytime stations would entail a grant of the same extended hours of operation by full-time stations with their daytime facilities, and have made part of their engineering showings on that basis. In view of our disposition of the DBA proposal in this Report, we need not decide whether granting the DBA request for extended hours of operation by daytime stations would or would not necessarily require authorization of extended hours of operation by full-time stations with their daytime facilities. Our evaluation of the DBA proposal is based upon the conditions which would prevail if daytime stations operated during extended hours and full-time stations operated as they presently do with daytime facilities during daytime hours and nighttime facilities during all other hours.[8]

CONCLUSIONS BASED UPON TECHNICAL DATA SUBMITTED

35. The tabulation (Appendices I, II, and III) of the data secured in response to the various engineering matters listed in the December 19, 1957, Notice demonstrates conclusively that, in view of the tremendous losses which would result to the existing radio service throughout the U. S. from the operations contemplated by the instant proposal as compared with the much smaller amount of new service which would be provided in some locations, the proposal fails to accord with the statutory standards governing radio broadcast services[9] and the objectives set forth in paragraph 6, above.

EXPLANATION OF TABLES

36. While substantially all of the technical data which has been filed in this proceeding is tabulated in the appendices, it has not been possible to include some data. In a few instances, for example, data is not included in which only partial or fragmentary data was supplied or where the data supplied was based solely upon potential or hypothetical stations in which one or more additional stations were presumed to be licensed and operating. We do not believe that the data so filed is sufficiently consistent with the other data, and sufficiently non-speculative, to warrant inclusion in the appendices. We also note that the data in the Table is not based precisely upon the same conditions in each instance. However, such slightly disparate nature does not detract significantly from its usefulness in this proceeding.[10] Finally, we observe that the data is based upon the operation of stations now licensed for daytime operation without including any additional stations which may be licensed and without reference to the applications for new daytime stations which are now pending before the Commission. Likewise, possible nighttime operation of unlimited-time stations by using licensed daytime facilities is not reflected in the data.

OTHER CONTENTIONS OF PROPONENTS RE COMMISSION'S ENGINEERING STANDARDS

37. The DBA and other proponents have contended that the Commission's engineering standards contained in the present broadcast rules are not wholly applicable for various reasons to the nighttime operation following sunset and before sunrise envisaged by the petition. It is contended that the Commission's skywave curves (Figures 1 and 2 of § 3.190 of the rules) should not be used in measuring post-sunset interference conditions in the first two hours after local sunset and prior to local sunrise since these curves represent propagation conditions corresponding to the second hour after sunset, conditions which do not apply to the hours involved here. The term "twilight hours" is suggested by DBA to serve as a virtual substitute for the use of sunrise and sunset times in the Commission rules. DBA has supplied a table of sunrise, sunset and astronomical twilight times for nine cities distributed throughout the Central Time Zone. The proponents contend further with reference to Figures 1 and 2 of § 3.190 that "The data in these curves was derived on the basis of data compiled in the second hour after sunset at the western end of the path". From this the proponents argue that for west to east transmissions, the curves become applicable only when the time at the receiving location is somewhat later than two hours past sunset. Before proceeding to further discussion of the curves, it is appropriate to note that we are left with no guidance as to how the proponents' argument proceeds from "data compiled in the second hour after sunset" to the conclusion expressed in terms of "two hours past sunset," for the two are by no means the same. As used in the Commission's Standards and pronouncements, the term "second hour after sunset" means the entire 60 minute period extending from 60 minutes after sunset until 120 minutes after sunset.[11] Figure 1, used for stations operating on clear channels, is based on data corresponding to the second hour after sunset at the recording station (i. e., the receiving location). Accordingly, the curves therein represent not conditions existing at the exact period of sunset plus 120 minutes or sunrise minus 120 minutes, as might be gathered from the proponents' discussion, but instead represent average conditions existing during the second hour following sunset and the second hour before sunrise. In securing the data, automatic recordings were made of the field intensity delivered by 40 transmitting stations at 11 different points in

[8] It might be argued that if daytime-only stations are allowed to operate during extended hours, as a matter of equity full-time stations should be allowed to operate during the same hours with their daytime facilities. On the other hand, it could also be contended that since the essence of the daytime stations' argument is service to local communities, and since by definition under the Commission's rules full-time stations adequately serve their communities with their nighttime facilities, there is not present the element of need necessary to support such a change in the rules in the case of full-time stations. In any event, it is obvious that such an additional change in the rules would materially worsen interference conditions during the non-daytime hours beyond that which would occur from a grant of the proposal as to daytime stations; and, since there is no showing of such a need, the public interest would clearly not be better served by a grant of the proposal for both types of operations than by grant of the proposal for daytime stations only.

[9] See sections 1 and 307 (b) of the Communications Act of 1934, as amended. Section 1 requires that the Commission "make available, so far as possible, to all the people of the United States * * * a radio communication service."

[10] For example, some parties filing comments did not use the 50 percent exclusion method contained in the Commission's Engineering Standards, contending that such becomes inapplicable in view of the great number of stations which would be involved in the nighttime operations at reduced separations. We believe the effect thereof in reference to the resulting data is de minimis.

[11] A different meaning is carried by the term "SSMP+2" which is used in the abscissa scale of the diurnal curves which appear as Figures 2 and 5 of the Commission's Exhibit 1 in Docket 8333 as discussed hereinbelow. This term is an abbreviation for sunset midpoint (of transmission path) plus two hours, i. e., plus 120 minutes. Any point SS+X on the curves is based on data for the hour centered on X hours after sunset. From a statistical viewpoint any point on the curves represents the best estimate for the hourly median field centered on the abscissa for that point. Based upon the statistical variation of the instantaneous field in intervals of an hour where the sunset interval is centered on true sun time sunset (Report of Committee III in Preparation for the Clear Channel Hearing, Docket 6741, dated January 15, 1946), these figures present abscissa values which are designated on a linear time scale, the minimum division of which represents one-tenth of an hour or exactly six minutes. Lesser time increments may be read from the scale by interpolation. Figures 2 and 5 show, respectively, a plot of the data for Station WFAA as recorded in Grand Island, Nebraska, over a period of approximately six years beginning in 1939, and curves for 0.5, 1.0 and 1.5 megacycles based upon data from fourteen transmission paths recorded during these years. Diurnal curves submitted in the comments herein show slight variations from FCC data but present no conflict of decisional significance to this proceeding. Figure 5 is appropriate for use in the manner set forth in Exhibit 1 of Docket 8333 and in the Report of Committee III in Preparation for the Clear Channel Hearing, Docket 6741, dated January 15, 1946. When so used, it may with substantial validity (Exhibit 1, Docket 8333, page 3, line 12 et seq.) be applied directly to Figure 2 (formerly Figure 1 a) of § 3.190, which reflects data on curves also prepared by the above-named Committee III (Exhibit 109, Docket 6741, page 3, line 12 et seq.). By this procedure, the field intensity may be determined for any hour of transmitter local time following sunset (or before sunrise) within the entire range of abscissa values shown thereon. Its use in similar manner with Figure 1 is also considered to be substantially accurate in view of the significant similarities between Figures 1 and 2. Moreover, any slight inaccuracies which may be reflected by such use are considered to be insignificantly small and thus not significant to our decision herein.

the United States. East to west, west to east, and north-south paths were included. The curves of Figure 2 used on regional and local channels are derived on the basis of data covering hourly median fields for 10 percent of the year at the western end of the path. This data, insofar as reciprocity of transmission east and west may be assumed, may equally well be interpreted as a representation of propagation over the same path to the east from a transmitter located to the west. Development of this fact is made in FCC Exhibit No. 1 of Docket 8333, to which the petitioner has made reference. The exhibit presents "An Analysis of Data Recorded on 14 Transmission Paths for a Period of Approximately Six Years" with the objective "to obtain curves representing '10 percent skywave field intensities' at any distance, in any direction, at any frequency, at any hour of transmitter local time for a station at any latitude." The diurnal curves, Figures 2 and 5 of the exhibit, contain data concerning the variations of strength of skywave signals following sunset and thus can be used to determine the interference during the first hour after sunset (or before sunrise). It is to be observed that the diurnal curve produced by this analysis yields results of a relatively higher order of accuracy, since it involves only ratio measurements and not the absolute value of any measurement and also that the skywave curves of the Commission are accepted throughout the world as being indicative of average propagation conditions. This data is properly to be used in terms of the sunrise and sunset times used by the Commission in its rules.[32] Thus, whether or not there be "twilight" following sunset lacks significance in the face of actual measurement data concerning skywave propogation conditions during these hours.

38. These proponents' contention that the Commission's curves should not be applied to determine interference during the first two hours after sunset does not mean that there will be no interference effects in the two-hour post-sunset and pre-sunrise periods or that the Commission can proceed on any such invalid assumption. Indeed, DBA and most of the proponents admit that interference will result. Furthermore, it is noted that, although the proponents in discussing interference refer to the two-hour period after sunset and before sunrise as though they were the only periods affected by the proposal, the interference problem is not so confined, since some daytime stations would increase their broadcast hours in the morning and again in the evening to as much as 3¼ hours after sunset and before sunrise during midwinter months.

39. The proponents also contend that, since Figures 1 and 2 of § 3.190 of the rules present a statistical method for predicting interference, such interference would, in fact, exist as little as 10 percent of the time. This is an oversimplification of the problem, and a misinterpretation of the significance of the 10 percent figure. Section 3.182 (o) of the Commission's rules states that objectionable interference is created by an undesired signal to a desired signal when the undesired signal exceeds an intensity, determined elsewhere in the rules, for 10 percent or more of the time. Figures 1 and 2 indicate for a specified radiation intensity and for transmission paths of varying lengths the intensities of the continuously varying skywave signal which are exceeded 10 percent or more of the time. Therefore, if the intensity of an undesired signal, as determined by the employment of Figure 1 or Figure 2, exceeds the permissible undesired/desired signal ratio, the undesired signal causes objectionable interference, without regard to the fact that it has less than the intensity determined from Figures 1 or 2 for a major portion of the time, and may have completely destructive intensity for a much shorter time. The Commission has selected the 10 percent level as being a reasonable limit of interference. Ionospheric propagation, the basis of Figures 1 and 2, is a subject of exceeding complexity, the study of which has occupied many capable physicists and engineers over a period of years. While interferences are predicted in standard broadcast station allocations by tools employing the statistical method, we believe that therein lies strength of these tools and that predictions of station interference based upon them are meaningful.

(f) The extent to which limitations set out in International Agreements would be infringed.

40. It is necessary to consider the impact of the DBA proposal on international agreements and understandings affecting allocation of standard broadcast facilities, since these agreements provide stricter limitations upon the operation of unlimited time stations than upon daytime-only stations on almost all frequencies and since they define daytime operation as operation between local sunrise and local sunset.[33] Almost 400 of the U. S. daytime stations are currently assigned on frequencies on which other North American governments have clear channel stations protected from interference by U. S. co-channel stations. This protection is accorded on the same basis as those countries protect the larger numbers of clear channels on which the United States has priority under the relevant agreements. As to channels designated in the agreements as regional channels, any nation may make use of these frequencies, subject to the conditions as to power and prevention of objectionable interference set forth in the agreements. Any country making an assignment of any facilities on a frequency must notify the other countries involved of the assignment; if another country objects thereto, it becomes the subject of negotiation under the agreements. The agreements involved are the North American Regional Broadcasting Agreement of 1950 (to which the signatory parties are Canada, Cuba, the Dominican Republic, the Bahamas and Jamaica, and the United States of America), and the Agreement between the United States of America and United Mexican States, signed January 29, 1957. Pertinent provisions are found also in the Executive Agreement between the United States and Mexican governments which became effective March 29, 1941, and continues in force until ratification of the successor agreement signed January 29, 1957. In both the 1950 NARBA and the 1957 U. S.-Mexican agreement, definite standards of protection are set up for all of these frequencies, with different standards for day and night (sunset and sunrise) operation. With respect to the Class I–A channels on which the respective countries have priority, the protection extends to the border of the country, and a co-channel signal from a station in another country exceeding 5 uv/m daytime or 25 uv/m nighttime is prohibited. Also contained in the 1950 NARBA, with respect to such channels, is a provision that no station is to be assigned in another country for nighttime operation within 650 miles of the border of the country having priority; the U. S.-Mexican agreement of 1957 states that no nighttime assignments will be made by either country (except in the specific cases mentioned therein) on a channel on which the other country has such priority.

41. While neither the 1957 agreement with the United Mexican states nor the 1950 NARBA has yet entered into formal effect through requisite ratification by the parties,[33a] the signatory governments, in the interest of avoiding chaotic mutual interference to the several broadcast services concerned are, in general practice, observing the limitations which these agreements stipulate. It is not possible, therefore, to disregard these international agreements. The Commission has so stated; in the Note to § 3.28 of its rules it is provided that, pending ratification and entry into force of these agreements: "* * * no assignment for a standard broadcast station will be made which would be inconsistent with the terms of these agreements." This policy has been uniformly applied by the Commission.

42. It is apparent that grant of the instant DBA proposal would violate the standards of protection set forth in these agreements and adhered to by the Commission, not only with respect to clear channels on which other nations have priority of use, but also with respect to regional channels. From the data submitted in this proceeding, it is readily apparent that operation by U. S. regional daytime stations during the non-daytime hours proposed by DBA would cause serious objectionable interference in many cases to stations in foreign countries. One example of interference which would be caused on a clear channel is seen in connection with operation on 740 kc, a channel on which Canada has Class I–A priority and Station CBL, Toronto, operates as a Class I–A station. Under maximum interference conditions

[32] Section 3.79 of the Commission's rules.

[33] The definition of "daytime operations" in the North American Regional Broadcasting Agreement of 1950 (Annex II, section A (6) is quoted in Paragraph 18 of the December 19, 1957, Notice initiating this proceeding.

[33a] To date, Canada and Cuba have ratified the North American Regional Broadcasting Agreement.

which would prevail under the DBA proposal (7:00 p. m. in December), CBL would be limited, as a result of operation by U. S. stations on 740 kc after sunset, to its 11.6 mv/m contour, instead of rendering service out to its 0.5 mv/m contour and beyond. CBL's 0.5 mv/m groundwave contour includes all of southern Ontario between Georgian Bay and the eastern end of Lake Ontario. If limited to its 11.6 mv/m contour the station would render primary groundwave service at 7:00 p. m. in December only within an area with a radius of about 40 miles around its transmitter.

43. After the issuance of the December 19, 1957, notice in the present proceeding, the Commission requested the Department of State to elicit the views of the other nations which are signatories to the above-mentioned international agreements. The reply which has been received from the Dominion of Canada voices strong opposition to the proposal because of its effect upon the primary service of all classes of stations. Mexico is of the view that the DBA propsal involves very difficult problems and it indicates that no approval of the proposal will be forthcoming in the near future. Of the other signatory countries that have replied, only Bahama, Jamaica, Cuba and the Dominican Republic have indicated that they may not object to the proposal.

