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FEDERAL REGISTER

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Presidential Documents

Title 3—THE PRESIDENT

Executive Order 10874

CREATING AN EMERGENCY BOARD TO INVESTIGATE A DISPUTE BETWEEN THE LONG ISLAND RAILROAD COMPANY AND CERTAIN OF ITS EMPLOYEES

WHEREAS a dispute exists between The Long Island Railroad Company, a carrier, and certain of its employees represented by the Brotherhood of Railroad Trainmen, a labor organization; and

WHEREAS this dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended; and

WHEREAS this dispute, in the judgment of the National Mediation Board, threatens substantially to interrupt interstate commerce to a degree such as to deprive a section of the country of essential transportation service:

NOW, THEREFORE, by virtue of the authority vested in me by section 10 of the Railway Labor Act, as amended (45 U.S.C. 160), I hereby create a board of three members, to be appointed by me, to investigate this dispute. No member of the board shall be pecuniarily or otherwise interested in any organization of railroad employees or any carrier.

The board shall report its findings to the President with respect to the dispute within thirty days from the date of this order.

As provided by section 10 of the Railway Labor Act, as amended, from this date and for thirty days after the board has made its report to the President, no change, except by agreement, shall be made by The Long Island Railroad Company, or by its employees, in the conditions out of which the dispute arose.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
April 18, 1960.

[F.R. Doc. 60-3667; Filed, Apr. 19, 1960; 3:21 p.m.]

Rules and Regulations

Title 8—ALIENS AND NATIONALITY

Chapter II—Office of Alien Property, Department of Justice

PART 511—BLOCKED ASSETS

General License

Article VI of the Agreement between the United States of America and the Rumanian People's Republic Relating to Financial Questions Between the Two Countries, done at Washington, D.C., on March 30, 1960, provides that the United States will release its blocking controls over all Rumanian property in the United States. The following amendment of General License No. 101 effects such unblocking by deleting references to Rumania and persons within Rumania from subparagraphs (1) and (2) of § 511.101(a). This amendment relieves existing restrictions and does not impose any new requirements on the public and it is hereby found that notice, hearing and suspension of applicability are unnecessary.

In § 511.101(a), subparagraphs (1) and (2) are amended to read as follows:

§ 511.101 General License No. 101.

(a) * * *

(1) Bulgaria, Hungary, Czechoslovakia, Poland, Estonia, Latvia, Lithuania and Germany (except for any interest of Germany now owned by the Federal Republic of Germany, the City of Berlin (Western Sectors) or the Saar);

(2) Any individual, partnership, association, corporation or other organization which on January 1, 1945, was in Bulgaria or Hungary;

(Secs. 5, 40 Stat. 415, as amended, 50 U.S.C. App. 5; Executive Order 8389, Apr. 10, 1940, 5 F.R. 1400, as amended by Executive Order 8785, June 14, 1941, 6 F.R. 2897; Executive Order 9193, July 6, 1942, 7 F.R. 5205, 3 CFR, 1943 Cum. Supp.; Executive Order 9989, August 20, 1948, 13 F.R. 4891, 3 CFR, 1948 Supp.; Executive Order 10348, April 26, 1952, 17 F.R. 3769, 3 CFR, 1949–53 Comp., p. 871; Executive Order 10644, November 7, 1955, 20 F.R. 8363, 3 CFR, 1955 Supp.)

Executed at Washington, D.C., on April 15, 1960.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General, Director, Office of Alien Property.

[F.R. Doc. 60–3626; Filed, Apr. 20, 1960; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. No. ER–300]

PART 234—FLIGHT SCHEDULES OF CERTIFICATED AIR CARRIERS; REALISTIC SCHEDULING REQUIRED

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of April 1960.

A notice of proposed rule making, published in the FEDERAL REGISTER on February 20, 1960 (25 F.R. 1527), and circulated to the industry, Docket 11149, proposed amendment of Part 234 by extending the reporting requirement imposed by § 234.8 beyond the present expiration date of April 30, 1960, and also invited suggestions in respect of possible changes in the reporting requirement.

Comments on these issues have been received from several air carriers and are now under consideration by the Board. It appears, therefore, that the status quo should be preserved by extending the expiration date of § 234.8 beyond April 30, 1960, until the further order of the Board. The Board finds that there is good cause for making this amendment effective on less than 30 days' notice since no additional burden is being imposed and in order to preserve the continuity of the reports.

Interested persons have been afforded an opportunity to participate in the making of this amendment and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 234 of the Economic Regulations (14 CFR Part 234), effective May 1, 1960, by striking from § 234.8 the words "For a period not extending beyond April 30, 1960" so that it shall begin with the words "Each certificated air carrier shall file * * *"

(Sec. 204(a), 72 Stat. 743; 49 U.S.C. 1324. Interpret or apply secs. 404(a), 405(e), 407 and 411, 72 Stat. 760, 766, 769; 49 U.S.C. 1374, 1375, 1377, 1381)

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 60–3645; Filed, Apr. 20, 1960; 8:49 a.m.]

Chapter III—Federal Aviation Agency

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket No. 60–WA–90]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

PART 602—ESTABLISHMENT OF CODED JET ROUTES AND NAVIGATIONAL AIDS IN THE CONTINENTAL CONTROL AREA

Revocation of Segments of Federal Airways, Associated Control Areas, Reporting Points, Segments of Coded Jet Routes and Modification of Control Area Extension

The purpose of these amendments to §§ 600.101, 600.209, 601.101, 601.209, 601.1223, 601.4101, 601.4209, 602.101, 602.102 and 602.103 is to revoke the segment of Amber Federal airway No. 1 from the United States-Mexican Border to the Oceanside, Calif., Intersection; revoke the segment of Red Federal airway No. 9 from the Sargo, Calif., Intersection to the Campo, Calif., Intersection; revoke the segments of L/MF jet routes Nos. 1 and 3 from San Diego, Calif., to Oceanside, Calif.; revoke the segment of L/MF jet route No. 2 from San Diego, Calif., to El Centro, Calif.; revoke reporting points at San Diego, Calif., and Oceanside, Calif., and modify the Miramar, Calif., control area extension.

A reclamation project by the City of San Diego, precludes further occupancy of the land at the site of the San Diego radio range. It was necessary, therefore, for the Federal Aviation Agency to decommission this facility on April 18, 1960. This is not one of the 87 L/MF facilities specified in the Federal Aviation Agency/Department of Defense agreement, to be retained for transcribed weather broadcasts. The decommissioning of this facility necessitates the revocation of the segments of Amber 1 from the United States-Mexican Border to the Oceanside, Calif., radio beacon; the segment of Red 9 from the Sargo, Calif., Intersection to the Campo, Calif., Intersection; the segments of Jet Routes Nos. 1 and 3 from the San Diego, Calif., L/MF radio range station to the Oceanside radio beacon and the segment of Jet Route No. 2 from

the San Diego L/MF radio range station to the El Centro, Calif., radio range station. Upon revocation of Amber 1, the San Diego L/MF radio range station and the intersection of the northwest course of the San Diego L/MF radio range, and the southeast course of the Long Beach, Calif., radio range will be revoked as reporting points since they will no longer be required for traffic control purposes. Moreover, Amber 1 is used to describe a boundary of the Miramar, Calif., control area extension. Thus § 601.1223 is modified by deleting all reference to Amber 1.

This action will result in Amber 1 extending from Oceanside to Nome, Alaska; Red 9 extending from Campo to Casa Grande, Ariz.; Jet Route J–1–L extending from Oceanside to Seattle, Wash.; J–2–L extending from El Centro to Jacksonville, Fla., J–3–L extending from Oceanside to Spokane, Wash., and the boundaries of the Miramar control area extension being described by a geographical longitude, VOR radial and a Victor airway.