44. DBA and other proponents state that since the two agreements have not yet been ratified, the mere fact of their execution and existence is no reason to reject the DBA proposal. But this assertion ignores the fact that, though not ratified, the agreements have been of tremendous importance in affording some measure of protection to United States stations from the uncontrolled interference which could result if the United States, or other countries signatory to the agreements, gave no further consideration to their mutual commitments under such arrangements. We question whether under any circumstances we could appropriately undertake a change in our allocation policies so seriously inconsistent with international understandings, which would jeopardize the framework of mutual protection throughout the continent. We are not impelled to take such a serious step here.

(g) Need for the additional services which would be made possible by extending the hours of operation of daytime stations and the effect on the public interest of the consequent losses of the service of other classes of stations.

45. Under the provisions of § 3.24 (b) (2) of the rules, a proposed assignment which will cause objectionable interference to existing service will be permitted only when the public need for the new service clearly outweighs the need for the service which will be lost. This same principle applies in our consideration of the DBA proposal; the public interest will not be served by adopting the proposal unless the need for the service which daytime stations will render during non-daytime hours exceeds the need for the service of unlimited time stations which will be lost during such hours. In making this comparison of the relative need for the service that would be gained and lost by adoption of the proposal, we note that operation of daytime stations as contemplated by the DBA proposal would result in loss of existing service to a vastly greater population than that which would receive additional service. While this finding is a persuasive one, it would not necessarily be determinative if the need for the service which would be gained by a relatively small population were greater than the need for the presently existing service which would be lost. After carefully considering all of the comments filed in the instant proceeding (including letters from community groups and others in support of the DBA proposals, and also those portions of the record of the hearings conducted by the Select Committee on Small Business of the United States Senate in April 1957, which were incorporated by reference in some of the comments herein), we believe that such a preponderant need for the extended hours proposed by DBA is not established, but, rather, that the record shows a greater need for the preservation of service which would be lost under the proposal.

46. The proponents assert that there is a large, unsatisfied need for local service during the hours between 5:00 a. m. and 7:00 p. m. It is asserted that this need is not being met by the service rendered by distant stations because (1) with the increasing availability of closer signals, listeners are no longer content to make use of the weaker signal of a distant station for radio reception; and (2) even if the distant station provides a technically adequate signal, its program service is not geared to the needs and interests of the local community, and does not meet them. Of particular significance, state the proponents, is the fact that in the United States 913 communities, with a total population of more than 7,500,000, have available to them no local radio outlet other than a daytime-only station.[14] It is asserted that extended hours are necessary for daytime stations in order that the needs of these communities and surrounding areas for broadcast service may be more fully met.

47. In evaluating this argument, it must be borne in mind that the absence of a local nighttime standard broadcast station in these communities (the number of 913 has not been challenged, and is accepted here) does not mean that that number of communities are without nighttime primary service. It is established by the data furnished herein that of the 913 communities, approximately 535, with a population of nearly 6,400,000 are located in areas where 0.5 mv/m or better primary service is available nighttime.[15] The rural area around these 535 communities thus receives primary service nighttime; it cannot be determined from the data of record how many of these 535 communities (nearly all of which are of 2,500 population or more) receive by night the 2.0 mv/m signal required for primary service to urban communities, but it appears that most of them do. Many of these 535 communities are located in metropolitan or urbanized areas, and receive primary service from stations located in the principal city thereof or in another suburban community.[16] In other cases, some of these 535 communities receive primary service nighttime from a station located in the same county. We recognize the importance of providing a local outlet for as many communities in the nation as possible. This is one of our basic allocation objectives. Yet this objective should not be reached by changing the AM allocation rules so that an inefficient use of broadcast facilities would result therefrom. The need for and advantages accruing from extended hours for a local outlet are expressed by the proponents

[14] Some of the daytime stations supporting the proposal are located not in any of these 913 communities but in cities well supplied with full-time service, including Baltimore, Los Angeles, Pittsburgh, Providence, Akron and Columbus, Ohio, and Greenville, S. C. These stations stress, in support of their request for additional hours, the unique or extraordinarily valuable character of their program service to their communities, including such matters as public-service programming and announcements; the fact that the full-time stations are all network affiliated, whereas the proponent's station would furnish an independent, locally-oriented service during the extended hours; foreign-language programming; religious programming; and programming of a higher cultural character than that available in the community from the full-time stations. We conclude herein that the need for additional local service in communities now having no local nighttime outlet does not justify the result sought by DBA; a fortiori, it cannot be concluded that the proposal should be granted because of the programming characteristics of stations in communities having a full-time local outlet such as those mentioned above. Furthermore, such characteristics of programming are of course highly changeable, and therefore are not a valid reason for changing the permanent, basic allocation structure.

[15] The figure of 535 communities is contained in reply comments filed on behalf of Station WING, Dayton, Ohio; it is stated that all of them have "interference-free groundwave service available at night." However, an examination of the exhibits cited in support of this assertion shows that some of the communities listed (e. g., those listed for Alabama) are over 2,500 population and receive only 0.5 mv/m but not 2.0 mv/m groundwave service.

[16] For example, DBA lists among the 913 communities Silver Spring and Wheaton, Maryland, and Alexandria, Fairfax and Falls Church, Virginia, all of which are in the Washington Metropolitan Area. Other suburban communities listed are Glendale and Inglewood (Los Angeles); San Mateo and San Rafael (San Francisco-Oakland); Evanston (Chicago); Covington and Newport, Kentucky (Cincinnati); Bossier City, Louisiana (Shreveport); Dundalk and Towson, Maryland (Baltimore); Cambridge, Medford and Quincy, Massachusetts (Boston); Inkster (Detroit); Anoka, Hopkins-Edina and St. Louis Park, Minnesota (Minneapolis); St. Charles and Clayton, Missouri (St. Louis); Morristown, New Jersey (Newark); Campbell, Ohio (Youngstown); Massilon, Ohio (Canton); Worthington, Ohio (Columbus); Braddock, Homestead, New Kensington-Tarentum, Pennsylvania (Pittsburgh); Prichard, Alabama (Mobile); Scottsdale, Arizona (Phoenix-Mesa); Groton, Connecticut (New London); Coral Gables, Florida (Miami); Decatur, East Point, Georgia (Atlanta); Rossville, Georgia (Chattanooga); New Albany, Indiana (Louisville); and Council Bluffs, Iowa (Omaha).

as including the following more specific elements (which, it is asserted, are not met by the stations located elsewhere):

(a) Need for service, particularly during evening and early morning hours during winter months, to convey information about bad weather and other emergency conditions. In wintertime (before sunrise) it would be desirable to have more broadcasting of school closings due to bad weather, changes in school bus routes, etc. On certain occasions daytime stations either could have rendered such service but were unable to do so because of their short hours, or rendered such service (in connection with tornadoes, etc.) in months when they were permitted to operate, but could not have done [17] so if the emergency situation had occurred at another time of year.

(b) Need for service to provide farm market and weather information in the evening and early morning, when farmers are able to hear it and make advantageous use of it (e. g., in connection with deciding whether or not to ship livestock). Wide-area stations, while they can and do provide agricultural information generally, cannot gear such information specifically to the needs of the local farmers in all parts of their wide and diverse areas.

(c) The advantage which would accrue to public-service organizations from the stations having more time to devote to public service programming and announcements. Because of the short operating hours during the months (late fall and winter) when business is good, stations must necessarily devote the bulk of their time to commercial material; some worthy causes (such as the March of Dimes) put on their drives in wintertime, when the short span of daytime operation limits the effectiveness which a station can have in supporting them.

(d) The general need for and advantage of providing desirable programs, such as news, at times when people are free to listen to them. During daytime hours in late fall, winter and early spring, programs can be presented only during hours when much of the potential audience is at work, in school, or otherwise not free to listen, and that it would be preferable to be able to present such programs during the dinner hours.

(e) Elimination of the confusion which results from lack of uniform hours. The audience becomes confused as to when the daytime station signs on and off and during what part of the year a program will be available at a certain time. The audience tends to identify the station with its shortest hours (the only hours during which it is always available); accordingly, it is difficult to build an audience for the additional hours which become available as daytime hours increase seasonally.

(f) The difficultly of building programs at particular hours during the year and then having to cancel or shift them when daytime hours become shorter. Sponsors will buy a particular program at one hour but not at another hour (e. g., a 5:30 news broadcast): this results in gaining a sponsor only to lose him when the program must be cancelled or shifted, and the same thing applies to the listening audience.

(g) Greater service to local advertisers. Local merchants are deprived of the opportunity to promote their products or services by the absence of a radio outlet during non-daytime hours, particularly during the months when business is at a high level (in particular the "pre-Christmas" months, October, November and December). This works to the detriment of the local community in that it gives "big city" advertisers an advantage because they can advertise over full-time stations in the larger communities and appeal to the local community audience, while the local advertisers have no outlet during important listening hours. The small business concern is hurt in this respect, since the local (daytime) station is often the only medium it can afford to use.

(h) The desirability of the hours involved, from the standpoint of the listener, the advertiser and the station (for example, hours up to 7:00 p. m. are valuable because television viewing does not reach its peak until after that hour).

(i) The advantage to the station, from the standpoint of both stability of staff and economy of operation, of being able to conduct its operations during generally the same hours all year, rather than (as at present) having to either support all year a staff adequate for its longest hours of operation, or hire new people for the longer hours every spring or summer.

(j) Advantages to the daytime-only stations, as such. The daytime stations are small business, their opportunities are limited by an archaic allocation system which at present works for the benefit of a few wide-area stations which no longer render a significant service to communities distant from where they are located. While figures may show a fair income for daytime stations as a group, a number of them are not doing well economically and would be hurt in any business recession.

(k) In general, the need for a medium of comunication in additional hours, particularly in communities where there is no daily newspaper and where (as in a few cases) the daytime station is the only station in an area of two or more counties.

48. Many of the proponent daytime stations submitted letters from city officials, representatives of civic, educational, religious and business groups, county agents, and similar persons, as well as from listeners, expressing views that some or all of the needs and potential advantages exist. It may be observed, in general, that these persons did not appear to be aware of the fact that during the extended hours the service area of a daytime station would be less than, and often only a small fraction of, the station's daytime service area. Some of them seem to be aware in a general way that the DBA proposal would create interference, but they do not appear to know the extent thereof.

49. We recognize that these needs and advantages of extended hours of operation by daytime stations exist insofar as they concern the public and the community rather than the station itself, and that, absent interference considerations, it would be desirable that a local outlet operate during whatever hours may be necessary to meet them. But these same needs and advantages are common to all radio service and any change in allocation rules which results in degradation of over-all radio service results in less meeting of the various needs and provides for less of the advantages than at present. We recognize the importance and value of permitting the only local outlet in a community to operate during additional hours, especially where, as in the case of some of these daytime stations, the resulting additional service would be the only primary service available during the hours in question. Yet the losses in service which would result, losses often near and in some cases within the very communities which the full-time stations are licensed to serve,[18] far outweigh the gains. The losses would thus impair the present ability of stations to meet the needs and provide the advantages expected of radio to an extent much greater than that to which the extended hours would afford daytime stations an opportunity to render similar service. For example, as to service in emergencies, it is desirable for a local station to be able to render such service; but not at the expense of the ability of other stations to render similar service, when the population lost would be much greater than the population gained.[19] The same consideration ap-

[17] One specific example of this kind of service was described by Station WLBH, Mattoon, Illinois. On that occasion, in January 1957, a large local industrial plant was not able to go into operation in the morning because of a break in a gas main (hundreds of miles away) during the night. The plant manager called the station manager about midnight and requested that the station broadcast announcements of the event between 6:00 a. m. and 7:00 a. m. so that workers at the plant would not come to work. The station was of course unable to do so since sunrise was not until after 7:00 a. m., and no other station in the area was available to make the announcement.

[18] Several opponents of the proposal submitted an engineering study of the effect of the subject proposal on the coverage of a number of 5 kw unlimited time regional stations. The study discloses that 64 percent of these stations would not provide interference-free service to the cities for which they are licensed and that 46 percent of them would not even be able to serve the principal business districts of their communities.

[19] As some of the opponents have noted, other methods are available to bring locally originated nighttime radio services to the 913 communities now without such service. In some cases the daytime stations on regional channels and on foreign clear channels could bring a full-time service to their principal communities by installing directional antennas for nighttime operation on the same or some other frequency. Where this would not be feasible, the daytime stations might consider constructing and operating FM stations. As shown by data in the record, FM stations can give much greater coverage of the communities and surrounding areas during night hours than that obtainable from a daytime-only station subject to the limitations which would prevail. It is reasonable to assume that the public would purchase FM receivers if there is sufficient unsatisfied need for radio services in these communities.

plies in the case of the Commission's CONELRAD system. The optimum value of this system is obtained only when radio service is maintained reasonably unimpaired.

50. With respect to service in emergencies and generally, it must be borne in mind that under the DBA proposal, while individual communities would gain some service, the nation as a whole would lose much more than it would gain. The area and population served by the daytime stations would be severely limited as compared to their daytime coverage, and the primary service rendered by full-time stations would suffer vast inroads. The result would be the curtailment of presently available primary service to large areas and populations, especially rural areas, during the hours in question.[20]

51. The proponents assert that extended hours of operation are needed to permit daytime stations to carry many programs of sole or primary interest to outlying rural areas. The licensees of a number of clear channel and unlimited-time regional stations reply that they already provide extensive unique programming designed solely for rural listeners; that this programming has a wide appeal to farm listeners, evidenced by mail received from such listeners in all parts of their service areas; and that these programs are principally scheduled during morning and evening mealtime hours, which are pre-sunrise and post-sunset hours during winter months. The mutually destructive interference which would result from permitting all stations on regional and clear channels to operate with daytime facilities in pre-sunrise and post-sunset hours would have the effect of largely wiping out the service to rural areas of both the full-time and the daytime stations.[21] In this connection, a national organization representing rural interests, the National Grange, filed an opposition in which it stated that the instant proposal would result in a severe reduction in satisfactory radio service to millions of persons in rural areas.[22] We are of the view that, instead of greater service to rural areas, the proposal would result in markedly less service.

52. One of the cornerstones of the DBA argument is that the distant stations do not provide a useful service for communities located at some distance from them and, furthermore, now that better signals are available, listeners are not content to listen to the mediocre signal of a distant station. In short, it is urged, the allocation scheme designed to protect wide-area coverage is archaic. DBA asserts that whether a station's service is of value cannot be ascertained by technical concepts and rules, but should be determined by surveys of the extent to which the station is regularly received by listeners. DBA asserts that such surveys would show distant stations have little or no listener significance. While not advancing such data itself (a few proponents advanced very fragmentary data of this sort), DBA asserts that it is clearly within the ability of the full-time stations to do so. The interference entailed by the DBA proposal would not however, affect merely, or principally, distant stations, but would have a most serious effect upon the service of regional stations close to or even within the community to which they are assigned.

53. A number of full-time stations, both clear channel and regional, made showings that their programming which was specifically geared to outlying communities and rural areas within their service contours. This programming includes agricultural programs, civic programs for each community and local sporting events. The Clear Channel Broadcasting Service (CCBS), in its comments filed on August 15, 1958, in the Clear Channel Proceeding (Docket No. 6741), submitted mail response tabulations of its member stations to show that large numbers of persons living great distances from clear channel stations listen to the nighttime skywave signals of these stations. This data reveals the following mail response for the listed clear channel stations, each of which elicited such response from its listeners by announcements made during periods of up to two weeks during the month of June 1958: [23]

Station and location	Dates announcements made in 1958	Mail response from secondary service area only (i. e., beyond nighttime groundwave contour)
WSM, Nashville, Tenn.	June 20-28	718 counties in 36 States.
WLW, Cincinnati, Ohio.	June 24-27	138 counties in 24 States.
WGN, Chicago, Ill.	June 17-25	260 counties in 34 States.
WWL, New Orleans, La.	June 9-22	476 counties in 32 States.
WHO, Des Moines, Iowa.	June 20-27	100 counties in 27 States.
WOAI, San Antonio, Tex.	June 23-27	289 counties in 26 States.

Storer Broadcasting Company, in its reply comments filed in this proceeding, tabulated the mail received from listeners of its Class I-B station WWVA, Wheeling, West Virginia, in the month of April, 1958. During that month mail was received from 41 states. 56 percent of the mail was received from states located entirely outside of the primary groundwave service contour of WWVA. In sum, no data of which the Commission is aware, shows or tends to show that the listening habits of the nation have changed in such a way that distant stations should no longer be protected or daytime stations be permitted to operate in spite of the resultant interference of the magnitude involved here.

54. Some proponents contend that extended hours for daytime broadcasters should be considered as a means for improving the capacity of daytime broadcasters as "little business" to compete with other, bigger stations. It would not be realistic, however, to treat the proposal in this light. Extended hours for daytime stations would adversely affect numerous other small broadcasters, including small unlimited time stations whose service areas and populations reached would be drastically curtailed by interference caused by extended hours of operation of daytime stations. Moreover, apart from the fact that the proposal does not involve a simple conflict between smaller broadcasters on the one side and bigger broadcasters on the other, we cannot lose sight of the primary basis on which the Commission is called upon to assess the effect of the proposal on the public interest; that is, its effect on services provided to the public. In this respect the evidence overwhelmingly establishes that adoption of the proposal would permit highly circumscribed increases in service by daytime stations at the prohibitive cost of destroying service now rendered to many millions of people by numerous other stations, both large and small.

OPERATION UNDER § 3.87 AS A PRECEDENT FOR THE DBA PROPOSAL

55. A number of the proponents claim that operation as contemplated by the subject proposal has already proved workable by the practice under § 3.87 of the Commission's rules, which permits all stations except certain Class II stations to begin operation with their daytime facilities at 4:00 a. m., unless undue interference is caused thereby to full-

[20] For example, a large area in New York, Pennsylvania, and New Jersey, now served by New York City clear channel stations with a groundwave signal nighttime of at least 0.5 mv/m, would lose the service of these stations. Within this area of approximately 11,000 square miles, nearly 6,500 square miles would have no primary service available during these hours in spite of the fact that daytime-only stations would be serving very small portions of the area. Of the approximately 644,000 rural population within this area, about 323,000 would continue to receive primary service during these hours from daytime stations and existing full-time stations as limited by the additional interference; but about 321,000 persons, who now receive service from New York stations would have available to them no nighttime primary service from any source. Similarly, around Greenville, South Carolina, operation by daytime stations under the DBA proposal would cause severe losses to full-time Greenville stations during post-sunset hours. Daytime stations would serve portions of this area, and also additional adjacent areas not now receiving primary service during post-sunset hours. The record also discloses that "white" area would be similarly created around Dallas, Omaha, Salt Lake City, Phoenix and other cities.

[21] As an example of this loss of rural service, the licensee of Station KSAL, Salina, Kansas, asserts that 35 cities and towns and extensive rural area encompassing all of five counties and parts of other counties, now served at night by KSAL and by two other stations, would lose all primary nighttime service.

[22] Another national farm organization, the National Council of Farm Cooperatives, while not taking a firm position opposing the proposal, asks that the Commission carefully consider its possible adverse effect upon rural listeners.

[23] The CCBS comments in Docket No. 6741 also include listener data for other member stations. Since these other stations, however, obtained mail from listeners in response to announcements made over extended periods of time, instead of only during a short period in June 1958, they are not included in this tabulation.

time stations. It is asserted that relatively few complaints about interference have been received in connection with such operations, indicating an absence of substantial objectionable interference. We are of the opinion that this situation affords no basis for favorable consideration of the DBA proposal. The fact that few complaints have been received is doubtless a reflection of the fact that many full-time stations do not go into operation until some time after 4:00 a. m. and interference conditions are thereby minimized; whereas the DBA proposal would permit nighttime operation by daytime stations in the early evening when all full-time stations are in operation, and would therefore result in interference of the vast magnitude already discussed. Legally, the DBA proposal is substantially different from the present § 3.87 situation because the latter is a privilege which may be cancelled immediately by the Commission upon a showing of undue interference by a full-time station, while the DBA proposal would confer the privilege of nondaytime operation upon daytime stations as a matter of right, regardless of interference which would be caused.

CONCLUSIONS

56. Amendment of the rules as proposed by the DBA would not serve the public interest. The population which would gain service during these hours is vastly exceeded by the population which would lose the service of existing stations because of the additional interference which would result on all but a few of the 107 standard broadcast frequencies from the operation of daytime stations during the non-daytime hours (before sunrise and after sunset) contemplated by the proposal. The daytime stations so operating during non-daytime hours would generally serve only a very small fraction of the areas and populations which they serve during daytime hours, a fact which would sharply limit the gains in service which would result. As a result of the additional interference so created, clear channel, unlimited time Class II and Class III stations would be limited in service so that in many instances they could not serve even all of the communities to which they are assigned. While a first nighttime primary service would be afforded to some population during these hours, and a first local service would be afforded to more than 900 communities in the nation, extensive "white areas", in which the population would lose all nighttime primary service would be created. On virtually all of the clear channels all secondary service would be destroyed. Because of this destruction of secondary service (the only service received by some 20,000,000 persons in about one-half of the area in the United States) and vast impairment of primary service during the hours involved, service to rural areas would be lost. Severe interference to foreign stations, inconsistent with international understanding, would occur. We cannot conclude that, on balance, we are warranted in extending the proposed service. With respect to aspects of radio such as service in emergencies, this is a function of all broadcast service, and any over-all degradation of broadcast service must necessarily create greater needs in these respects than those it fulfills. As to the argument that the gained local service would be of value to the local population, whereas the lost service from distant stations is of no consequence to the populations who would lose it, the record shows that the service lost would not be solely or principally that of distant stations but would occur close to the communities where such stations are located as well as at greater distances. Moreover, the record shows that many full-time stations, both clear and regional, program for the outlying communities which would lose service. Other arguments advanced, such as the economic interests of daytime stations and small communities and the precedent said to be afforded by the practice under § 3.87 of the rules, have been dealt with above. We are therefore persuaded that DBA's proposal would not serve the public interest and must be denied.

57. In view of the foregoing: *It is ordered*, That the above-captioned petition of Daytime Broadcasters Association, Inc. is denied, and this proceeding is terminated.

Adopted: September 19, 1958.

Released: September 19, 1958.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] MARY JANE MORRIS, *Secretary.*

[F. R. Doc. 58-7904; Filed, Sept. 25, 1958; 8:55 a. m.]

NOTICES

FEDERAL POWER COMMISSION

[Docket No. G-16329]

SOUTHWEST NATURAL PRODUCTION CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

SEPTEMBER 19, 1958.

Southwest Natural Production Company (Southwest) on August 21, 1958, tendered for filing a proposed change in its presently effective rate schedule [1] for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated August 19, 1958.

Purchaser: Arkansas Louisiana Gas Company.

Rate schedule designation: Supplement No. 7 to Southwest's FPC Gas Rate Schedule No. 2.

Effective date: October 1, 1958 (effective date is the effective date proposed by Southwest).

The increased rate and charge so proposed is intended to reflect (in whole or in part) the additional "excise, license, or privilege tax" of one cent per Mcf levied by the State of Louisiana pursuant to Act No. 8 of 1958 (House Bill No. 303), as approved on June 16, 1958, amending Title 47 of the Louisiana Revised Statutes of 1950. The Commission is advised that litigation is being instituted to challenge the constitutionality of the said Act No. 8 of 1958. In consideration of this fact, and in order to assure appropriate refund in the event said Act No. 8 of 1958 should be declared unconstitutional or otherwise held invalid by final judicial decision, it is deemed advisable to suspend the said proposed increased rate and charge.

This suspension, however, is based on the possibility of the additional tax being invalidated and only such tax increment of the proposed increased rate shall be subject to refund.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 7 to Southwest's FPC Gas Rate Schedule No. 2 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 7 to Southwest's FPC Gas Rate Schedule No. 2.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until October 2, 1958, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37

[1] Rate in effect subject to refund in Docket No. G-15557.

[1] Concurring statement of Commissioner Cross filed as part of original document.

(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 58-7846; Filed, Sept. 24, 1958; 8:52 a. m.]

[Docket No. G-15899]

LOUISIANA NEVADA TRANSIT CO.

NOTICE OF APPLICATION AND DATE OF HEARING

SEPTEMBER 19, 1958.

Take notice that Louisiana Nevada Transit Company (Applicant), a Nevada corporation with a principal place of business in Ada, Oklahoma, filed an application on August 5, 1958, pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to redeliver natural gas received in an emergency from Arkansas Louisiana Gas Company (Arkansas), through existing tap on Applicant's 8-inch main transmission pipeline near a point of intersection of their systems near Louisville, Arkansas, subject to the jurisdiction of the Commission, all as more fully described in an application on file with the Commission and open for public inspection.

The application recites: Applicant requested emergency deliveries of natural gas from Arkansas Louisiana to replace gas supplies curtailed while repairs were made on the Applicant's system near Okay, Arkansas. Deliveries were made by Arkansas Louisiana into the Applicant's 8-inch main transmission line between June 23, 1958 and July 20, 1958, through a temporary tap connection located near Okay, Arkansas and the existing connection located near Louisville, pursuant to § 157.22 of the Commission's rules.

Emergency deliveries totaling 239.7 Mcf were made to the Applicant on condition that an equivalent volume of gas would be redelivered by Louisiana Nevada on completion of repairs, and that the Applicant would pay the cost of installing and removing temporary interconnections and metering facilities. No monetary charge is to be made by either party as the arrangement is a gas-for-gas exchange, as indicated in a letter agreement dated May 28, 1958 attached to the application.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission, by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on November 5, 1958, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 20, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 58-7870; Filed, Sept. 25, 1958; 8:48 a. m.]

[Docket No. G-16243]

MIDWEST OIL CORP.

ORDER FOR HEARING, SUSPENDING PROPOSED CHANGE IN RATE, AND ALLOWING INCREASED RATE TO BECOME EFFECTIVE

SEPTEMBER 19, 1958.

Midwest Oil Corporation (Midwest), on August 20, 1958, tendered, for filing a proposed change in its presently effective rate schedule [1] for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated August 18, 1958.
Purchaser: Texas Eastern Transmission Corporation.
Rate schedule designation: Supplement No. 4 to Midwest's FPC Gas Rate Schedule No. 13.
Effective date: September 20, 1958 (effective date is the first day after expiration of the required thirty days' notice).

The increased rate and charge so proposed is intended to reflect (in whole or in part) the additional "excise, license, or privilege tax" of one cent per Mcf levied by the State of Louisiana pursuant to Act No. 8 of 1959 (House Bill No. 303), as approved on June 16, 1958, amending Title 47 of the Louisiana Revised Statutes of 1950. The Commission is advised that litigation is being instituted to challenge the constitutionality of the said Act No. 8 of 1958. In consideration of this fact, and in order to assure appropriate refund in the event said Act No. 8 of 1958 should be declared unconstitutional or otherwise held invalid by final decision, it is deemed advisable to suspend the said proposed increased rate and charge until September 21, 1958, and thereafter to permit it to become effective as of that date; provided that within 20 days from the date of this order Midwest Oil Corporation shall file with the Secretary of the Commission an appropriate undertaking to assure such refund as may be ordered.

[1] This rate is presently in effect subject to refund in Docket No. G-13819.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that the above-designated supplement be suspended and the use thereof deferred as hereinafter ordered.

(2) It is necessary and proper in the public interest in carrying out the provisions of the Natural Gas Act that Midwest's proposed increased rate be made effective as hereinafter provided and that Midwest be required to file an undertaking as hereinafter ordered and conditioned.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in the above-designated supplement to Midwest's FPC Gas Rate Schedule.

(B) Pending such hearing and decision thereon, said supplement be and it hereby is suspended and the use thereof deferred until September 21, 1958, and until such further time as it is made effective in the manner hereinafter prescribed.

(C) The rate, charge, and classification set forth in the above-designated supplement to Midwest's FPC Gas Rate Schedule shall be effective as of September 21, 1958: *Provided, however,* That within 20 days from the date of this order, Midwest shall execute and file with the Secretary of the Commission the agreement and undertaking described in paragraph (E) below.

(D) Midwest shall refund at such times and in such amounts to the persons entitled thereto, and in such manner as may be required by final order of the Commission, the difference between the presently effective rate and charge and the proposed increased rate and charge hereby allowed to become effective in the event the additional tax of one cent per Mcf levied by the State of Louisiana is for any reason held to be invalid. Should such additional tax eventually be held invalid and the State of Louisiana makes refund, with interest, of the tax moneys collected pursuant to the said Act No. 8 of 1958, then, and in that event, a proportionate part of the interest so received by Midwest herein shall be passed on and paid to the persons entitled thereto at such times and in such amounts, and in such manner as may be required by final order of the Commission, Midwest shall bear all costs of any such refunding; shall keep accurate accounts in detail of all amounts received by reason of the increased rate or charge allowed by this order to become effective for each billing period, specifying by whom and in whose behalf such amounts were paid; and shall report (original and four copies), in writing and under oath, to the Commission quarterly, or monthly if Midwest

so elects, for each billing period, and for each purchaser, the billing determinants of natural gas sales to such purchasers and the revenues resulting therefrom, as computed under the rate in effect immediately prior to the date upon which the increased rate allowed by this order becomes effective, and under the rate allowed by this order to become effective, together with the differences in the revenues so computed.