In view of the above, it will be necessary to delete all reference to the San Diego radio range and the associated airways and low frequency jet routes from aeronautical charts as otherwise an unsafe condition would be created whereby pilots might attempt to navigate on these airways or jet routes for which navigational guidance is no longer available. For these reasons, the Administrator finds that a condition exists requiring expeditious action in the interest of safety and that notice and public procedure herein are impractical and contrary to the public interest and that good cause exists for making this amendment effective at the earliest practicable date. However, since the next revisions to aeronautical charts will not occur until May 5, 1960, it will not be possible to make this action effective prior to this date.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530), §§ 600.101 (24 F.R. 10494), 600.209 (24 F.R. 10496), 601.101 (24 F.R. 10543), 601.209 (24 F.R. 19544), 601.1223 (24 F.R. 10559), 601.4101 (24 F.R. 10593), 601.4209 (24 F.R. 10594), 602.101 (14 CFR 1958 Supp., 602.101), 602.102 (14 CFR, 1958 Supp., 602.102, 25 F.R. 584) and 602.103 (14 CFR 1958 Supp., 602.103) are amended as follows:

§ 600.101 [Amendment]

1. Section 600.101 *Amber Federal airway No. 1 (United States-Mexican Border to Nome, Alaska)*:

(a) In the caption, delete "*(United States-Mexican Border to Nome, Alaska)*" and substitute therefor "*(Oceanside, Calif., to Nome, Alaska)*".

(b) In the text, delete "That airspace over the United States territory from the intersection of the southeast course of the San Diego, Calif., radio range and the United States-Mexican Border via the San Diego, Calif., radio range station; the intersection of the northwest course of the San Diego, Calif., radio range and the southeast course of the Long Beach, Calif., radio range; Long Beach, Calif., radio range station;" and substitute therefor "That airspace over the United States territory from the Oceanside, Calif., RBN via the Long Beach, Calif., RR;".

§ 600.209 [Amendment]

2. Section 600.209 *Red Federal airway No. 9 (San Diego, Calif., to Casa Grande, Ariz.)*:

(a) In the caption delete "*(San Diego, Calif., to Casa Grande, Ariz.)*" and substitute therefor, "*(Campo, Calif., to Casa Grande, Ariz.)*".

(b) In the text, delete "From the INT of a line bearing 178° from the Oceanside, Calif., RBN and a line bearing 275° from the San Diego RR via the San Diego, Calif., RR; INT of the east course of the San Diego RR and the west course of the El Centro RR; El Centro, Calif., RR;" and substitute therefor "From the INT of a line bearing 165° from the Julian, Calif., RBN and the west course of the El Centro, Calif., RR via the El Centro, RR;".

§ 601.101 [Amendment]

3. In the caption of § 601.101 *Amber Federal airway No. 1 control areas (United States-Mexican Border to Nome, Alaska)*, delete "*(United States-Mexican Border to Nome, Alaska)*." and substitute therefor "*(Oceanside, Calif., to Nome, Alaska)*."

§ 601.209 [Amendment]

4. In the caption of § 601.209 *Red Federal airway No. 9 control areas (San Diego, Calif., to Casa Grande, Ariz.)*, delete "*(San Diego, Calif., to Casa Grande, Ariz.)*" and substitute therefor "*(Campo, Calif., to Casa Grande, Ariz.)*".

§ 601.4101 [Amendment]

5. Section 601.4101 *Amber Federal airway No. 1 (United States–Mexican Border to Nome, Alaska)*:

(a) In the caption, delete "*(United States–Mexican Border to Nome, Alaska)*" and substitute therefor "*(Oceanside, Calif., to Nome, Alaska)*".

(b) In the text, delete "San Diego, Calif., radio range station; the intersection of the northwest course of the San Diego, Calif., radio range and the southeast course of the Long Beach, Calif., radio range;".

§ 601.4209 [Amendment]

6. In the caption of § 601.4209 *Red Federal airway No. 9 (San Diego, Calif., to Casa Grande, Ariz.)*, delete "*(San Diego, Calif., to Casa Grande, Ariz.)*" and substitute therefor "*(Campo, Calif., to Casa Grande, Ariz.)*".

§ 602.101 [Amendment]

7. Section 602.101 *L/MF jet route No. 1 (San Diego, Calif., to Seattle, Wash.)*:

(a) In the caption, delete "*(San Diego, Calif., to Seattle, Wash.)*." and substitute therefor "*(Oceanside, Calif., to Seattle, Wash.)*."

(b) In the text, delete "From the San Diego, Calif., RR via the Oceanside, Calif., RBN; Long Beach, Calif., RR." and substitute therefor "From the Oceanside, Calif., RBN via the Long Beach, Calif., RR;".

§ 602.102 [Amendment]

8. Section 602.102 *L/MF jet route No. 2 (San Diego, Calif., to Jacksonville, Fla.)*:

(a) In the caption, delete "*(San Diego, Calif., to Jacksonville, Fla.)*" and substitute therefor "*(El Centro, Calif., to Jacksonville, Fla.)*".

(b) In the text, delete "From the San Diego, Calif., RR via the Yuma, Ariz., RR;" and substitute therefor "From the El Centro, Calif., RR via the Yuma, Ariz., RR;".

§ 602.103 [Amendment]

9. Section 602.103 *L/MF jet route No. 3 (San Diego, Calif., to Spokane, Wash.)*:

(a) In the caption, delete "*(San Diego, Calif., to Spokane, Wash.)*" and substitute therefor "*(Oceanside, Calif., to Spokane, Wash.)*".

(b) In the text, delete "From the San Diego, Calif., RR via the Oceanside, Calif., RBN; Long Beach, Calif., RR;" and substitute therefor "From the Oceanside, Calif., RBN via the Long Beach, Calif., RR;".

10. Section 601.1223 is amended to read as follows:

§ 601.1223 Control area extension (Miramar, Calif.).

The airspace E of Miramar bounded on the N by VOR Federal airway No. 208 on the E by longitude 116°05'00" N., on the S by the United States-Mexican Border and on the W by the 160° True radial of the Oceanside, Calif., VORTAC.

These amendments shall become effective 0001 e.s.t May 5, 1960.

Issued in Washington, D.C., on April 19, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

GEORGE S. CASSADY,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 60–3661; Filed, Apr. 20, 1960; 8:49 a.m.]

[Reg. Docket No. 340; Amdt. 163]

PART 609—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Alterations

The new and revised standard instrument approach procedures appearing hereinafter are adopted to become effective and/or canceled when indicated in order to promote safety. The revised procedures supersede the existing procedures of the same classification now in effect for the airports specified therein. For the convenience of the users, the revised procedures specify the complete procedure and indicate the changes to the existing procedures. Pursuant to authority delegated to me by the Administrator (24 F.R. 5662), I find that a situation exists requiring immediate action in the interest of safety, that notice and public procedure hereon are impracticable, and that good cause exists for making this amendment effective on less than thirty days' notice.

Part 609 (14 CFR Part 609) is amended as follows:

1. The low or medium frequency range procedures prescribed in § 609.100(a) are amended to read in part:

LFR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Rochester VOR	RST-LFR	Direct	2400	T-dn	300-1	300-1	200-½
Stewartville FM	RST-LFR (Final)	Direct	1900	C-dn	500-1	600-1	600-1½
RST-VOR	Stewartville Int*	Direct	2400	S-dn-35	500-1	500-1	500-1
Spring Valley Int**	Stewartville Int*	Direct	2400	A-dn	800-2	800-2	800-2
Stewartville Int*	RST-LFR (Final)	Direct	1900				

Procedure turn E side of crs, 170° Outbnd, 350° Inbnd, 2400′ within 10 miles.
Minimum altitude over facility on final approach crs, 1900′.
Crs and distance, facility to airport, 350°—2.3.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 2.3 miles, climb to 2800′ on N crs or, when directed by ATC, make immediate right climbing turn to 2800′, proceed out to E crs RST-LFR within 20 miles.
AIR CARRIER NOTE: Sliding scale not authorized.
CAUTION: 1783′ MSL Tower 4 mi WNW of airport and 1635′ MSL Tower 3 mi NNE of airport.
*Stewartville Int: Int RST-VOR R-065 and S crs RST-LFR.
**Spring Valley: Int RST-VOR R-100 and S crs RST-LFR.

City, Rochester; State, Minn.; Airport Name, Lobb Field; Elev., 1041′; Fac. Class., SMBRLZ; Ident., RST; Procedure No. 1, Amdt. 11; Eff. Date, 23 Apr. 60; Sup. Amdt. No. 10; Dated, 23 Apr. 60

PROCEDURE CANCELLED UPON DECOMMISSIONING OF FACILITY.

City, San Antonio; State, Tex.; Airport Name, International; Elev., 800′; Fac. Class., SMRALZ; Ident., SAT; Procedure No. 1, Amdt. 15; Eff. Date, 30 Oct. 59; Sup. Amdt. No. 14; Dated, 15 Nov. 58

Waterville VOR	TOL-LFR	094°—9.6	2000	T-dn	300-1	300-1	200-½
				C-d	500-1	500-1	500-1½
				C-n	500-1½	500-1½	500-1½
				S-dn-32	500-1	500-1	500-1½
				A-dn	800-2	800-2	800-2

Procedure turn W side S crs, 204° Outbnd, 024° Inbnd, 1900′ within 10 mi.
Minimum altitude over facility on final approach crs, 1600′.
Crs and distance, facility to airport, 344°—7.0.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 7 mi, climb to 2100′ on N crs within 20 mi.

City, Toledo; State, Ohio; Airport Name, Toledo; Elev., 622′; Fac. Class., SBMRAZ; Ident., TOL; Procedure No. 1, Amdt. 1; Eff. Date, 7 May 60; Sup. Amdt. No. Orig.; Dated, 13 Aug. 52

2. The automatic direction finding procedures prescribed in § 609.100(b) are amended to read in part:

ADF STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Wright-Patterson LFR	LOM	Direct	3000	T-dn	300-1	300-1	200-½
W crs Columbus LFR and brg. 236° to LOM.	LOM	Direct	2300	C-dn	400-1	500-1	500-1½
				S-dn-6	400-1	400-1	400-1
Liberty Int	LOM	Direct	2300	A-dn	800-2	800-2	800-2
*West Alexandria Int	LOM (Final)	Direct	1700				
Dayton VOR	LOM	Direct	2300				

Procedure turn West side of SW crs, 236° Outbnd, 056° Inbnd, 2300′ within 10 miles.
Minimum altitude over facility on final approach crs, 1700′.
Crs and distance, facility to airport, 056°—3.7 mi.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.7 miles after passing LOM, climb to 2300′ on 360° crs from Tipp City RBn within 10 miles.
*Int W crs Wright-Patterson LFR and 056° brng to LOM.

City, Dayton; State, Ohio; Airport Name, Dayton; Elev., 1008′; Fac. Class., LOM; Ident., DA; Procedure No. 1, Amdt. 14; Eff. Date, 7 May 60; Sup. Amdt. No. 13 (ADF portion of Comb ILS-ADF); Dated, 22 Feb. 58

Fort Wayne LFR	LOM	Direct	2100	T-dn	300-1	300-1	200-½
Fort Wayne VOR	LOM	Direct	2100	C-dn	400-1	500-1	500-1½
Int NE crs FWA-LFR and Brg 202° to LOM.	LOM	Direct	2200	S-dn-31	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2
Int SW crs FWA-LFR and Brg 070° to LOM.	LOM	Direct	2100				

Procedure turn E side SE crs, 135° Outbnd, 315° Inbnd, 2100′ within 10 miles.
Minimum altitude over LOM on final approach crs, 1600′.
Crs and distance, LOM to approach end of Runway 31, 315°—3.8 mi.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.8 miles after passing LOM, climb to 2100′ on crs of 315° within 20 miles or, when directed by ATC, make left turn, climbing to 2100′ and proceed back to LOM.

City, Fort Wayne; State, Ind.; Airport Name, Baer Field; Elev., 801′; Fac. Class., LOM; Ident., FW; Procedure No. 1, Amdt. 6; Eff. Date, 7 May 60; Sup. Amdt. No. 5 (ADF portion of Comb. ILS-ADF); Dated, 15 Oct. 55

ADF STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
SAT-VOR	LOM	Direct	2200	T-dn	300-1	300-1	200-½
SAT-RBn	LOM	Direct	2200	C-dn	400-1	500-1	500-1½
Wetmore Int	LOM	Direct	2200	S-dn-3	400-1	400-1	400-1
Losoya Int	LOM	Direct	2200	A-dn	800-2	800-2	800-2
Collins Int	LOM (Final)	Direct	2000				

Radar terminal area maneuvering altitudes measured clockwise around radar antenna site:
045 to 230, 0-20 mi 2200′.
230 to 045, 0-10 mi 2200′.
230 to 045, 10-15 mi 2500′.
230 to 045, 15-20 mi 3000′.
Radar control will provide 1000′ vertical clearance within a 3-mile radius or 500′ vertical clearance within a 3- to 5-mile (inclusive) radius of radio tower 2049′ MSL 19 mi SE of airport.
Procedure turn W side of crs, 211° Outbnd, 031° Inbnd, 2200′ within 10 mi. Beyond 10 mi NA.
Minimum altitude over facility on final approach crs, 2000′.
Crs and distance, facility to airport, 031°—3.8 mi.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.8 mi of LOM, turn left, proceed direct to SAT RBn, climb to 2500′ on 354° crs within 20 miles of SAT RBn or, when directed by ATC, climb to 2500′ on crs of 031° within 20 miles of SAT LOM.
Major Change: Deletes transition from Medina Int.

City, San Antonio; State, Tex.; Airport Name, International; Elev., 800′; Fac. Class., LOM; Ident., SA; Procedure No. 1, Amdt. 15; Eff. Date, 7 May 60; Sup. Amdt. No. 14; Dated, 6 Sept 58

SPI-LFR	LOM	Direct	2000	T-dn	300-1	300-1	200-½
SPI-VOR	LOM	Direct	2000	C-dn	400-1	500-1	500-1½
Int R-209 SPI-VOR and/or SW crs SPI-LFR and VLA-VOR R-312.	LOM	Direct	2000	S-dn-4	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2
Int R-097 SPI-VOR and 250° brng SPI LOM.	LOM	Direct	2600				
Int R-265 SPI-VOR and 125° brng SPI LOM.	LOM	Direct	2000				

Procedure turn South side of crs, 218° Outbnd, 038° Inbnd, 2000′ within 10 miles.
Minimum altitude over facility on final approach crs, 1500′.
Crs and distance, facility to airport, 038°—5.1 mi.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.1 miles, make left turn, climb to 2000′, proceed to SPI LOM.

City, Springfield; State, Ill.; Airport Name, Capital; Elev., 593′; Fac. Class., LOM; Ident., SP; Procedure No. 1, Amdt. 5; Eff. Date, 23 Apr. 60; Sup Amdt. No. 4; Dated, 16 Apr. 60

3. The very high frequency omnirange (VOR) procedures prescribed in § 609.100(c) are amended to read in part:

VOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
SAT RBn	SAT-VOR	Direct	2200	T-dn	300-1	300-1	200-½
Cibolo Creek FM	SAT-VOR (Final)	Direct	1900	C-dn	400-1	500-1	500-1½
				S-dn-17	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Radar terminal area maneuvering altitudes measured clockwise around radar antenna site:
045° to 230°, 0-20 mi 2200′.
230° to 045°, 0-10 mi 2200′.
230° to 045°, 10-15 mi 2500′.
230° to 045°, 15-20 mi 3000′.
Radar control will provide 1000′ vertical clearance within a 3-mile radius or 500′ vertical clearance within a 3 to 5-mile (inclusive) radius of radio tower 2049′ 19 mi SE of airport.
Procedure turn W side of crs, 355° Outbnd, 175° Inbnd, 2500′ within 10 mi. Beyond 10 mi NA.
Minimum altitude over Cibolo Creek FM on final approach crs, 2000′; over SAT-VOR, 1900′; over SAT RBn*, 1500′.
Crs and distance, SAT-VOR to airport, 175°—6.3 mi; SAT-RBn to airport, 175°—2.3 mi.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6.3 mi, turn left, climb to 3000′ on R-158 within 20 miles or, when directed by ATC, turn left and climb via SAT ILS NE crs to 2500′ within 20 mi, or climb via R-174 to 2500′ within 20 mi.
*Descent below 1500′ NA if position over SAT RBn not determined.