(E) As a condition of this order, within 20 days from the date of issuance thereof, Midwest shall execute and file in triplicate with the Secretary of this Commission its written agreement and undertaking to comply with the terms of paragraph (D) hereof, signed by a responsible officer of the corporation, evidenced by proper authority from the board of directors, and accompanied by a certificate showing service of copies thereof upon all purchasers under the rate schedule involved, as follows:

Agreement and Undertaking of Midwest Oil Corporation To Comply With the Terms and Conditions of Paragraph (D) of Federal Power Commission's Order Making Effective Proposed Rate Changes

In conformity with the requirements of the order issued _____, in Docket No. G-16243, _____ hereby agrees and undertakes to comply with the terms and conditions of paragraph (D) of said order, and has caused this agreement and undertaking to be executed and sealed in its name by its officers, thereupon duly authorized in accordance with the terms of the resolution of its board of directors, a certified copy of which is appended hereto this _____ day of _____.

_____
By _____

Attest:

_____
(Secretary)

Unless Midwest is advised to the contrary within 15 days after the date of filing such agreement and undertaking, the agreement and undertaking shall be deemed to have been accepted.

(F) If Midwest shall, in conformity with the terms and conditions of paragraph (D) of this order, make the refunds as may be required by order of the Commission, the undertaking shall be discharged; otherwise, it shall remain in full force and effect.

(G) Neither the supplements hereby suspended nor the rate schedules sought to be altered thereby shall be changed until the period of suspension has expired, unless otherwise ordered by the Commission.

(H) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-7871; Filed, Sept. 25, 1958; 8:48 a. m.]

[Docket No. G-16244]

H. T. SHALETT AND DAVID CROW

ORDER FOR HEARING, SUSPENDING PROPOSED CHANGE IN RATE, AND ALLOWING INCREASED RATE TO BECOME EFFECTIVE

SEPTEMBER 19, 1958.

H. T. Shalett and David Crow (Shalett and Crow), on August 21, 1958, tendered for filing a proposed change in their presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated August 15, 1958.

Purchaser: Southern Natural Gas Company.

Rate schedule designation: Supplement No. 2 to Shalett and David's FPC Gas Rate Schedule No. 1.

Effective date: September 21, 1958 (effective date is the first day after expiration of the required thirty days' notice).

The increased rate and charge so proposed is intended to reflect (in whole or in part) the additional "excise, license, or privilege tax" of one cent per Mcf levied by the State of Louisiana pursuant to Act No. 8 of 1959 (House Bill No. 303), as approved on June 16, 1958, amending Title 47 of the Louisiana Revised Statutes of 1950. The Commission is advised that litigation is being instituted to challenge the constitutionality of the said Act No. 8 of 1958. In consideration of this fact, and in order to assure appropriate refund in the event said Act No. 8 of 1958 should be declared unconstitutional or otherwise held invalid by final decision, it is deemed advisable to suspend the said proposed increased rate and charge until September 22, 1958, and thereafter to permit it to become effective as of that date; provided that within 20 days from the date of this order Shalett and Crow shall file with the Secretary of the Commission an appropriate undertaking to assure such refund as may be ordered.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that the above-designated supplement be suspended and the use thereof deferred as hereinafter ordered.

(2) It is necessary and proper in the public interest in carrying out the provisions of the Natural Gas Act that Shalett and Crow's proposed increased rate be made effective as hereinafter provided and that Shalett and Crow be required to file an undertaking as hereinafter ordered and conditioned.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in the above-designated supplement to Shalett and Crow's FPC Gas Rate Schedule No. 1.

(B) Pending such hearing and decision thereon, said supplement be and it hereby is suspended and the use thereof deferred until September 22, 1958, and until such further time as it is made effective in the manner hereinafter prescribed.

(C) The rate, charge, and classification set forth in the above-designated supplement to Shalett and Crow's FPC Gas Rate Schedule No. 1 shall be effective as of September 22, 1958: *Provided, however,* That within 20 days from the date of this order, Shalett and Crow shall execute and file with the Secretary of the Commission the agreement and undertaking described in paragraph (E) below.

(D) Shalett and Crow shall refund at such times and in such amounts to the persons entitled thereto, and in such manner as may be required by final order of the Commission, the difference between the presently effective rate and charge and the proposed increased rate and charge hereby allowed to become effective in the event the additional tax of one cent per Mcf levied by the State of Louisiana is for any reason held to be invalid. Should such additional tax eventually be held invalid and the State of Louisiana makes refund, with interest, of the tax monies collected pursuant to the said Act No. 8 of 1958, then, and in that event, a proportionate part of the interest so received by Shalett and Crow herein shall be passed on and paid to the persons entitled thereto at such times and in such amounts, and in such manner as may be required by final order of the Commission. Shalett and Crow shall bear all costs of any such refunding; shall keep accurate accounts in detail of all amounts received by reason of the increased rate or charge allowed by this order to become effective, for each billing period, specifying by whom and in whose behalf such amounts were paid; shall report (original and four copies), in writing and under oath, to the Commission quarterly, or monthly if Shalett and Crow so elect, for each billing period, and for each purchaser, the billing determinants of natural gas sales to such purchasers and the revenues resulting therefrom, as computed under the rate in effect immediately prior to the date upon which the increased rate allowed by this order becomes effective, and under the rate allowed by this order to become effective, together with the differences in the revenues so computed.

(E) As a condition of this order, within 20 days from the date of issuance thereof, Shalett and Crow shall execute and file in triplicate with the Secretary of this Commission its written agreement and undertaking to comply with the terms of paragraph (D) hereof, signed and ac-

companied by a certificate showing service of copies thereof upon all purchasers under the rate schedule involved, as follows:

Agreement and Undertaking of H. T. Shalett and David Crow To Comply With the Terms and Conditions in Paragraph (D) of Federal Power Commission's Order Making Effective Proposed Rate Change

In conformity with the requirements of the order issued _____, in Docket No. G-16244, H. T. Shalett and David Crow hereby agree and undertake to comply with the terms and conditions of paragraph (D) of said order, and has caused this agreement and undertaking to be executed, this _____ day of _____

H. T. SHALETT AND DAVID CROW

By _____

Attest:

_____

Unless Shalett and Crow are advised to the contrary within 15 days after the date of filing such agreement and undertaking, the agreement and undertaking shall be deemed to have been accepted.

(F) If Shalett and Crow shall, in conformity with the terms and conditions of paragraph (D) of this order, make the refunds as may be required by order of the Commission, the undertaking shall be discharged; otherwise, it shall remain in full force and effect.

(G) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until the period of suspension has expired, unless otherwise ordered by the Commission.

(H) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-7872; Filed, Sept. 25, 1958; 8:48 a. m.]

[Docket No. G-15375]

TRANSCONTINENTAL GAS PIPE LINE CORP.

NOTICE OF APPLICATION AND DATE OF HEARING

SEPTEMBER 22, 1958.

Take notice that Transcontinental Gas Pipe Line Corporation (Applicant) a Delaware corporation with its principal place of business in Houston, Texas, filed on June 30, 1958 an application, together with a supplement thereto on July 7, 1958, pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of an additional sales meter station and appurtenant facilities subject to the jurisdiction of the Commission on a proposed 12-inch lateral line about 3,000 feet in length to be constructed and operated by Public Service Electric and Gas Company (Public Service), an existing customer, to connect with Applicant's existing 26-inch main line, all in Bergen County, New Jersey, as more fully described in an application on file with the Commission, and open to public inspection.

The application recites: (1) Public Service proposes to use the gas delivered through this new tap and meter station, for the present, to serve the gas requirements of its new Bergen Electric Generating Station which is currently being constructed by Public Service. The proposed meter station will be constructed on the same property as the new generating station belonging to Public Service. Use of such property for meter station makes it unnecessary to purchase property for the meter station at Transco's main line.

(2) Initial gas service is required at the Bergen Station for a small heating boiler which will require up to 24 Mcf per hour from September to November 1958 at which time the requirements will increase to 500 Mcf per hour. The increase in use commencing in November is contemplated to "boil out the main boilers" at the station and in addition some steam will be required for railroad car thawing due to colder weather. The gas going into Bergen Station will subsequently be used for pilot lights on the boilers after the station begins operation on coal. If surplus gas is available to Public Service it will be burned at the Bergen Station as boiler fuel. Public Service's lateral is expected to have a capacity to transport 132,000 Mcf per day.

The total capital cost of the proposed meter station is estimated at $56,000, which will be defrayed from company funds.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on November 6, 1958 at 9:30 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings, pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 20, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-7873; Filed, Sept. 25, 1958; 8:48 a. m.]

[Docket No. G-16253]

SHELL OIL CO. ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

SEPTEMBER 22, 1958.

Shell Oil Company (Operator) et al. (Shell) on August 25 and 26, 1958, tendered for filing proposed changes in its presently effective rate schedules[1] for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notice of Change, dated August 21, 1958.

Purchaser: El Paso Natural Gas Company.

Rate Schedule Designation: (1) Supplement No. 10 to Shell's FPC Gas Rate Schedule No. 20; (2) Supplement No. 8 to Shell's FPC Gas Rate Schedule No. 18; (3) Supplement No. 7 to Shell's FPC Gas Rate Schedule No. 34.

Effective Dates: Nos. (1) and (2)—September 25, 1958; No. (3)—September 26, 1958 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed redetermined rate increases, Shell states that the increases are the result of the operation of a provision in its rate schedules agreed upon in good faith and at arms-length and the inclusion of this clause was an important element of the consideration to Shell to enter into these long term contracts. Also, Shell states, the increased prices will still be well below prices paid for similar gas in new contracts in the general vicinity of the sales.

The increased rates and charges so proposed have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes and that Supplement No. 10 to Shell's FPC Gas Rate Schedule No. 20, Supplement No. 8 to Shell's FPC Gas Rate Schedule No. 18, and Supplement No. 7 to Shell's FPC Gas Rate Schedule No. 34 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplement No. 10 to Shell's FPC Gas Rate Schedule No. 20, Supplement No. 8 to Shell's FPC Gas Rate Schedule No. 18, and Supplement No. 7 to Shell's FPC Gas Rate Schedule No. 34.

(B) Pending such hearing and decision thereon, Supplement No. 10 to

[1] Present rates previously suspended and are in effect subject to refund in Docket Nos. G-13897, G-12353, G-14080.

Shell's FPC Gas Rate Schedule No. 20 and Supplement No. 8 of Shell's FPC Gas Rate Schedule No. 18 be and they are each hereby suspended and the use thereof deferred until February 25, 1959, and Supplement No. 7 to Shell's FPC Gas Rate Schedule No. 34 be and it is hereby suspended and the use thereof deferred until February 26, 1959, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-7874; Filed, Sept. 25, 1958; 8:48 a. m.]

[Docket No. G-16255]

SHELL OIL CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

SEPTEMBER 22, 1958.

Shell Oil Company (Operator) (Shell) on August 25, 1958, tendered for filing a porposed change in its presently effective rate schedule [1] for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge is contained in the following designated filing:

Description: Notice of Change, dated August 22, 1958.

Purchaser: El Paso Natural Gas Company.

Rate Schedule Designation: Supplement No. 11 to Shell's FPC Gas Rate Schedule No. 19.

Effective Date: September 25, 1958 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed redetermined rate increase, Shell states that the increase is the result of the operation of a provision in its rate schedule agreed upon in good faith and at arms-length and the inclusion of this clause was an important element of the consideration to Shell to enter into these long-term contracts. Also, Shell states, the increased prices will still be well below prices paid for similar gas in new contracts in the general vicinity of the sale.

The increased rate and charge so proposed has not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change and that Supplement No. 11 to Shell's FPC Gas Rate Schedule No. 19 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 11 to Shell's FPC Gas Rate Schedule No. 19.

(B) Pending such hearing and decision thereon, Supplement No. 11 to Shell's FPC Gas Rate Schedule No. 19 be and it is hereby suspended and the use thereof deferred until February 25, 1959, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interstate state commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-7875; Filed, Sept. 25, 1958; 8:49 a. m.]

[Docket No. G-16259]

TIDEWATER OIL CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

SEPTEMBER 22, 1958.

Tidewater Oil Company (Tidewater) on August 25, 1958, tendered for filing proposed changes in its presently effective rate schedules [1] for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notices of Change, dated August 22, 1958.

Purchaser: El Paso Natural Gas Company.

Rate schedule designation: Supplement No. 6 to Tidewater's FPC Gas Rate Schedule No. 4; Supplement No. 10 to Tidewater's FPC Gas Rate Schedule No. 17; Supplement No. 8 to Tidewater's FPC Gas Rate Schedule No. 50; Supplement No. 10 to Tidewater's FPC Gas Rate Schedule No. 39.

Effective date: September 25, 1958 (effective date is the effective date proposed by Tidewater).

In support of the proposed redetermined rate increases Tidewater cites the "favored nation" provisions of the pricing sections of its contracts and states that the aforementioned provisions of its contracts were arrived at by arms-length bargaining, are just and reasonable and are an integral part of the considerations upon which the contracts are based.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that Supplement No. 6 to Tidewater's FPC Gas Rate Schedule No. 4, Supplement No. 10 to Tidewater's FPC Gas Rate Schedule No. 17, Supplement No. 8 to Tidewater's FPC Gas Rate Schedule No. 50, and Supplement No. 10, to Tidewater's FPC Gas Rate Schedule No. 39 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplement No. 6 to Tidewater's FPC Gas Rate Schedule No. 4, Supplement No. 10 to Tidewater's FPC Gas Rate Schedule No. 17, Supplement No. 8 to Tidewater's FPC Gas Rate Schedule No. 50, and Supplement No. 10 to Tidewater's FPC Gas Rate Schedule No. 39.

(B) Pending such hearing and decision thereon, said supplements be and they are each hereby suspended and the use thereof deferred until February 25, 1959, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested state commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-7876; Filed, Sept. 25, 1958; 8:49 a. m.]

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[1] Present rates previously suspended are in effect subject to refund in Docket No. G-12952.

[1] Present rates previously suspended are in effect subject to refund in Docket Nos. G-14185, G-14061, G-14032, G-13978.

[Docket No. G-16316]

UNITED FUEL GAS CO.

ORDER FOR HEARING, SUSPENDING PROPOSED CHANGES IN RATES, AND ALLOWING INCREASED RATES TO BECOME EFFECTIVE

SEPTEMBER 19, 1958.

United Fuel Gas Company (United Fuel), on August 22, 1958, tendered for filing four tariff sheets[1] to its FPC Gas Tariff, Fifth Revised Volume No. 1 by which United Fuel proposes to increase its rate for sale of natural gas in the amount of $1,296,671 annually for gas produced or gathered by United Fuel in the State of Louisiana and sold under its FPC Gas Rate Schedules CDS-1, SGS-1, AOS-1 and ES-1.