City, San Antonio; State, Tex.; Airport Name, International; Elev., 800′; Fac. Class., BVOR; Ident., SAT; Procedure No. 1, Amdt. 7; Eff. Date, 7 May 60; Sup. Amdt. No. 6; Dated, 1 Nov. 58

4. The very high frequency omnirange-distance measuring equipment (VOR/DME) procedures prescribed in § 609.300 are amended to read in part:

VOR-DME STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
10 mi fix R-277	0 mi fix R-277	Direct	1900	T-dn	300–1	300–1	300–1
0 mi fix R-040	8.1 mi fix R-040 (Final Arpt)	Direct	1900	C-dn	600–1	600–1	600–1½
				A-dn	NA	NA	NA

Procedure turn S side R-277, 2500′ within 10 miles. Procedure authorized without DME, but procedure turn required.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished at 8.1 mi turn left, climb to 3000′on N crs OKC-ILS within 20 miles or, when directed by ATC, climb to 3000′, turn left, proceed to OKC-VOR via R-037.
NOTE: When authorized by ATC, DME may be used within 10 miles at 2400′ orbiting altitude to position aircraft for a final approach, with elimination of procedure turn. This procedure not approved for air carrier. No weather or communications available at this airport.

City, Oklahoma City; State, Okla.; Airport Name, Tulakes; Elev. 1302′; Fac. Class., BVOR-DME; Ident., OKC; Procedure No. VOR-DME-Arpt No. 1, Amdt. Orig.; Eff. Date, 7 May 60

5. The instrument landing system procedures prescribed in § 609.400 are amended to read in part:

ILS STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
FOT VOR via R-036	SE crs ILS (Final)	Direct	#3500	T-dn	300–1	300–1	200–½
Trinidad Int*	LOM	Direct	3000	C-dn	500–1	500–1	500–2
Trinidad Int*	LMM	Direct	2000	S-dn-31	200–½	200–½	200–½
				A-dn	800–2	800–2	800–2

Procedure turn S side SE crs, 134° Outbnd, 314° Inbnd, 3000′ within 5 mi SE of LOM. NA beyond 5 mi SE of LOM. (Nonstandard due to terrain.)
Minimum altitude at G.S. int inbnd, 3000′.
Altitude of G.S. and distance to appr end of rny at OM 1570—4.1, at MM 460—0.6.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished make a left climbing turn, climb to 2000′ on crs of 295° from the LMM to Trinidad Int.
NOTE: Procedure not authorized with G.S. inoperative. Either the outer marker (visual) or the LOM must be operative.
Major Change: Deletes transition from ACV LFR.
*Int of R-341 FOT and 115 brng to ACV LMM or 121 brng to ACV LOM.
#After intercepting localizer, descent on Glide Slope is authorized.

City, Arcata; State, Calif.; Airport Name, Arcata; Elev. 217′; Fac. Class., ILS; Ident., I-ACV; Procedure No. ILS-31, Amdt. 6; Eff. Date, 7 May 60; Sup. Amdt. No. 5; Dated, 12 Mar. 60

Dayton VOR	LOM	Direct	2300	T-dn	300–1	300–1	200–½
Wright-Patterson LFR	LOM	Direct	3000	C-dn	400–1	500–1	500–1½
W crs Columbus LFR and ILS NE crs	LOM	Direct	2300	S-dn-6*	200–½	200–½	200–½
Liberty Int	LOM	Direct	2300	A-dn	600–2	600–2	600–2
West Alexandria Int#	LOM (Final)	Direct	2300				

Procedure turn W side SW crs, 236° Outbnd, 056° Inbnd, 2300′ within 10 mi.
Minimum altitude at G.S. interception inbnd, 2300′.
Altitude of G.S. and distance to appr end of rnwy at OM, 2230′—3.7 mi; MM, 1245′—0.6 mi.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished climb to 2300′ on 360° crs from Tipp City RBn within 10 miles.
*400–¾ required with glide slope inoperative.
#Int W crs Wright-Patterson LFR and SW crs ILS.

City, Dayton; State, Ohio; Airport Name, Dayton; Elev., 1008′; Fac. Class., ILS; Ident., DAY; Procedure No. ILS-6, Amdt. 14; Eff. Date, 7 May 60; Sup. Amdt. No. 13 (ILS portion of Comb. ILS-ADF); Dated, 22 Feb. 58

Int NW crs FWA-LFR and NW crs ILS	LOM	Direct	2200	T-dn	300–1	300–1	200–½
Int NE crs FWA-LFR and ILS crs	LOM	Direct	2100	C-dn	400–1	500–1	500–1½
Fort Wayne LFR	LOM	Direct	2100	S-dn-31	200–½	200–½	200–½
Fort Wayne VOR	LOM	Direct	2100	A-dn	600–2	600–2	600–2
Int SE crs FWA-LFR and brg 357° to LOM.	LOW (Final)	Direct	2100				
Int FWA R-143 and brg 350° to LOM	LOM (Final)	Direct	2100				
Int NE crs FWA-LFR and Brg 202 to LOM.	LOM	Direct	2200				
Int SW crs FWA-LFR and Brg 070 to LOM.	LOM	Direct	2100				

Procedure turn E side of SE crs, 135° Outbnd, 315° Inbnd, 2100′ within 10 miles.
Minimum altitude at G.S. int inbnd, 2100′.
Altitude of G.S. and distance to approach end of rny at OM, 2045′—3.8 mi; at MM, 1075′—0.7 mi.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.8 miles, climb to 2100′ on NW crs ILS within 20 miles or, when directed by ATC, make left turn, climbing to 2100′ and proceed back to LOM.

City, Fort Wayne; State, Ind.; Airport Name, Baer Field; Elev., 801′; Fac. Class., ILS; Ident., I-FWA; Procedure No. ILS-31, Amdt. 6; Eff. Date, 7 May 60; Sup. Amdt. No. 5 (ILS portion of Comb. ILS-ADF); Dated, 15 Oct. 55

ILS STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Houston VOR	San Jacinto Int	Direct	1600	T-dn	300–1	300–1	200–½
Houston LFR	San Jacinto Int	Direct	1600	C-dn	400–1	500–1	500–1½
San Jacinto Int	Pasadena RBn or Fix# (Final)	Direct	1100	S-dn-21	400–1	400–1	400–1
				A-dn	800–2	800–2	800–2

Radar terminal transition altitude 1500′ within 20 miles. Radar control will provide 1000′ vertical clearance within a 3-mile radius or 500′ vertical clearance within a 3- to 5-mile (inclusive) radius of 1232′ TV tower 11 mi SSE, 1051′ TV tower 11 mi SW, 755′ TV tower 11 mi WNW, 753′ TV tower 5.5 mi NW and 610′ structure 7 mi NE of airport. Radar may be used to position aircraft for a final approach within 2 miles East of San Jacinto Int in lieu of a procedure turn.
Procedure turn N side NE crs, 036° Outbnd, 216° Inbnd, 1600′ within 10 mi of Pasadena RBn or Fix#.
No glide slope. Minimum altitude over Pasadena RBn or Fix#, 1100′.
Distance, Pasadena RBn or Fix# to Rnwy 21, 4.0 mi.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.0 mi of Pasadena RBn or Fix#, climb to 1600′ on SW crs HOU ILS within 15 mi or, when directed by ATC, turn right, climb to 1800′ on NW crs HOU LFR or R-315 HOU VOR within 20 miles.
CAUTION: 1232′ MSL TV tower approximately 9 mi SE of LOM.
#Pasadena Fix is a Houston Radar (ASR) fix coinciding with location of Pasadena RBn.

City, Houston; State, Tex.; Airport Name, International; Elev., 50′; Fac. Class., ILS; Ident., I-HOU; Procedure No. ILS-21 or com. of Pasadena RBn, Amdt. 6; Eff. Date, 7 May 60; Sup. Amdt. No. 5; Dated, 26 Oct. 57

Mobile VOR	LOM	Direct	1400	T-dn	300–1	300–1	200–½
Brookley RBn	LOM	Direct	1400	C-dn	400–1	500–1	500–1½
				S-dn-14	*300–¾	*300–¾	*300–¾
				A-dn	#600–2	#600–2	#600–2

Radar terminal area transitions:
2000′ altitude within 20 mi Brookley AFB.
2200′ altitude required from 060° to 100° mag.
Procedure turn W side NW crs, 320° Outbnd, 140° Inbnd, 1400′ within 10 mi.
Minimum altitude at glide slope interception inbd, 1400′.
Altitude of glide slope and distance to approach end of rnwy at OM, 1400′—4.0 mi; at MM, 434′—0.6 mi.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.0 mi after passing LOM, make right turn, climb to 1600′ on 180° crs from LOM within 20 mi or, when directed by ATC, make right turn, proceed direct to MOB VOR climbing to 1400′ and enter VOR holding pattern.
NOTE: No approach lights.
*400–¾ required when glide slope not utilized.
#All installed components of ILS must be operating otherwise alternate minima of 800–2 apply.

City, Mobile; State, Ala.; Airport Name, Bates; Elev., 217′; Fac. Class., ILS; Ident., I-MOB; Procedure No. ILS-14, Amdt. 10; Eff. Date, 7 May 60; Sup. Amdt. No. 9; Dated, 7 Dec. 58

San Antonio VOR	LOM	Direct	2200	T-dn	300–1	300–1	200–½
San Antonio RBn	ILS SW crs	174—3.3	2200	C-dn	400–1	500–1	500–1½
Wetmore Int	LOM	Direct	2200	S-dn-3#	200–½	200–½	200–½
San Antonio RBn	LOM	Direct	2200	A-dn	600–2	600–2	600–2
Losoya Int	LOM	Direct	2200				
Collins Int	LOM (Final)	Direct	2100				

Radar terminal area maneuvering altitudes measured clockwise around radar antenna site:
045° to 230°, 0–20 mi 2200′.
230° to 045°, 0–10 mi 2200′.
230° to 045°, 10–15 mi 2500′.
230° to 045°, 15–20 mi 3000′.
Radar control will provide 1000′ vertical clearance within a 3-mile radius or 500′ vertical clearance within a 3- to 5-mile (inclusive) radius of radio tower 2049′ MSL 19 miles SE of airport.
Procedure turn W side SW crs, 211° Outbnd, 031° Inbnd, 2200′ within 10 mi. Beyond 10 mi NA.
Minimum altitude at G.S. int inbnd, 2100′
Altitude of G.S. and distance to approach end of rny at OM 2050—3.8, at MM 1000—0.6.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, turn left, proceed direct to SAT VOR climbing to 2500′ on R-353 within 20 miles of SAT VOR or, when directed by ATC, turn right and climb to 3000′ on R-158 within 20 miles of SAT VOR, or climb to 2500′ on NE crs of SAT ILS within 20 miles of SA LOM.
Major changes: Deletes transitions from Medina Int and Kelly LFR.
#400–¾ required when glide slope not utilized.

City, San Antonio; State, Tex.; Airport Name, International; Elev., 800′; Fac. Class., ILS; Ident., ISAT; Procedure No. ILS-3, Amdt. 15; Eff. Date, 7 May 60; Sup. Amdt. No. 14; Dated, 6 Sept. 58

San Antonio VOR via R-143	Wetmore Int	Direct	2400	T-dn	300–1	300–1	200–½
San Antonio RBn via crs 084	Wetmore Int	Direct	2400	C-dn	400–1	500–1	500–1½
Bracken Int	Wetmore Int (Final)	Direct	1800	S-dn-21	400–1	400–1	400–1
				A-dn	800–2	800–2	800–2

Radar terminal area maneuvering altitudes measured clockwise around radar antenna site:
045° to 230°, 0–20 mi 2200′.
230° to 045°, 0–10 mi 2200′.
230° to 045°, 10–15 mi 2500′.
230° to 045°, 15–20 mi 3000′.
Radar control will provide 1000′ vertical clearance within a 3-mile radius or 500′ vertical clearance within a 3- to 5-mile (inclusive) radius of radio tower 2049′ MSL 19 miles SE of airport.
Procedure turn W side NE crs, 031° Outbnd, 211° Inbnd, 2400′ within 10 mi of Wetmore Int. Beyond 10 mi NA.
Minimum altitude over Wetmore Int 1800.
No glide slope, no outer marker, distance Wetmore int to rny 21, 3.1 mi.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.1 mi after passing Wetmore Int, turn left, climb to 3000′ via R-158 within 20 mi or, when directed by ATC, turn right and climb to 2500′ via R-353 within 20 mi.

City, San Antonio; State, Tex.; Airport Name, International; Elev., 800′; Fac. Class., ILS; Ident., ISAT; Procedure No. ILS-21, Amdt. 8; Eff. Date, 7 May 60; Sup. Amdt. No. 7; Dated, 27 Sept. 58

These procedures shall become effective on the dates indicated on the procedures.

(Secs. 313(a), 307(c), 72 Stat. 752, 749; 49 U.S.C. 1354(a), 1348(c))

Issued in Washington, D.C., on April 7, 1960.

B. PUTNAM,
Acting Director, Bureau of Flight Standards.

[F.R. Doc. 60–3371; Filed, Apr. 20, 1960; 8:45 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 2—FILLING COMPETITIVE POSITIONS

Appointments

The following revocations and amendments to Part 2 are effective May 16, 1960.

1. Sections 2.301(c), 2.303 and 2.304 are revoked.

2. The headnotes of §§ 2.301 and 2.302 are redesignated and paragraphs (b), (c), (d) and (e) of § 2.302 and § 2.404 are amended as set out below.

§ 2.301 Career-conditional and career appointments.

* * * * *

§ 2.302 Temporary appointment.

* * * * *

(b) *Temporary limited appointment.* (1) Temporary limited appointments are to be used to meet administrative needs for temporary employment, such as to fill a temporary position or a continuing position for a temporary period. Temporary limited appointments are to be limited to a definite period of time not in excess of one (1) year.

(2) Agencies may make and extend temporary limited appointments under the circumstances and conditions prescribed by the Commission in the Federal Personnel Manual. Temporary limited appointments may be made under other circumstances and conditions only with specific authorization from the Commission.

(c) *Standards.* Except as the Commission may otherwise specify in the Federal Personnel Manual, the agency, in making temporary appointments outside the register, shall determine that the applicant meets the qualification standards issued by the Commission and that he is not disqualified for any of the reasons listed in § 2.106.

(d) *Preference.* In making temporary appointments outside the register, agencies shall give preference to veterans as follows:

* * * * *

(e) *Restrictions.* The restrictions of § 2.502(b) through (j) on promotion shall be applied to temporary appointments outside the register within one year after separation from any nontemporary appointment.

§ 2.404 Noncompetitive temporary appointment.

(a) The Commission hereby delegates authority to agencies to appoint for temporary limited appointment, without regard to registers of eligibles, former Federal employees with eligibility for reinstatement.

(b) Subject to the restrictions specified in the Federal Personnel Manual, the Commission hereby delegates authority to agencies to reappoint by temporary limited appointment former temporary employees of the agency who were originally appointed from competitive registers.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL,
Executive Assistant.

[F.R. Doc. 60-3632; Filed, Apr. 20, 1960; 8:48 a.m.]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. R]

PART 218—RELATIONS WITH DEALERS IN SECURITIES UNDER SECTION 32, BANKING ACT OF 1933

Director Serving Member Bank and Closed-End Investment Company Being Organized

§ 218.102 Director serving member bank and closed-end investment company being organized.

(a) The Board has previously expressed the opinion (§ 218.101) that section 32 of the Banking Act of 1933 (12 U.S.C., sec. 78) is applicable to a director of a member bank serving as a director of an open-end investment company, because the more or less continued process of redemption of the stock issued by such company makes the issuance and sale of its stock essential to the maintenance of the company's size and to the continuance of operations, with the result that the issuance and sale of its stock constitutes one of the primary activities of such a company. The Board also stated that if the company had ceased to issue or offer any of its stock for sale, the company would not be engaged in the issuance or distribution of its stock and therefore the prohibitions of section 32 would not be applicable. Subsequently, the Board expressed the opinion that section 32 would not be applicable in the case of a closed-end investment company.

(b) The Board has recently stated that it believed that a closed-end company which was in process of organization and was actively engaged in issuing and selling its shares was in the same position relative to section 32 as an open-end company, and that the section would be applicable while this activity continued.