Clauses in the contracts between United Fuel and its suppliers provide generally that United Fuel will reimburse its suppliers for 75 percent of any increase in the Louisiana Gathering Tax.

The increased rates and charges so proposed are intended to reflect (in whole or in part) the additional "excise, license, or privilege tax" of one cent per Mcf levied by the State of Louisiana pursuant to Act No. 8 of 1958 (House Bill No. 303), as approved on June 16, 1958, amending Title 47 of the Louisiana Revised Statutes of 1950. The Commission is advised that litigation is being instituted to challenge the constitutionality of the said Act No. 8 of 1958. In consideration of this fact, and in order to assure appropriate refund in the event said Act No. 8 of 1958 should be declared unconstitutional or otherwise held invalid by final judicial decision, it is deemed advisable to suspend the said proposed increased rates and charges until September 23, 1958, and thereafter to permit them to become effective as of that date; provided, that within 20 days from the date of this order United Fuel shall file with the Secretary of the Commission an appropriate undertaking to assure such refund as may be ordered. Due to the nature of the filing, it is deemed advisable to waive the requirements of Sections 154.22 and 154.63 of the Commission's Regulations and permit the sheets to become effective following a suspension of one day.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of said proposed changes, and that the above-designated tariff sheets be suspended and the use thereof deferred as hereinafter ordered.

(2) It is necessary and proper in the public interest in carying out the provisions of the Natural Gas Act that United Fuel's proposed increased rates be made effective as hereinafter provided and that United Fuel be required to file an undertaking as hereinafter ordered and conditioned.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in the above-designated revised tariff sheets.

(B) Pending such hearing and decision thereon, said First Revised Sheet Nos. 7, 27, and 33, and Second Revised Sheet No. 22, to United Fuel's FPC Gas Tariff, Fifth Revised Volume No. 1, are each hereby suspended and the use thereof deferred until September 23, 1958, and until such further time as each is made effective in the manner hereinafter prescribed.

(C) The rates, charges, and classifications set forth in the above-designated filings shall be effective as of September 23, 1958: *Provided, however,* That within 20 days from the date of this order United Fuel shall execute and file with the Secretary of the Commission the agreement and undertaking described in paragraph (E) below.

(D) United Fuel shall refund at such times and in such amounts to the persons entitled thereto, and in such manner as may be required by final order of the Commission, the difference between the rates and charges found at Docket No. G-12195 to be just and reasonable and the proposed increased rates and charges hereby allowed to become effective in the event that the additional tax of one cent per Mcf levied by the State of Louisiana is for any reason held to be invalid. Should such additional tax eventually be held invalid and the State of Louisiana makes refund, with interest, of the tax monies collected pursuant to the said Act No. 8 of 1958, then, and in that event, a proportionate part of the interest so received by United Fuel herein shall be passed on and paid to the persons entitled thereto at such times and in such amounts, and in such manner as may be required by final order of the Commission. United Fuel shall bear all costs of any such refunding; shall keep accurate accounts in detail of all amounts received by reason of the increased rates or charges allowed by this order to become effective, for each billing period, specifying by whom and in whose behalf such amounts were paid; and shall report (original and four copies), in writing and under oath, to the Commission quarterly, or monthly if United Fuel so elects, for each billing period, and for each purchaser, the billing determinants of natural gas sales to such purchasers and the revenues resulting therefrom, as computed under the rates in effect immediately prior to the date upon which the increased rates allowed by this order become effective, and under the rates allowed by this order to become effective, together with the differences in the revenues so computed.

(E) As a condition of this order, within 20 days from the date of issuance thereof, United Fuel shall execute and file in triplicate with the Secretary of this Commission its written agreement and undertaking to comply with the terms of paragraph (D) hereof, signed by a responsible officer of the corporation, evidenced by proper authority from the board of directors, and accompanied by a certificate showing service of copies thereof upon all purchasers under the revised tariff sheets involved, as follows:

Agreement and Undertaking of United Fuel Gas Company to Comply With the Terms and Conditions of Paragraph (D) of Federal Power Commission's Order Making Effective Proposed Rate Changes

In conformity with the requirements of the order issued _____, in Docket No. G-16316, United Fuel Gas Company hereby agrees and undertakes to comply with the terms and conditions of paragraph (D) of said order, and has caused the agreement and undertaking to be executed and sealed in its name by its officers, thereupon duly authorized in accordance with the terms of the resolution of its board of directors, a certified copy of which is appended hereto this _____ day of _____.

UNITED FUEL GAS COMPANY

By _____

Attest:

_____

(Secretary)

Unless United Fuel is advised to the contrary within 15 days after the date of filing such agreement and undertaking, the agreement and undertaking shall be deemed to have been accepted.

(F) If United Fuel shall, in conformity with the terms and conditions of paragraph (D) of this order, make the refunds as may be required by order of the Commission, the undertaking shall be discharged; otherwise, it shall remain in full force and effect.

(G) The revised tariff sheets hereby suspended shall not be changed until the period of suspension has expired, unless otherwise ordered by the Commission.

(H) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] J. H. GUTRIDE,
Secretary.

[F. R. Doc. 58-7877; Filed, Sept. 25, 1958; 8:49 a. m.]

[1] First Revised Sheet Nos. 7, 27 and 33 and Second Revised Sheet No. 22 to FPC Gas Tariff, Fifth Revised Volume No. 1. Additional supporting data was tendered on September 5, 1958. The tendered tariff sheets propose an increase in rate of 0.34¢ per Mcf in the commodity price for the gas sold under the designated rate schedules over and above the rates currently being collected by United Fuel subject to further orders of the Commission as to refunds at Docket No. G-12195.

[Docket No. G-16328]

MURPHY CORPORATION ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

SEPTEMBER 19, 1958.

Murphy Corporation et al. (Murphy) on August 22, 1958, tendered for filing a proposed change in its presently effective rate schedule[1] for the sale of nat-

[1] Rate in effect subject to refund in Docket No. G-15605.

ural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated August 20, 1958.
Purchaser: Mississippi River Fuel Corporation.
Rate schedule designation: Supplement No. 8 to Murphy's FPC Gas Rate Schedule No. 5.
Effective date: October 1, 1958 (effective date is the effective date proposed by Murphy).

The increased rate and charge so proposed is intended to reflect (in whole or in part) the additional "excise, license, or privilege tax" of one cent per Mcf levied by the State of Louisiana pursuant to Act No. 8 of 1958 (House Bill No. 303), as approved on June 16, 1958, amending Title 47 of the Louisiana Revised Statutes of 1950. The Commission is advised that litigation is being instituted to challenge the constitutionality of the said Act No. 8 of 1958. In consideration of this fact, and in order to assure appropriate refund in the event said Act No. 8 of 1958 should be declared unconstitutional or otherwise held invalid by final judicial decision, it is deemed advisable to suspend the said proposed increased rate and charge.

This suspension, however, is based on the possibility of the additional tax being invalidated and only such tax increment of the proposed increased rate shall be subject to refund.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 8 to Murphy's FPC Gas Rate Schedule No. 5 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 8 to Murphy's FPC Gas Rate Schedule No. 5.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until October 2, 1958, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] J. H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-7878; Filed, Sept. 25, 1958; 8:49 a. m.]

[Docket No. G-16330]

F. A. CALLERY, INC., ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

SEPTEMBER 19, 1958.

F. A. Callery, Inc., et al. (Callery) on August 22, 1958, tendered for filing proposed changes in its presently effective rate schedules[1] for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Supplemental Agreement, dated March 20, 1958. Notice of Change, dated August 22, 1958.
Purchaser: United Gas Pipe Line Company.
Rate schedule designation: Supplement No. 2 to Callery's FPC Gas Rate Schedule No. 7; Supplement No. 3 to Callery's FPC Gas Rate Schedule No. 7.
Effective date: September 22, 1958 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed rate increase Callery states that the agreement was negotiated at arm's length extending the primary term 14 years and that the proposed price is not in excess of the current market value of the gas.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that Supplement No. 2 to Callery's FPC Gas Rate Schedule No. 7, and Supplement No. 3 to Callery's FPC Gas Rate Schedule No. 7, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplement No. 2 to Callery's FPC Gas Rate Schedule No. 7, and Supplement No. 3 to Callery's FPC Gas Rate Schedule No. 7.

(B) Pending such hearing and decision thereon, said supplements be and they are each hereby suspended and the use thereof deferred until February 22, 1959, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested state commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-7879; Filed, Sept. 25, 1958; 8:50 a. m.]

[1] Rates are presently in effect subject to refund in Docket No. G-15956.

[Docket No. G-15328]

NATURAL GAS STORAGE COMPANY OF ILLINOIS

NOTICE OF APPLICATION AND DATE OF HEARING

SEPTEMBER 22, 1958.

Take notice that Natural Gas Storage Company of Illinois (Applicant), an Illinois corporation with its principal place of business at 122 South Michigan Avenue, Chicago 3, Illinois, filed an application on June 20, 1958 with an amendment and supplement thereto on June 30 and July 25, 1958, respectively, for a certificate of public convenience and necessity authorizing the construction and operation of (1) two injection-withdrawal wells, and appurtenances (2) approximately 660 feet of 12-inch field line and (3) an additional dehydration absorber, in its Herscher Storage Field in Kankakee County, Illinois in order to enable it to withdraw up to 500,000 Mcf daily from the Galesville reservoir in the field, subject to the jurisdiction of the Commission, and as more fully described in the application, amendment and supplement on file with the Commission, and open for public inspection.

The application recites: In Docket Nos. G-1757, G-6674 and G-11677 Applicant was authorized to transport and store natural gas in the Herscher and Cooks Mills storage fields, for the account of the customers of Natural Gas Pipeline Company of America and Texas Illinois Natural Gas Pipeline Company whose customers own the gas stored, and to whom it is redelivered upon request. Natural and Texas Illinois each own 50 percent of the capital stock of Gas Storage. In Docket No. G-6674, Gas Storage was authorized to withdraw a maximum of 430,000 Mcf per day from the Herscher storage field. In Docket No. G-11677, Applicant received authorization to develop and operate another gas storage project, the Cooks Mills Field in Coles and Douglas Counties, Illinois, but with no increase in the maximum daily withdrawal rate.

The Application further recites that the increased withdrawals from storage

proposed in the instant application will be used to meet the increasing space heating requirements of existing customers of Natural and Texas Illinois. The present and proposed authorized daily withdrawal volumes of these customers are as follows:

Customer	Present contract quantity	Proposed additional quantity	Proposed total withdrawal quantity
Allied Gas Co	2,823	461	3,284
Associated Natural Gas Co	267	67	334
Central Illinois E & G Co	11,717	1,833	13,550
Citizens Gas Co	246	56	302
Illinois Power Co	5,518	910	6,428
Interstate Power Co	1,448	362	1,810
Iowa Electric Light & Power Co	6,525	1,069	7,594
Iowa-Illinois Gas & Electric Co	47,037	7,671	54,708
Iowa Power and Light Co	5,608	916	6,524
Iowa Southern Utilities Co	719	118	837
Monarch Gas Co	436	107	543
City of Nashville	177	53	230
City of Nebraska City	1,743	282	2,025
North Shore Gas Co	12,270	1,920	14,190
Northern Illinois Gas Co	138,530	22,696	161,226
Northern Indiana Public Service Co	42,778	6,699	49,477
City of Pinckneyville		19	19
Princeton Gas Service Co	519	83	602
Ruth Fuel Co		42	42
City of Salem	322	80	402
City of Sullivan	355	89	444
The Peoples Gas Light & Coke Co	166,534	27,158	193,692
United Cities Gas Co	230	70	300
Wilson Gas Co		42	42
Wisconsin Southern Gas Co., Inc	2,063	326	2,389
Total	447,871	73,129	521,000
Unallocated	189	(189)	
Total Withdrawal Capacity:			
On Billing Basis (1000 Btu/c. f.)	448,060	72,940	521,000
As metered basis	430,000	70,000	500,000

The estimated total capital cost of the proposed facilities is $387,000 which will be financed from funds on hand.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on October 28, 1958, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceeding pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 17, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-7887; Filed, Sept. 25, 1958; 8:52 a. m.]

[Docket No. G-13258]

SOUTHERN NATURAL GAS CO.

ORDER UPON MOTIONS FOR CONTINUANCE OF DATE OF HEARING AND FOR FURTHER LIMITATION OF ISSUES

SEPTEMBER 22, 1958.

By order issued herein on April 18, 1958, we, among other things, accepted Southern Natural Gas Company's (Southern) FPC Gas Tariff, Fifth Revised Volume No. 1, for filing in substitution for its Fourth Revised Volume No. 1 to said Tariff, to be effective as of April 16, 1958. As stated in the order, the rates and charges provided in the Fifth Revised Volume No. 1 would increase Southern's revenues from jurisdictional sales in an amount estimated at $11,022,471, based on adjusted sales for the year ended April 30, 1957. This amount, the order stated, was $7,152,177 less than the increase of $18,176,648 estimated to result from Fourth Revised Volume No. 1 to Southern's Tariff, which had been previously suspended by order issued herein on September 12, 1957.

The order of April 18, 1958, took notice of the fact that all of Southern's affected customers, excepting one, had agreed to pay the revised rates provided in the aforementioned Fifth Revised Volume No. 1.

For reasons stated therein, the order issued April 18, 1958, also provided that:

(D) Pursuant to the authority of the Natural Gas Act, particularly sections 4 (e) and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be hereafter fixed, limited to and concerning only (i) the level of the demand and commodity components of the rates contained in Southern's FPC Gas Tariff, Fifth Revised Volume No. 1, and (ii) the "Conditions Relating to Refunds and Future Rate Reductions."

(E) Unless advised to the contrary within ten (10) days from the date of its issuance, this order shall be deemed to have been accepted by all parties.

The "Conditions Relating to Refunds and Future Rate Reductions" were submitted by Southern to the Commission concurrently with the tender of the then proposed Fifth Revised Volume No. 1 and constituted a part of the conditions of the aforementioned agreement between Southern and its customers.

The above quoted provisions of the order issued April 18, 1958, which was served on all parties, as well as all other provisions thereof, in accordance with the terms thereof, are deemed to have been accepted by Southern and all other parties to these proceedings, excepting possibly Georgia Natural Gas Company, since none advised the Commission to the contrary or sought rehearing on the order.

On August 22, 1958, Southern filed a motion to (i) indefinitely postpone the limited hearing in this proceeding, previously fixed to commence on September 23, 1958, or (ii) if indefinite postponement is denied, to continue the date of such hearing for one month and to further limit the issues to be heard therein.

Similar motions, or concurrences in Southern's motion, have been filed by the Public Service Commissions of Georgia, South Carolina, and Mississippi (which is not a party), and by two municipal associations and four customers of Southern. But only one of these parties, a customer company, requested further limitation of the issues if indefinite continuance is denied. The Cities of Birmingham, Gadsden, and Tuscaloosa, all in Alabama, jointly filed their objections to Southern's alternative motions.

The Commission finds: Good cause has been shown for granting a postponement of the date of hearing herein from September 23, 1958, to October 21, 1958; but good cause has not been shown for an indefinite continuance of said hearing or a further limitation of the issues to be the subject thereof.

The Commission orders:

(A) The hearing herein heretofore set to commence on September 23, 1958, is postponed to October 21, 1958, at the same hour and place.

(B) Except to the extent they may be deemed granted in paragraph (A) above, the aforesaid motion of Southern, and the other similar motions and concurrences filed herein, are each denied.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-7888; Filed, Sept. 25, 1958; 8:52 a. m.]

[Docket Nos. G-15187, 15190]

ARKANSAS LOUISIANA GAS CO. AND MISSISSIPPI RIVER FUEL CORP.

NOTICE OF APPLICATIONS AND DATE OF HEARING

SEPTEMBER 22, 1958.

In the matters of Arkansas Louisiana Gas Company, Docket No. G-15187; Mississippi River Fuel Corporation, Docket No. G-15190.

Take notice that Arkansas Louisiana Gas Company (Arkansas Louisiana) and Mississippi River Fuel Corporation (Mississippi), collectively referred to as Applicants, Delaware corporations with principal place of business at Slattery Building, Shreveport 94, Louisiana, and 407 North Eighth Street, St. Louis 1, Missouri, respectively, filed separate applications for certificates of public convenience and necessity in the above-captioned dockets on May 29, 1958, as amended July 24, 1958, and on June 2, 1958, respectively, pursuant to section 7 (c) of the Natural Gas Act, authorizing Applicants to render service as hereinafter described, subject to the juris-

diction of the Commission, all as more fully represented in the applications which are on file with the Commission and open for public inspection.

Arkansas Louisiana proposes in Docket No. G–15187 to construct and operate a meter and compressor (1320 horsepower) station adjacent to its existing Ruston Gasoline Plant, Lincoln Parish, Louisiana, at an estimated cost of $331,800 which will be financed out of cash on hand. Arkansas Louisiana also proposes to sell and deliver 35,000 Mcf of natural gas per day at 14.73 psia in interstate commerce to Mississippi for resale. This gas is to be sold and delivered through the aforesaid facilities at the outlet side of said plant from October 15 of each year through April 16 of the succeeding year for a five year period ending April 16, 1963 at a price of 26 cents per Mcf in accordance with an agreement, dated February 5, 1958, between Arkansas Louisiana and Mississippi and concurrently filed with the instant application as Rate Schedule XFS–16 of Arkansas Louisiana's FPC Gas Tariff, Original Volume No. 2.

Mississippi proposes in Docket No. G–15190 to construct and operate: (1) approximately 3.8 miles of 10-inch lateral supply line extending from the aforesaid Ruston plant, i. e., from the facilities proposed by Arkansas Louisiana in Docket No. G–15187, to the 18-inch section of Mississippi's existing 16 and 18 inch Woodlawn Field-Perryville transmission line, (2) a 1320 horsepower compressor station (Minden Compressor Station) at Minden, Webster Parish, Louisiana on the 16-inch section of said Woodlawn Field-Perryville transmission line and (3) approximately 36.8 miles of 26-inch transmission line partially looping the easternmost line of its existing dual Perryville-St. Louis transmission line at five different points. The estimated cost of these facilities is $3,655,400 which will be financed by Mississippi out of cash on hand. These facilities will be used for the purpose of supplying existing demands of Mississippi's existing customers.

Arkansas Louisiana seeks a limited certificate to terminate with the termination of the contract between itself and Mississippi. In support of its application, Arkansas Louisiana states that its minimum take obligations under its long-term gas purchase contracts, among other things, have created a short-term supply of gas in excess of its present system requirements; that the instant proposal will augment Mississippi's supply of gas during Mississippi's annual period of greatest demand, viz., the winter heating seasons; that Arkansas Louisiana can render the proposed service without impairing its ability to serve its own customers during the same period because the delivery is to be effected at the plant in the field and hence will not use or require any of its existing pipeline capacity; that the instant proposal permits Arkansas Louisiana to avail itself of the premium price applicable to this type of seasonal peak load service; and that the short-term excess supplies of gas available annually, based solely on take obligations applicable to reserves owned and controlled by Arkansas Louisiana on January 1, 1958, amount to: 51,375 Mcf in 1958; 47,245 in '59; 37,091 in '60; 27,521 in '61; 18,467 in '62; and 20,631 in '63.

In support of its application, Mississippi states that the instant gas will enable it to maintain, on a permanent basis, a daily rated sales capacity approximately equal to that capacity realized prior to April 15, 1958 on which date a service agreement with Texas Eastern Transmission Corporation calling for the delivery of 20,000 Mcf per day to Mississippi was terminated; that this gas will provide flexibility in the operation of Mississippi's system and insure against failure of service which might otherwise occur through the curtailment or interruption of deliveries from other suppliers during the six-month periods of annual peak demand on its system; and that this gas will augment its gas supply and conserve reserves committed to it under long-term contracts with others.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission, by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on October 14, 1958, at 9:30 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 13, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 58–7889; Filed, Sept. 25, 1958; 8:52 a. m.]

[Docket No. G–16254]

SHELL OIL CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

SEPTEMBER 22, 1958.

Shell Oil Company (Shell) on August 25 and 26, 1958, tendered for filing proposed changes in its presently effective rate schedules[1] for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notices of Change, dated August 21, 1958.

Purchaser: El Paso Natural Gas Company.

Rate schedule designation: (1) Supplement No. 2 to Shell's FPC Gas Rate Schedule No. 108. (2) Supplement No. 6 to Shell's FPC Gas Rate Schedule No. 134. (3) Supplement No. 3 to Shell's FPC Gas Rate Schedule No. 142. (4) Supplement No. 10 to Shell's FPC Gas Rate Schedule No. 17. (5) Supplement No. 2 to Shell's FPC Gas Rate Schedule No. 95. (6) Suplement No. 11 to Shell's FPC Gas Rate Schedule No. 41. (7) Supplement No. 6 to Shell's FPC Gas Rate Schedule No. 16. (8) Supplement No. 6 to Shell's FPC Gas Rate Schedule No. 33. (9) Supplement No. 2 to Shell's FPC Gas Rate Schedule No. 40.

Effective dates: (1) through (4) September 25, 1958. (5) through (9) September 26, 1958 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed redetermined rate increases, Shell states that the increases are the result of the operation of a provision in its rate schedules agreed upon in good faith and at arms-length and the inclusion of this clause was an important element of the consideration to Shell to enter into these long-term contracts. Also, Shell states, the increased prices will still be well below prices paid for similar gas in new contracts in the general vicinity of the sale.

The increased rates and charges so proposed have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes and that Supplement No. 2 to Shell's FPC Gas Rate Schedule No. 108, Supplement No. 6 to Shell's FPC Gas Rate Schedule No. 134, Supplement No. 3 to Shell's FPC Gas Rate Schedule No. 142, Supplement No. 10 to Shell's FPC Gas Rate Schedule No. 17, Supplement No. 2 to Shell's FPC Gas Rate Schedule No. 95, Supplement No. 11 to Shell's FPC Gas Rate Schedule No. 41, Supplement No. 6 to Shell's FPC Gas Rate Schedule No. 16, Supplement No. 6 to Shell's FPC Gas Rate Schedule No. 33, and Supplement No. 2 to Shell's FPC Gas Rate Schedule No. 40 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness

[1] Present rates previously suspended are in effect subject to refund in Docket Nos. G–12951, G–13988, G–14080.

of the proposed increased rates and charges contained in the aforementioned supplements to Shell's Rate Schedules.

(B) Pending such hearing and decision thereon, Supplement No. 2 to Shell's FPC Gas Rate Schedule No. 108, Supplement No. 6 to Shell's FPC Gas Rate Schedule No. 134, Supplement No. 3 to Shell's FPC Gas Rate Schedule No. 142, and Supplement No. 10 to Shell's FPC Gas Rate Schedule No. 17 be and they are each hereby suspended and the use thereof deferred until February 25, 1959, and Supplement No. 2 to Shell's FPC Gas Rate Schedule No. 95, Supplement No. 11 to Shell's FPC Gas Rate Schedule No. 41, Supplement No. 6 to Shell's FPC Gas Rate Schedule No. 16, Supplement No. 6 to Shell's FPC Gas Rate Schedule No. 33, and Supplement No. 2 to Shell's FPC Gas Rate Schedule No. 40 be and they are each hereby suspended and the use thereof deferred until February 26, 1959, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-7890; Filed, Sept. 25, 1958; 8:52 a. m.]

TIDEWATER OIL CO. ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

SEPTEMBER 22, 1958.

Tidewater Oil Company (Operator) et al. (Tidewater) on August 25, 1958, tendered for filing proposed changes in its presently effective rate schedules [1] for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notices of Change, dated August 22, 1958.

Purchaser: El Paso Natural Gas Company.

Rate schedule designation: (1) Supplement No. 9 to Tidewater's FPC Gas Rate Schedule No. 38. (a) Supplement No. 11 to Tidewater's FPC Gas Rate Schedule No. 43.

Effective date: September 25, 1958 (effective date is the effective date proposed by Tidewater).

In support of the proposed redetermined rate increases Tidewater cites the "favored nation" provisions of the pricing sections of its contracts and states that the aforementioned provisions of its contracts were arrived at by arms-length bargaining, and that they are just and reasonable and are an integral part of the consideration upon which the contracts are based.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that Supplement No. 9 to Tidewater's FPC Gas Rate Schedule No. 38, and Supplement No. 11 to Tidewater's FPC Gas Rate Schedule No. 43 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplement No. 9 to Tidewater's FPC Gas Rate Schedule No. 38, and Supplement No. 11 to Tidewater's FPC Gas Rate Schedule No. 43.

(B) Pending such hearing and decision thereon, said supplements be and they are each hereby suspended and the use thereof deferred until February 25, 1959, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested state commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-7891; Filed, Sept. 25, 1958; 8:52 a. m.]

[Docket No. G-16310]

R. W. FAIR ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

SEPTEMBER 22, 1958.

R. W. Fair et al. (Fair) on August 25, 1958, tendered for filing a proposed change in his presently effective rate schedule [1] for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated August 21, 1958.

Purchaser: Mississippi River Fuel Corporation.

Rate schedule designation: Supplement No. 7 to Fair's FPC Gas Rate Schedule No. 1.

Effective date: September 25, 1958 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed two-step periodic rate increase, Fair merely cites the contract provision providing for the increased rate.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commissions finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 7 to Fair's FPC Gas Rate Schedule No. 1 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 7 to Fair's FPC Gas Rate Schedule No. 1.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until February 25, 1959, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioner Hussey dissenting).

[SEAL] MICHAEL J. FARRELL, *Acting Secretary.*

[F. R. Doc. 58-7892; Filed, Sept. 25, 1958; 8:52 a. m.]

[Docket No. G-16311]

PHILLIPS PETROLEUM CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

SEPTEMBER 22, 1958.

Phillips Petroleum Company (Phillips) on August 27, 1958, tendered for filing a

[1] Present rates previously suspended and are in effect subject to refund in Docket Nos. G-14672, G-13992.

[1] A previous increase was suspended in Docket No. G-10646 until December 9, 1956, but motion to place the suspended rate in effect subject to refund was never filed by Fair.

proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated August 25, 1958.
Purchaser: Kansas-Nebraska Natural Gas Company, Inc.
Rate schedule designation: Supplement No. 3 to Phillips' FPC Gas Rate Schedule No. 302.
Effective date: October 1, 1958 (effective date is the effective date proposed by Phillips).

In support of the proposed periodic rate increase, Phillips cites the contract provisions therefor and states that to disallow producers and sellers of gas rates which return costs plus a fair return on investment would amount to confiscation of property. Phillips also refers to evidence submitted in the proceedings in Docket No. G-1148, et al., purporting to show that a price of approximately 17.25 cents per Mcf is required to produce such return. Phillips states additionally that the contract was negotiated in good faith and the increased price is just and reasonable.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 3 to Phillips' FPC Gas Rate Schedule No. 302 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 3 to Phillips' FPC Gas Rate Schedule No. 302.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until March 1, 1959, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioner Hussey dissenting).

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 58-7893; Filed, Sept. 25, 1958; 8:53 a. m.]

[Docket No. G-16313]

DAN J. HARRISON, JR., ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

SEPTEMBER 22, 1958.

Dan J. Harrison, Jr. (Operator) et al. (Harrison) on August 15, 1958, tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated August 12, 1958.
Purchaser: Texas Gas Corporation.
Rate schedule designation: Supplement No. 6 to Harrison's FPC Gas [1] Rate Schedule No. 2.
Effective date: November 1, 1958 (effective date is that proposed by Harrison).

In support of the two-step increase, Harrison cites the contract provisions and states that the proposed increased rate represents the fair market value of the gas over the life of the contract which stems from arm's length bargaining.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 6 to Harrison's FPC Gas Rate Schedule No. 2 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 6 to Harrison's FPC Gas Rate Schedule No. 2.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until April 1, 1959, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

[1] Rate Schedule No. 2 is subject to further orders of the Commission at Docket No. G-13714.

By the Commission (Commissioner Hussey dissenting).

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 58-7894; Filed, Sept. 25, 1958; 8:53 a. m.]

[Docket No. G-16314]

H. L. HAWKINS ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

SEPTEMBER 22, 1958.

H. L. Hawkins et al. (Hawkins) on August 15, 1958, tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated August 13, 1958.
Purchaser: United Fuel Gas Company.
Rate schedule designation: Supplement No. 2 to Hawkin's FPC Gas Rate Schedule No. 7.
Effective date: November 1, 1958 (effective date is that proposed by Hawkins).

In support of the proposed periodic rate increase, Hawkins' states that the contractually provided proposed increased price is less than that currently being offered by buyers. Hawkins' present rate was suspended at Docket No. G-15628 and is currently in effect subject to refund in so far as such rate related to the Louisiana Gas Gathering Tax.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 2 to Hawkins' FPC Gas Rate Schedule No. 7 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regu-

lations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 2 to Hawkins' FPC Gas Rate Schedule No. 7.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until April 1, 1959, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioner Hussey dissenting).

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 58-7895; Filed, Sept. 25, 1958; 8:53 a. m.]

[Docket No. G-16315]

HORIZON OIL AND GAS CO. ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

SEPTEMBER 22, 1958.