(Sec. 11(i), 38 Stat. 262; 12 U.S.C. 248(i). Interprets or applies sec. 32, 48 Stat. 194, as amended; 12 U.S.C. 78)

Dated at Washington, D.C., this 24th day of February 1960.

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 60-3608; Filed, Apr. 20, 1960; 8:45 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER A—ARMED SERVICES PROCUREMENT REGULATIONS

PART 1—GENERAL PROVISIONS

PART 2—PROCUREMENT BY FORMAL ADVERTISING

PART 3—PROCUREMENT BY NEGOTIATION

PART 15—CONTRACT COST PRINCIPLES

PART 16—PROCUREMENT FORMS

Miscellaneous Amendments

The following amendments to this subchapter are issued by direction of the Assistant Secretary of Defense (Supply and Logistics) pursuant to the authority contained in Department of Defense Directive No. 4105.30, dated 11 March 1959 (24 F.R. 2260) and 10 U.S.C. 2202, and have the concurrence of the military departments.

1. Revise § 1.701–4 to read as follows:

§ 1.701–4 Regular dealer (nonmanufacturer) as small business concern.

One who submits bids or offers in his own name, but who proposes to furnish a product not manufactured by himself, shall be deemed to be a small business concern only if (a) he is a small business concern within the meaning of § 1.701–1; (b) he is a regular dealer (nonmanufacturer) (see § 1.201–9(a)); and (c) in the case of a procurement set aside for small business (see § 1.706) or involving equal low bids (see § 2.407–6 of this subchapter) or otherwise involving the preferential treatment of small business, he agrees to furnish in the performance of the contract end items manufactured or produced in the United States, its possessions, or Puerto Rico, by small business concerns; provided, that this section does not apply to construction or service contractors.

2. Internal references in miscellaneous sections of this subchapter are changed to read as indicated in the following tabulation:

Location—Section and paragraph	From—	To—
§ 1.702(b)(1)	§ 2.204	§ 2.205.
§ 1.702(b)(2)	§ 2.204–5	§ 2.205–4.
§ 1.702(b)(4)	§ 2.201(d)	§ 1.305–3.
§ 1.803(a)(5)	§ 2.204–5	§ 2.205–4.
§ 1.903–2(b)	§ 2.201(c)(17)	§ 2.201(a)(23).
§ 1.903–4	§ 2.201(c)(17)	§ 2.201(a)(23).
§ 1.905–3(a)	§ 2.201(c)(17)	§ 2.201(a)(23).
§ 1.905–3(c)	§ 2.206	§ 1.1003.
§ 3.109(b)	§ 2.410	§ 2.404–7.
§ 3.215–2	§ 2.403	§ 1.111.
§ 16.504	§ 2.202–4	§ 1.1005.
§ 16.810–1	§ 2.204	§ 2.205.
§ 15.205–11	§ 15.205–42	§ 15.205–43.

3. Part 2 is revised to read as follows:

Sec.
2.000 Scope of part.

Subpart A—Use of Formal Advertising

Subpart B—Solicitation of Bids

Subpart C—Submission of Bids

Subpart D—Opening for Bids and Award of Contract

Subpart E—Voluntary Refunds

AUTHORITY: §§ 2.000 to 2.501 issued under R.S. 161, sec. 2202, 70A Stat. 120; 5 U.S.C. 22, 10 U.S.C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314.

§ 2.000 Scope of part.

This part sets forth (a) the basic requirements for procurement of supplies (including construction) and services by formal advertising, (b) the information to be contained in solicitations of bids, (c) methods of soliciting bids, (d) policies with respect to the submission of bids, and (e) requirements with respect to the opening and evaluation of bids and the awarding of contracts.

Subpart A—Use of Formal Advertising

§ 2.101 Meaning of formal advertising.

Formal advertising means procurement by competitive bids and awards as prescribed in this section, and involves the following basic steps:

(a) Preparation of the invitation for bids, describing the requirements of the Government clearly, accurately, and completely, but avoiding unnecessarily restrictive specifications or requirements which might unduly limit the number of bidders. The term "invitation for bids" means the complete assembly of related documents (whether attached or incorporated by reference) furnished prospective bidders for the purpose of bidding;

(b) Publicizing the invitation for bids, through distribution to prospective bidders, posting in public places, and such other means as may be appropriate, in sufficient time to enable prospective bidders to prepare and submit bids before the time set for public opening;

(c) Submission of bids by prospective contractors, and

(d) Awarding the contract, after the bids are publicly opened to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Government, price and other factors considered.

§ 2.102 Policy.

§ 2.102–1 General.

10 U.S.C. 2304(a) provides that all contracts for supplies or services, with certain stated exceptions, shall be made by formal advertising. (See Subpart B, Part 3 of this subchapter, for discussion of the exceptions.) In accordance with this requirement, procurements shall generally be made by soliciting bids from all qualified sources of supplies and services deemed necessary by the contracting officer to assure full and free competition consistent with the procurement of the required supplies or services. Current lists of bidders shall be maintained by each purchasing office in accordance with § 2.205.

§ 2.102–2 Classified procurements.

Formal advertising may be used for classified procurements provided due consideration is given to security requirements in accordance with Departmental procedures. Otherwise, classified procurements will be negotiated pursuant to 10 U.S.C. 2304(a)(12) (see § 3.212 of this subchapter) or other appropriate exception set forth in 10 U.S.C. 2304(a) (see Subpart B, Part 3 of this subchapter).

§ 2.103 General requirements for formal advertising.

No award shall be made as a result of formal advertising unless:

(a) Bids have been solicited as required by Subpart B of this part;

(b) Bids have been submitted as required by Subpart C of this part;

(c) Such business clearances and approvals as are required by Departmental procedures have been obtained; and

(d) The award is to the responsible bidder (see § 1.902 of this subchapter) whose bid is responsive to the invitation for bids and is most advantageous to the Government, price and other factors considered, as prescribed in Subpart D of this part.

§ 2.104 Types of contracts.

§ 2.104–1 General.

Contracts awarded after formal advertising shall be of the firm fixed-price type, except that fixed-price contracts with escalation may be used where some flexibility is necessary and feasible.

§ 2.104–2 Firm fixed-price contracts.

See § 3.403–1 of this subchapter.

§ 2.104–3 Fixed-price contracts with escalation.

Escalation clauses are not normally desirable, but in appropriate cases clauses providing for upward and downward revision of prices may be used, in accordance with § 3.403–2 of this subchapter, in order to protect the interest of both the Government and supplier. In addition, where the contracting officer on the basis of his knowledge of the market or previous advertisements for like items, except that a requirement for firm fixed-price bids will unnecessarily restrict competition, or unreasonably increase bid prices, invitations for bids may include an escalation clause. The clause set forth in § 7.106–1 or that in § 7.106–2 of this subchapter shall be used if applicable. If neither of these clauses is applicable, an escalation clause approved by the Department concerned may be included. Any escalation clause shall provide an escalation ceiling identical for all bidders so that each bidder is afforded an equal opportunity to bid on the escalation basis. In evaluating bids, see § 2.407–4.

§ 2.104–4 Indefinite delivery type contracts.

(a) *Definite quantity contracts.* See § 3.405–5(a) of this subchapter.

(b) *Requirements contracts.* See § 3.405–5(b) of this subchapter.

(c) *Indefinite quantity contracts.* See § 3.405–5(c) of this subchapter.

§ 2.105 Solicitation for informational or planning purposes.

See § 1.312 of this subchapter.

Subpart B—Solicitation of Bids

§ 2.201 Preparation of invitation for bids.

Forms used in inviting bids are prescribed in Subparts A and D, Part 16 of this subchapter. Invitation for bids shall contain the applicable information described in paragraphs (a) and (b) of this section and any other information required for a particular procurement.

(a) For supply and service contracts, including construction, invitation for bids shall contain the following information if applicable to the procurement involved.

(1) Invitation number.

(2) Name and address of issuing activity.

(3) Date of issuance.

(4) Date, hour, and place of opening. See § 2.202–1 concerning bidding time. Prevailing local time shall be used. Timing by the 24-hour clock shall not be used except where customary in the industry.