N. Bruce Calder and Curtis E. Calder, Jr., d/b/a as Horizon Oil and Gas Company (Operator) et al. (Horizon) on August 15, 1958, tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, undated.
Purchaser: Kansas-Nebraska Natural Gas Company, Inc.
Rate schedule designation: Supplement No. 2 to Horizon's FPC Gas Rate Schedule No. 3.
Effective date: October 1, 1958 (effective date is the date proposed by Horizon).

In support of the proposed 2-mill periodic increase Horizon stated that such was contractually contemplated by the filed instrument.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 2 to Horizon's FPC Gas Rate Schedule No. 3 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 2 to Horizon's FPC Gas Rate Schedule No. 3.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until March 1, 1959, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioner Hussey dissenting).

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 58-7896; Filed, Sept. 25, 1958; 8:53 a. m.]

[Docket No. G-14857]

ILLINOIS POWER CO.

NOTICE OF CONTINUANCE OF HEARING

SEPTEMBER 22, 1958.

Upon consideration of the motion filed September 8, 1958, by Counsel for Illinois Power Company for continuance of the hearing now scheduled for October 7, 1958, in the above-designated matter;

Notice is hereby given that said hearing is postponed to November 12, 1958, at 10:00 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 58-7898; Filed, Sept. 25, 1958; 8:54 a. m.]

[Docket No. G-15109]

OLIN GAS TRANSMISSION CORP.

NOTICE OF APPLICATION AND DATE OF HEARING

SEPTEMBER 22, 1958.

Take notice that Olin Gas Transmission Corporation (Applicant), a Delaware corporation having its principal place of business in New Orleans, Louisiana, filed on May 15, 1958, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing the sale of natural gas as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open to public inspection.

Applicant, an interstate pipeline company, proposes to make a field sale of natural gas to United Gas Pipe Line Company for transportation in interstate commerce for resale. The gas to be sold will be produced from all lands and leaseholds in the Sunrise Field, Terrebonne Parish, Louisiana, in which Applicant now owns an interest, which properties are more specifically described in the application.

This matter should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on October 22, 1958, at 9:30 a. m., e. d. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 15, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 58-7899; Filed, Sept. 25, 1958; 8:54 a. m.]

[Docket No. G-15423]

ATLANTIC SEABOARD CORP.

NOTICE OF APPLICATION AND DATE OF HEARING

SEPTEMBER 2, 1958.

Take notice that Atlantic Seaboard Corporation (Applicant), a Delaware corporation and a subsidiary of The Columbia Gas System, Inc., having its principal place of business at 1033 Quarrier Street, Charleston, West Virginia, filed on July 9, 1958, an application and on August 11, 1958, a supplement thereto, pursuant to section 7 of the Natural Gas Act, for a certificate of public convenience and necessity authorizing it to construct and operate a tap and measuring station on its 4-inch line KB in Monroe County, West Virginia, in order to sell natural

gas to Amere Gas Utilities Company for resale to the public in Peterstown, West Virginia, all as more fully represented in the application which is on file with the Commision and open for public inspection.

Applicant estimates the cost of the proposed facilities will be $3,300, which will be paid from funds on hand.

Applicant alleges that Amere has advised it that the estimated annual and peak day gas requirements for the town of Peterstown are as follows:

Year of service	1	2	3	4	5
Annual (Mcf)	31,600	40,800	44,700	48,700	52,600
Peak day (Mcf)	400	500	500	600	600

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on October 23, 1958, at 9:30 a. m., e. d. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 13, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-7900; Filed, Sept. 25, 1958; 8:54 a. m.]

[Docket No. G-15818]

UNITED GAS PIPE LINE CO.

NOTICE OF APPLICATION AND DATE OF HEARING

SEPTEMBER 22, 1958.

Take notice that United Gas Pipe Line Company (Applicant), a Delaware corporation with a principal place of business in Shreveport, Louisiana, filed an application on August 4, 1958, pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to construct and operate a 150 HP compressor station together with appurtenant facilities at its Burns Plant site in St. Mary Parish, Louisiana, subject to the jurisdiction of the Commission, all as more fully described in the application on file with the Commission, and open for public inspection.

Applicant states that the proposed facilities will enable it to conserve approximately 750 Mcf of natural gas per day presently being flared at its plant.

The estimated total cost of the proposed facilities is $69,100, which will be defrayed from current working funds.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on October 29, 1958, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 15, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-7902; Filed, Sept. 25, 1958; 8:54 a. m.]

[Docket No. G-15528]

HOME GAS CO.

NOTICE OF APPLICATION AND DATE OF HEARING

SEPTEMBER 22, 1958.

Take notice that Home Gas Company (Applicant), a New York corporation with a principal place of business in Pittsburgh, Pennsylvania, filed on July 22, 1958, an application pursuant to section 7 (b) of the Natural Gas Act for permission and approval to abandon parallel sections of two 6-inch transmission lines (A-3 and A-4), approximately 3.8 miles in length, extending from a point in the Town of Union north of Endicott to a point in the Town of Maine, north of Johnson City, known as "Westover Connection" with Columbia Gas of New York, Inc. (Columbia), subject to the jurisdiction of the Commission, all as more fully described in the application on file with the Commission, and open to public inspection.

The application recites that in 1929, the transmission lines now proposed for abandonment, were purchased by Applicant from an oil company and are presently used for delivery of gas into the system of Columbia, Applicant's affiliate and distributing utility in a number of towns in New York including, Binghamton, Johnson City and Endicott. Applicant proposes to sell the subject transmission lines to Columbia. Columbia will use the lines, together with another line to be constructed by it, as distribution lines for transfer of propane-air gas from its Johnson City propane plant to the Village of Endicott and improve its service in this area.

Applicant states that no service will be abandoned as a result of this transaction because its other transmission lines in this area are capable of rendering adequate service to its customers.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on November 4, 1958, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 20, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-7901; Filed, Sept. 25, 1958; 8:54 a. m.]

[Docket No. G-16012]

MICHIGAN WISCONSIN PIPE LINE CO.

NOTICE OF APPLICATION AND DATE OF HEARING

SEPTEMBER 22, 1958.

Take notice that Michigan Wisconsin Pipe Line Company (Applicant), a Delaware corporation with principal place of

business at 500 Griswold Street, Detroit, Michigan, filed in Docket No. G-16012 on August 18, 1958, an application for a certificate of public convenience and necessity, pursuant to section 7 (c) of the Natural Gas Act, authorizing Applicant to render service as herinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant proposes to construct and operate approximately 13.2 miles of 8⅝-inch line in order to complete the looping of Applicant's existing 43.94-mile lateral which extends southward from Applicant's 24-inch main line to Keokuk, Iowa. The Keokuk lateral consists of three segments: (1) Two parallel 6⅝-inch lines extending about 12.94 miles from Applicant's main line to the point from which a 4½-inch branch line extends eastward to render supplemental service to Burlington, Iowa, (2) a single 6⅝-inch line extending about 13.18 miles from the Burlington-line intersection to the point from which 3½-inch and 6⅝-inch parallel lines extend eastward to serve Ft. Madison, Iowa, and (3) parallel 4½-inch and 6⅝-inch lines extending about 17.82 miles from the Ft. Madison junction directly to Keokuk. It is the middle section, described as No. 2 above, which Applicant now proposes to loop, thereby completing the looping of the facilities through which Applicant renders service to its three existing utility customers which in turn distribute gas in the communities of Burlington, Ft. Madison and Keokuk.

Applicant states that, without the installation of the proposed 13.2 miles of 8⅝-inch pipeline, Applicant's facilities will be inadequate to meet the maximum daily requirements of the three distributors during the coming heating season. Applicant estimates the 1958-59 peak-day requirements of the markets involved to be 30,300 Mcf and, according to Applicant's flow diagrams, the unlooped portion of the Keokuk lateral would be primarily responsible for a drop in pressure from 700 pounds per square inch gage on Applicant's main line to a zero delivery pressure at Keokuk and Burlington. Addition of the proposed loop would not only relieve the situation at Keokuk, which is directly affected, but would also afford relief to Burlington by enabling Applicant to utilize to a greater degree the 4½-inch branch line extending from the Keokuk lateral to Burlington.

No additional service is proposed beyond that authorized by the Commission and permitted under Applicant's effective FPC Gas Tariff. The markets in question are presently served under "requirements-type" service agreements between Applicant and the distributors, and the design loads used in the application are within presently existing tariff limitations.

Applicant estimates that the cost of constructing the proposed facilities will total $401,000, which will be financed from funds on hand.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held in October 23, 1958, at 9:30 a. m., e. d. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 13, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 58-7903; Filed, Sept. 25, 1958; 8:54 a. m.]

ATOMIC ENERGY COMMISSION

[Docket No. 27-5]

WALKER TRUCKING CO.

DESIGNATION OF HEARING OFFICER

Samuel W. Jensch, Esq., is hereby designated as presiding officer in the above-entitled proceeding to hear and act upon any and all petitions for leave to intervene in the proceeding, to preside at any hearing, and to take such other action in the proceeding as may be appropriate and consistent with the Commission's rules of practice (10 CFR Part 2).

Dated at Germantown, Md., this 19th day of September 1958.

ATOMIC ENERGY COMMISSION,
WOODFORD B. MCCOOL,
Secretary to the Commission.

[F. R. Doc. 58-7859; Filed, Sept. 25, 1958; 8:45 a. m.]

[Docket No. 27-5]

WALKER TRUCKING CO.

ORDER FOR FILING OF ANSWERS

On September 8, 1958, the Board of Selectmen of the Town of Portland, Middlesex County, Connecticut, filed with the Atomic Energy Commission a request to intervene in the above designated proceeding and stated that the area proposed to be utilized by the Walker Trucking Company for the collection of radioactive waste material was too small and would not afford proper protection to persons in the community. The Board of Selectmen also requested a hearing, in Portland, Connecticut, if possible, respecting these matters.

It is hereby ordered, That answers to the foregoing request, which is considered as a petition to intervene, may be filed in accordance with the rules of practice of the Atomic Energy Commission on or before October 6, 1958.

Dated at Germantown, Md., this 23d day of September 1958.

SAMUEL W. JENSCH,
Hearing Examiner,
Atomic Energy Commission.

[F. R. Doc. 58-7954; Filed, Sept. 25, 1958; 8:57 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

MILK RIVER PROJECT, MONTANA

ORDER OF REVOCATION

SEPTEMBER 15, 1958.

By virtue of the authority vested in the Secretary of the Interior by section 3 of the act of June 17, 1902 (32 Stat. 388; 43 U. S. C. 416), and pursuant to Departmental Order No. 2765 of July 30, 1954, I hereby revoke the departmental order of May 14, 1902, in so far as said order affects the following-described land; provided, however, that such revocation shall not affect the withdrawal of any other lands by said orders or affect any other orders withdrawing or reserving the lands:

MONTANA PRINCIPAL MERIDIAN

T. 31 N., R. 5 W.,
Sec. 4, SW¼SE¼;
Sec. 5, NE¼NW¼.

The areas described contain 80 acres.

FLOYD E. DOMINY,
Acting Commissioner.

[Montana 027945]

SEPTEMBER 19, 1958.

I concur.

The lands are within the Blackfeet Indian Reservation.

EDWARD WOOZLEY,
Director,
Bureau of Land Management.

[F. R. Doc. 58-7865; Filed, Sept. 25, 1958; 8:46 a. m.]

Office of the Secretary

[Order 2831]

DIRECTOR, BUREAU OF MINES

DELEGATION OF AUTHORITY TO NEGOTIATE CONTRACTS FOR PROFESSIONAL SERVICES

SECTION 1. *Delegation.* The Director, Bureau of Mines, is authorized, subject to the provisions of section 2 of this order, to exercise the authority delegated by the Administrator of General Services to the Secretary of the Interior

(23 F. R. 7161) to negotiate, without advertising, under sections 302 (c) (2), (4), (9), and (10) of the Federal Property and Administrative Services Act of 1949, as amended (41 U. S. C. 252 et seq.), contracts for the services of architectural, engineering and construction firms in connection with the construction of the Keyes, Oklahoma, helium facility.

SEC. 2. *Limitation; exercise of authority.* (a) The authority delegated by section 1 of this order does not include authority to make the written determination required by section 302 (c) (10) of the act when a contract pursuant to that section will require the expenditure of more than $25,000.

(b) The authority delegated by section 1 of this order shall be exercised in accordance with all provisions of Title III of the act with respect to negotiated contracts, all other provisions of law, and applicable regulations of the Department.

SEC. 3. *Redelegation.* The authority delegated by section 1 of this order may not be redelegated.

FRED A. SEATON,
Secretary of the Interior.

SEPTEMBER 20, 1958.

[F. R. Doc. 58-7866; Filed, Sept. 25, 1958; 8:46 a. m.]

[Order 2832]

DIRECTOR, NATIONAL PARK SERVICE

DELEGATION OF AUTHORITY WITH RESPECT TO NEGOTIATION OF CONTRACTS WITH FIRMS FOR PROFESSIONAL ENGINEERING, ARCHITECTURAL, AND LANDSCAPE ARCHITECTURAL SERVICES

SECTION 1. *Delegation.* The Director, National Park Service, is authorized, subject to the provisions of section 2 of this order, to exercise the authority delegated by the Administrator of General Services on June 30, 1958 (23 F. R. 5139), to the Secretary of the Interior to negotiate, without advertising, under section 302 (c) (4) of the Federal Property and Administrative Services Act of 1949, as amended (41 U. S. C. 252 et seq.), contracts for services of engineering, architectural, and landscape architectural firms in connection with the administration of construction programs of the National Park Service.

SEC. 2. *Limitations; exercise of authority.* (a) The authority granted by Section 1 of this order shall not be applicable to buildings (exclusive of bridges, landscaping, utilities, etc.) the construction cost of which is estimated to be $200,000 or more.

(b) The authority granted by Section 1 of this order shall be exercised in accordance with all provisions of Title III of the Act with respect to negotiation of contracts, all other provisions of law, and applicable regulations of the Department.

(c) A summary report of all activities hereunder shall be submitted to the Administrator of General Services, through the Administrative Assistant Secretary of the Interior, at the end of each fiscal year.

SEC. 3. *Redelegation.* The Director, National Park Service, may, in writing, redelegate or authorize written redelegation of the authority granted by section 1 of this order. Each such redelegation shall be published in the FEDERAL REGISTER.

SEC. 4. *Revocation.* Order No. 2824 (22 F. R. 7346) is revoked.

FRED A. SEATON,
Secretary of the Interior.

SEPTEMBER 20, 1958.

[F. R. Doc. 58-7867; Filed, Sept. 25, 1958; 8:47 a. m.]

DEPARTMENT OF LABOR

Office of the Secretary

[General Order 96]

ASSISTANT SECRETARY OF LABOR

PERFORMANCE OF FUNCTIONS OF SECRETARY OF LABOR UNDER EX-SERVICEMEN'S COMPENSATION ACT OF 1958

By virtue of and pursuant to the authority vested in me by R. S. 161 (5 U. S. C. 22), the Ex-Servicemen's Unemployment Compensation Act of 1958 (P. L. 85-848, 72 Stat. 1087), and Reorganization Plan No. 6 of 1950 (3 CFR, 1950 Supp., p. 165), Assistant Secretary of Labor Newell Brown, or, if he so designates, the Director of the Bureau of Employment Security, under his general direction and control, is hereby authorized to perform all the functions vested in the Secretary of Labor by the Ex-Servicemen's Unemployment Compensation Act of 1958, except the promulgation and interpretation of regulations with respect thereto and the entering into of agreements.

Signed at Washington, D. C., this 12th day of September 1958.

JAMES T. O'CONNELL,
Acting Secretary of Labor.

[F. R. Doc. 58-7831; Filed, Sept. 24, 1958; 8:48 a. m.]

DIRECTOR, BUREAU OF EMPLOYMENT SECURITY

PERFORMANCE OF FUNCTIONS OF SECRETARY OF LABOR UNDER EX-SERVICEMEN'S COMPENSATION ACT OF 1958

By virtue of and pursuant to the authority vested in me by the Secretary of Labor in General Order No. 96 on September 12, 1958, the Director of the Bureau of Employment Security, subject to my general direction and control, is hereby authorized to perform all functions assigned to me by the Secretary of Labor in the said general order.

Signed at Washington, D. C., this 19th day of September 1958.

NEWELL BROWN,
Assistant Secretary of Labor.

[F. R. Doc. 58-7830; Filed, Sept. 24, 1958; 8:48 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 12542, 12543; FCC 58M-1023]

HENDERSON COUNTY BROADCASTING CO. (KBUD) AND UNIVERSITY ADVERTISING CO.

ORDER SCHEDULING PREHEARING CONFERENCE

In re applications of J. B. McNutt, Jr., tr/as the Henderson County Broadcasting Company (KBUD), Athens, Texas; Docket No. 12542, File No. BP-11301; University Advertising Company, Highland Park, Texas; Docket No. 12543, File No. BP-11850; for construction permits.

By agreement of the parties: *It is ordered,* This 22d day of September 1958, that a prehearing conference in the above-entitled proceeding will be held on October 3, 1958, at 10:00 a. m., in the offices of the Commission, Washington, D. C.

Released: September 22, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-7905; Filed, Sept. 25, 1958; 8:56 a. m.]

[Docket Nos. 12584, 12585; FCC 58M-1024]

COLUMBIA RIVER BROADCASTERS AND L. BERENICE BROWNLOW

ORDER SCHEDULING PREHEARING CONFERENCE

In re applications of David L. Hubert, Edward F. Kelly & Marion S. Olney d/b as Columbia River Broadcasters, St. Helens, Oregon; Docket No. 12584, File No. BP-11437; L. Berenice Brownlow, St. Helens, Oregon; Docket No. 12585, File No. BP-11852; for construction permits.

It is ordered, This 22d day of September 1958, that a prehearing conference, in accordance with § 1.111 of the rules, will be held in the above-entitled matter at 10:00 a. m., October 17, 1958, in the Commission's offices in Washington, D. C.

Released: September 22, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-7906; Filed, Sept. 25, 1958; 8:56 a. m.]

KWEW, INC. (KWEW)

ORDER SCHEDULING PREHEARING CONFERENCE

In re application of KWEW, Inc. (KWEW), Hobbs, New Mexico; Docket No. 12596, File No. BP-11322; for construction permit.

On the Examiner's own motion: *It is ordered,* This 19th day of September 1958, that all parties, or their counsel, in the above-entitled proceeding are directed to appear for a prehearing conference pursuant to the provisions of § 1.111 of the Commission's rules, in the

offices of the Commission, Washington, D. C., at 10:00 o'clock a. m., on Wednesday, October 8, 1958.

Released: September 22, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-7907; Filed, Sept. 25, 1958; 8:56 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812-1176]

PECKHAM PLAN FUND, INC. AND PECKHAM PLAN FUND MANAGEMENT CORP.

NOTICE OF FILING OF APPLICATION

SEPTEMBER 22, 1958.

Notice is hereby given that Peckham Plan Fund, Inc. ("Fund"), a registered open-end management investment company, and Peckham Plan Fund Management Corporation ("Peckham"), the proposed investment adviser of the Fund, have filed an application pursuant to section 6 (c) of the Investment Company Act of 1940 ("act") for an order of the Commission exempting the Fund from the provisions of sections 16 (a) and 32 (a), and Peckham from the provisions of section 15 (a) of the act.

The application discloses that the Fund was organized on February 13, 1958, under the laws of the State of California. The Fund registered on April 3, 1958 under the Act and has filed a registration statement under the Securities Act of 1933 covering 20,000 shares of its capital stock. Prior to beginning operation as an investment company, the Fund proposes to enter into an investment advisory contract with Peckham. The date of its first annual meeting of stockholders is fixed by its by-laws as September 19, 1958 at which time the Fund had no stockholders. It is proposed to take appropriate stockholder action within six months following the effective date of Fund's registration statement filed under the Securities Act of 1933 with respect to an investment advisory contract, the selection of the Fund's independent public accountants, and the election of directors.

The Fund requests an order of the Commission under section 6 (c) of the act exempting the Fund from the provisions of sections 16 (a) and 32 (a), and Peckham from the provisions of section 15 (a) of the act so that the Fund may operate for a limited period without stockholder election of directors, without stockholder approval of the selection of independent public accountants, and without stockholder approval of an investment advisory contract as required, respectively, by those sections of the act, until stockholder approval can be obtained following the public offering of its capital stock.

Section 6 (c) of the act provides, among other things, that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any provision or provisions of the act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the act.

Notice is further given that any interested person may, not later than October 3, 1958, at 5:30 p. m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date, the application may be granted as provided in Rule N-5 of the rules and regulations promulgated under the act.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 58-7882; Filed, Sept. 25, 1958; 8:50 a. m.]

[File No. 1-3074]

CORNUCOPIA GOLD MINES

ORDER SUMMARILY SUSPENDING TRADING

SEPTEMBER 22, 1958.

In the matter of trading on the American Stock Exchange in the $0.05 par value Common Stock of Cornucopia Gold Mines (File No. 1-3074).

I. The Common Stock, $0.05 par value, of Cornucopia Gold Mines being listed and registered on the American Stock Exchange; and

II. The Commission on July 25, 1958, issued its order and notice of hearing under section 19 (a) (2) of the Securities Exchange Act of 1934 (hereinafter called "the act") to determine at a hearing to be held September 2, 1958, whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding twelve months, or to withdraw, the registration of the common stock of Cornucopia Gold Mines (hereinafter called "registrant") on the American Stock Exchange for failure to comply with section 13 of the act and the rules and regulations adopted thereunder, and for failure to comply with the disclosure requirements of Regulation 14 adopted pursuant to section 14 (a) of the act.

On September 12, 1958, the Commission issued its order summarily suspending trading of said securities on the exchange pursuant to section 19 (a) (4) of the act for the reasons set forth in said order to prevent fraudulent, deceptive or manipulative acts or practices for a period of ten days from the date of the aforesaid order.

III. The Commission being of the opinion that the public interest requires the summary suspension of trading in such security on the American Stock Exchange and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion that such suspension is necessary in order to prevent fraudulent, deceptive, or manipulative acts or practices, with the result that it will be unlawful under section 15 (c) (2) of the Securities Exchange Act of 1934 and the Commission's Rule X-15C2-2 thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, such security otherwise than on a national securities exchange;

It is ordered, Pursuant to section 19 (a) (4) of the Securities Exchange Act of 1934, that trading in said securities on the American Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive, or manipulative acts or practices for a period of ten (10) days, September 23 to October 2, 1958, inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 58-7883; Filed, Sept. 25, 1958; 8:50 a. m.]

[File No. 812-1175]

WELLINGTON EQUITY FUND, INC.

NOTICE OF FILING OF APPLICATION

SEPTEMBER 23, 1958.

Notice is hereby given that Wellington Equity Fund, Inc. ("Fund"), a registered open-end management investment company, has filed an application pursuant to section 6 (c) of the Investment Company Act of 1940 ("act") for an order of the Commission exempting the Fund from the provisions of sections 15 (a), 16 (a) and 32 (a) of the act.

The application discloses that the Fund was organized on August 26, 1958, under the laws of the State of Delaware. The Fund registered on August 29, 1958, under the act and has filed a registration statement under the Securities Act of 1933 covering 2,000,000 shares of its common stock, and proposes to make a public offering of such shares on or about October 3, 1958. Prior to beginning operation as an investment company, the Fund proposes to enter into an investment advisory contract with Wellington Company, Ltd. The date of the first annual meeting of stockholders of the Fund is fixed by its by-laws as February 11, 1959, and it is proposed to take appropriate stockholder action at that time with respect to an investment advisory contract, the selection of the Fund's independent public accountants, and the election of directors.

The Fund requests an order of the Commission under section 6 (c) of the act exempting the Fund from the provisions of sections 15 (a), 16 (a) and 32 (a), of the act so that the Fund may operate for a limited period without stockholder election of directors, without stockholder approval of the selection of independent public accountants, and

without stockholder approval of an investment advisory contract as required, respectively, by those sections of the act, until stockholder approval can be obtained following the public offering of its capital stock.

Section 6 (c) of the act provides, among other things, that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any provision or provisions of the act or of any rule or regulation thereunder, if and to the extent that such exemption is necessay or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the act.

Notice is further given that any interested person may, not later than October 2, 1958, at 5:30 p. m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date, the application may be granted as provided in Rule N–5 of the rules and regulations promulgated under the act.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 58–7943; Filed, Sept. 25, 1958; 8:56 a. m.]

INTERSTATE COMMERCE COMMISSION

[Notice 29]

MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 23, 1958.

Synopses of orders entered pursuant to section 212 (b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice, any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17 (8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC 61090. By order of September 19, 1958, the Transfer Board approved the transfer to Alvan Paul, doing business as Al Paul, 60–68 North Main Street, Natick, Mass., of Permit No. MC 77617, issued July 2, 1941, to Samuel Paul, same address, authorizing the transportation of: Woolen rags, between Chelsea, Mass., on the one hand, and, on the other, Providence, Rhode Island, New York, New York, and Newark, New Jersey.

No. MC–FC 61239. By order of September 19, 1958, the Transfer Board approved the transfer to H. V. Rothery, doing business as Rothery Movers, Hayward, Wis., of certificates Nos. MC 62136 and MC 62136 Sub 1, issued April 15, 1958, and July 22, 1958, respectively, to Avis Higgins, doing business as ABS Movers, La Crosse, Wis., authorizing the transportation of: *Household goods*, and emigrant movables between specified points in Wisconsin and points in Illinois, Iowa, Minnesota, Indiana, Kansas, Michigan, North Dakota, and South Dakota. Claude J. Jasper, 1 West Main St., Madison 3, Wis., for applicants.

No. MC–FC 61550. By order of September 19, 1958, the Transfer Board approved the transfer to A. J. Miller and L. R. Babe, doing business as Miller and Babe, Breda, Iowa, of Certificate No. MC 2775, issued January 15, 1958, to A. J. Miller, doing business as Anthony John Miller, Breda, Iowa, authorizing the transportation of: Livestock and agricultural products, from Arcadia, Iowa, to Omaha, Nebr., serving all intermediate and off-route points within 15 miles of Arcadia; and building materials, feed, including mineral feeds, farm machinery and parts, hardware, twine, lubricating oils and greases, wire, and fencing, from Omaha, Nebr., to Arcadia, Iowa, serving all intermediate and off-route points within 15 miles of Arcadia. Jacob Wittry, Breda, Iowa, for applicants.

[SEAL] HAROLD D. MCCOY, *Secretary.*

[F. R. Doc. 58–7881; Filed, Sept. 25, 1958; 8:50 a. m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

REDERIET OCEAN A/S ET AL.

NOTICE OF AGREEMENTS FILED FOR APPROVAL

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U. S. C. 814):

(1) Agreement No. 8332, between Rederiet Ocean A/S, and West Coast Line, Inc., the carriers comprising the West Coast Line joint service, and Alcoa Steamship Company, Inc., covers the transportation of general cargo under through bills of lading from Chile, Ecuador, Peru and Colombian Pacific Coast ports to the Virgin Islands, with transhipment at Mobile, Alabama, or New Orleans, Louisiana.

(2) Agreement No. 8333, between Rederiet Ocean A/S, and West Coast Line, Inc., the carriers comprising the West Coast Line joint service, and Alcoa Steamship Company, Inc., covers the transportation of general cargo under through bills of lading from Chile, Ecuador, Peru and Colombian Pacific Coast ports to Puerto Rico, with transhipment at Mobile, Alabama, or New Orleans, Louisiana.

Interested parties may inspect these agreements and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D. C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to either of the agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: September 23, 1958.

By order of the Federal Maritime Board.

[SEAL] GEO. A. VIEHMANN, *Assistant Secretary.*

[F. R. Doc. 58–7908; Filed, Sept. 25, 1958; 8:56 a. m.]

N. V. STOOMVAART MAATSCHAPPIJ "NEDERLAND" AND KONINKLIJKE ROTTERDAMSCHE LLOYD, N. V.

NOTICE OF AGREEMENTS FILED WITH THE BOARD FOR APPROVAL

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U. S. C. 814).

(1) Agreement No. 8323, between N. V. Stoomvaart Maatschappij "Nederland" and Koninklijke Rotterdamsche Lloyd, N. V. (the carriers comprising the Nedlloyd Line joint service) and Alcoa Steamship Company, Inc., covers the transportation of general cargo under through bills of lading from India, Pakistan, Federation of Malaya, and Colony of Singapore to Puerto Rico, with transhipment at New Orleans, Louisiana, or Mobile, Alabama.

(2) Agreement No. 8324, between N. V. Stoomvaart Maatschappij "Nederland" and Koninklijke Rotterdamsche Lloyd, N. V. (the carriers comprising the Nedlloyd Line joint service) and Alcoa Steamship Company, Inc., covers the transportation of general cargo under through bills of lading from India, Pakistan, Federation of Malaya, and Colony of Singapore to the Virgin Islands with transhipment at New Orleans, Louisiana, or Mobile, Alabama.

Interested parties may inspect these agreements and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D. C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to either of the agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: September 23, 1958.

By order of the Federal Maritime Board.

[SEAL] GEO. A. VIEHMANN, *Assistant Secretary.*

[F. R. Doc. 58–7911; Filed, Sept. 25, 1958; 8:57 a. m.]