(5) Number of pages.

(6) Requisition or other purchase authority and appropriation and accounting data.

(7) A description of supplies or services to be furnished under each item, in sufficient detail to permit full and free competition. Such description shall comply with § 1.305 of this subchapter, relating to specifications.

(8) The time of delivery or performance (see § 1.315 of this subchapter).

(9) Permission, if any, to submit telegraphic bids (see § 2.202–2).

(10) Permission, if any, to submit alternate bids, including alternate materials or designs (see § 1.305–7 of this subchapter).

(11) A statement on the face of the invitation that "Bids must set forth full, accurate, and complete information as required by this invitation for bids (including attachments). The Penalty for making false statements in bids is prescribed in 18 U.S.C. 1001." (See §§ 2.405 and 2.406.)

(12) Bond and other guarantee requirement, if any (see Subpart A, Part 10 of this subchapter). If a bid guarantee is required, the invitation shall state that failure to submit the guarantee on time is cause for a rejection of the bid (see § 2.404–2(h)).

(13) Any authorized special provisions relating to Government-furnished property proposed to be furnished for the performance of the contract.

(14) A provision that if the bidder plans to use, in performing the work bid upon, any items of Government property in the bidder's possession under a facilities contract or other agreement independent of the invitation for bids, the bidder shall so state in the bid and, upon request of the contracting officer, submit evidence that a facilities contract or other separate agreement authorizes the bidder to use each item of such Government property for performing the work bid upon.

(15) When considered necessary by the contracting officer, a requirement that all bids must allow a period for acceptance by the Government of not less than a minimum period stipulated in the invitation for bids, and that bids offering less than the minimum stipulated acceptance period will be rejected. The minimum period so stipulated should be no more than reasonably required for evaluation of bids and other preaward processing. To accomplish the foregoing, a paragraph substantially as follows may be included in the Schedule or other appropriate place in the Invitation for Bids:

BID ACCEPTANCE PERIOD

Bids offering less than _____ days for acceptance by the Government from the date set for opening of bids will be considered nonresponsive and will be rejected.

(16) In unusual cases, where bidders are required to have special technical qualifications due to the complexity of the equipment being purchased or for some other special reason, a statement of such qualifications.

(17) Any authorized special provisions, necessary for the particular procurement, relating to such matters as progress payments (see §§ 82.73 through 82.73–6 of Subchapter G of this chapter), patent licenses, liquidated damages, profit limitations, escalation (see § 2.104–3), Buy American Act (see §§ 6.104–3 and 6.204–4 of this subchapter), etc.

(18) Such general contract provisions or conditions as are required by law or by this subchapter.

(19) Any applicable wage determinations of the Secretary of Labor (for construction, alteration, or repair contracts).

(20) If Government costs or expenditures other than bid prices are to be considered in the evaluation of bids, such factors must be identified and included.

(21) If the schedule contains a price escalation clause, the following provision:

Evaluation of bids subject to escalation: Notwithstanding the provisions of the clause entitled "Price Escalation", bids shall be evaluated on the basis of quoted prices without the allowable escalation being added. Bids which provide for a ceiling lower than that stipulated in the clause will also be evaluated on this basis. Bids which provide for escalation that may exceed the maximum escalation stipulated in the clause, or which limit or delete the downward escalation stipulated in the clause shall be rejected as nonresponsive.

(22) Unless contained elsewhere in the invitation, a statement as follows:

In the event of an inconsistency between provisions of this invitation for bids, the inconsistency shall be resolved by giving precedence in the following order: (1) The Schedule; (2) Terms and Conditions of the Invitation for Bids; (3) General Provisions; (4) other provisions of the contract, whether incorporated by reference or otherwise; (5) the Specifications.

(23) When considered necessary by the contracting officer to prevent practices prejudicial to fair and open competition, a requirement that each bidder submit with its bid an affidavit concerning its affiliation with other concerns. To accomplish the foregoing, a paragraph substantially as follows may be included in the Schedule or other appropriate place in the invitation for bids:

AFFILIATED BIDDERS

(a) Business concerns are affiliates of each other when either directly or indirectly (i) one concern controls or has the power to control the other, or (ii) a third party controls or has the power to control both.

(b) Each bidder shall submit with its bid an affidavit containing information as follows:

(i) Whether the bid has any affiliates;

(ii) The names and addresses of all affiliates of the bidder; and

(iii) The names and addresses of all persons and concerns exercising control or ownership of the bidder and any or all of its affiliates, and whether as common officers, directors, stockholders holding controlling interest, or otherwise.

Any bid which fails to include such an affidavit will be considered nonresponsive and will be rejected. (End of Notice)

(24) Directions for obtaining copies of any documents, such as plans, drawings, and specifications, which have been incorporated by reference (see § 1.305–3 of this subchapter).

(25) Pending revisions of paragraphs 3 and 4 of the Terms and Conditions of the Invitation for Bids on the back of Standard Forms 30 (October 1957 edition) and 33 (October 1957 edition) and paragraph 7 of Standard Form 22 (March 1953 edition), include the following provision:

Late bids and modifications or withdrawals. Bids and modifications or withdrawals thereof received at the office designated in the invitation for bids after the exact time set for opening of the bids will not be considered, unless they are received before award is made and (i) are submitted by mail (or by telegraph if authorized), and (ii) it is determined by the Government that late receipt was due solely to either (A) delay in the mails (or by the telegraph company if telegraphic bids are authorized) for which the bidder was not responsible or (B) mishandling by the Government after receipt at the Government installation. However, a modification which is received from an otherwise successful bidder and which makes the terms of the bid more favorable to the Government will be considered at any time it is received and may thereafter be accepted.

(b) For supply and service contracts, excluding construction, the invitation for bids shall contain the following in addition to the information required by paragraph (a) of this section if applicable to the procurement involved.

(1) Discount provisions (see § 2.407–3).

(2) The quantity of supplies or services to be furnished under each item, and any provision for quantity variation.

(3) Any requirement for prior testing and qualification of a product, when the item to be purchased is on a qualified products list (see Subpart K, Part 1, of this subchapter).

(4) Where needed for the purpose of bid evaluation, pre-award surveys, or inspection, a requirement that all bidders state the place (including the street address) from which the supplies will be furnished or where the services will be performed. Where it is reasonably anticipated that producing facilities will be used in the performance of the contracts,

or where the Government requires the information, bidders will be required to state (i) the full address of principal producing facilities (if designation of such address is not feasible, a full explanation will be required), and (ii) names and addresses of owner and operator if other than bidder.

(5) Place and method of delivery (see § 1.306 of this subchapter).

(6) Preservation, packaging, packing, and marking requirements, if any.

(7) Place, method, and conditions of inspection.

(8) If no award will be made for less than the full quantities advertised, a statement to that effect.

(9) If award is to be made by specified groups of items or in the aggregate, a statement to that effect.

(10) If the invitation gives the Government an option to increase the quantities specified, a statement of the maximum percentage of such increase.

(11) Where samples or descriptive literature are necessary to evaluate bids or obtain satisfactory supplies, a requirement that such samples of literature be furnished. When so required, the invitation for bids shall contain a statement that failure of a bidder to furnish samples or descriptive literature or failure of the material submitted to comply strictly with the specification requirements, will result in rejection of the bid. When bid samples are required, the invitation shall state (i) that articles delivered under the contract must conform to the sample submitted and to the specifications and (ii) that approval of bid samples shall not prejudice the Government's rights under the Inspection clause or any other clause of the contract. Where specifications provide that samples or descriptive literature are to be furnished and they are not considered necessary, a statement will be included that notwithstanding the requirements of the specifications, samples or descriptive literature will not be required.

§ 2.202 Miscellaneous rules for solicitation of bids.

§ 2.202–1 Bidding time.

Consistent with the needs of the Government for obtaining the supplies or services, all invitations for bids shall allow sufficient bidding time (i.e., the period of time between the date of distribution of an invitation for bids and the date set for opening of bids) to permit prospective bidders to prepare and submit bids. Bids shall be solicited sufficiently in advance of the opening of bids to allow bidders an adequate opportunity to prepare and submit bids. As a general rule, bidding time shall be not less than 15 calendar days when procuring standard commercial articles and services and not less than 30 calendar days when procuring other than standard commercial articles or services. This rule need not be observed in special circumstances, or where the urgency for the supplies or services does not permit such delay. For items on Qualified Products Lists, see § 1.1105–1 of this subchapter.

§ 2.202–2 Telegraphic bids.

As a general rule, telegraphic bids will not be authorized. However, when in the judgment of the contracting officer, the date for the opening of bids will not allow bidders sufficient time to prepare and submit bids on the prescribed forms or when prices are subject to frequent changes, telegraphic bids may be authorized. When such bids are authorized, the schedule of the invitation for bids will require the bidder to include in the telegraphic bid specific reference to the invitation, the items or sub-items, quantities, and unit prices for which the bid is submitted, the time and place of delivery, and a statement that the bidder agrees to all the terms, conditions, and provisions of the invitation. In order that the contract may be executed on the proper forms the invitation for bids will also provide that telegraphic bids should be confirmed on the prescribed form and submitted promptly to the contracting officer.

§ 2.203 Methods of soliciting bids.

§ 2.203–1 Mailing or delivery to prospective bidders.

Invitations for bids (or pre-invitation notices, see § 2.205–4(c)) shall be mailed (or delivered) to a sufficient number of prospective bidders so as to elicit adequate competition. Invitations for bids shall not be mailed to persons or firms other than bona fide prospective bidders, but may be mailed for informational purposes to Government agencies, including procurement information offices. The instructions in the Joint Consolidated List of Debarred, Ineligible and Suspended Contractors and Subpart F, Part 1 of this subchapter shall be followed in soliciting bids.

§ 2.203–2 Displaying in public place.

Copies of unclassified invitations for bids shall be displayed at the purchasing office or at some other appropriate public place. (See § 1.1002 of this subchapter for availability of such copies to interested persons.)

§ 2.203–3 Publicity in newspapers and trade journals.

(a) *Free publicity.* A brief announcement of the proposed purchase may be made available for free publication to newspapers and to trade journals and magazines. Copies of unclassified invitations for bids for construction projects may be furnished to trade journals for the construction field, except that drawings, specifications, general and special provisions will not be so furnished.

(b) *Paid advertisements.* See § 1.1005 of this subchapter.

§ 2.203–4 Synopses of invitation for bids.

Synopses of Invitations for Bids shall be prepared and publicized in the Department of Commerce "Synopsis of U.S. Government Proposed Procurement, Sales and Contract Awards," in accordance with § 1.1003 of this subchapter.

§ 2.204 Office of permanent record.

Each purchasing activity is the office of permanent record for every invitation for bids issued and distributed by it and for each abstract or record of bids. The file of the invitation for bids should show the distribution which was made and the date thereof.

§ 2.205 Bidders mailing lists.

§ 2.205–1 Establishment of lists.

(a) Bidders mailing lists shall be established by purchasing activities to insure access to adequate sources of supplies and services except where the requirements of the purchasing office can be obtained within the local trade area through utilization of the simplified small purchases procedures (Subpart F, Part 3 of this subchapter), or are nonrecurring.

(b) All eligible and qualified suppliers who have submitted bidders mailing list applications, or whom the purchasing activity considers capable of filling the requirements of a particular procurement shall be placed on the appropriate bidders mailing list. Planned producers under the Industrial Readiness Planning Program shall be included on the bidders mailing list for their planned items.

(c) Bidders Mailing List Application (Standard Form 129) shall be used for obtaining information needed, as prescribed in § 16.810 of this subchapter, in the establishment and maintenance of bidders mailing lists.

§ 2.205–2 Removal of names from bidders mailing lists.

(a) The name of each concern failing to respond to an invitation for bids, or pre-invitation notice (see § 2.205–4(c)) may be removed from the bidders mailing list without notice to the concern, but only for the item or items involved in such invitation or notice. Where a concern fails to respond to two consecutive invitations for bids or pre-invitation notices, its name shall be removed from the bidders mailing list to the extent indicated above, except that, in individual cases, concerns thus failing to respond may be retained on a bidders mailing list if such retention is considered to be in the best interest of the Government. Both actual bids and written requests for retention on the bidders mailing lists are "responses" to invitation for bids or pre-invitation notices.

(b) The names of concerns which have been (1) debarred from entering into Government contracts or (2) otherwise determined to be ineligible to receive an award of a Government contract, including ineligibility because of suspension or other disqualifications, shall be removed from the bidders mailing lists to the extent required by such debarment or other determination of ineligibility.

§ 2.205–3 Reinstatement on bidders mailing lists.

Concerns which have been removed from bidders mailing lists may be reinstated upon request or new application on Standard Form 129. No concern which is debarred or ineligible shall be reinstated during the period of debarment or ineligibility.

§ 2.205–4 Excessively long bidders mailing lists.

(a) *General.* To prevent excessive administrative costs of a procurement, mailing lists should be used in a way which will promote competition commensurate with the dollar value of the purchase to be made. As much of the mailing list will be used as is compatible with efficiency and economy in securing adequate competition as required by law. Where the number of bidders on a mailing list is considered excessive in relation to a specific procurement, the list may be reduced by any method consistent with the foregoing, including those described in paragraphs (b) and (c) of this section. The fact that less than an entire mailing list is used shall not in itself preclude furnishing of bid sets upon request made by concerns not invited to bid.

(b) *Rotation of lists.* Mailing lists may be rotated, but to do so will require considerable judgment as to whether the size of the transaction justifies rotation. In rotating a list, the interests of small business (see § 1.702(b)(2) of this subchapter) and the existence of labor surplus areas (§ 1.803(a)(5) of this subchapter) shall be considered.

(c) *Pre-invitation notices.* In lieu of initially forwarding complete bid sets, the purchasing activity may send pre-invitation notices to concerns on the mailing list. The notice shall:

(1) Specify the date by which bidders should return the notice in order to receive a complete bid set;

(2) Describe the requirement, or include the schedule of the invitation for bids, so as to furnish an item description and a condensation of other essential information providing concerns with an intelligible basis for judging whether they have an interest in the procurement; and

(3) Expressly notify concerns that if no bid is to be submitted, they should advise the issuing office in writing if future invitations are desired for the type of supplies or services involved. Drawings, plans, and specifications normally will not be furnished with the pre-invitation notice. The return date in the notice must be sufficiently in advance of the mailing date of the invitation for bids to permit an accurate estimate of the number of bid sets required. Bid sets will be sent to concerns which request them. This procedure is particularly suitable to major purchasing activities where lengthy invitations for bids and long bidders mailing lists are common.

§ 2.205–5 Release of bidders mailing lists.

(a) Except as provided in paragraph (b) of this section, the list of prospective bidders to whom invitations for bids have been furnished will not be released outside the Department of Defense and will not be made available for inspection to individuals, firms, or trade organizations. However, such lists may be made available to other Government agencies, at their specific written request, and upon the condition that the list will not be available for inspection to anyone outside the Government.

(b) When invitations for bids for construction contracts have been issued, trade journals, prospective subcontractors, material suppliers, and others having a bona fide interest in such information, will be supplied upon request with a list of all prospective bidders furnished copies of the plans and specifications.

§ 2.206 Small business and labor surplus area set-asides.

See Subparts G and H, Part 1 of this subchapter.

§ 2.207 Amendment of invitation for bids.

(a) If after issuance of an invitation for bids but before the time for bid opening it becomes necessary to make changes in the quantity, specifications, delivery schedules, opening dates, etc., or to correct a defective or ambiguous invitation, such changes shall be accomplished by issuance of a amendment to the invitation for bids, using DD Form 1260 (see § 16.101 of this subchapter).

(b) Before issuing an amendment to an invitation for bids, the period of time remaining until bid opening and the need for extending this period by postponing the time set for opening must be considered. Where only a short time remains before the time set for bid opening, consideration should be given to notifying bidders of an extension of time by telegram or telephone. Such notification should be confirmed in the amendment.

(c) Any information given to a prospective bidder concerning an invitation for bids shall be furnished promptly to all other prospective bidders, as an amendment to the invitation, if such information is necessary to bidders in submitting bids on the invitation or if the lack of such information would be prejudicial to uninformed bidders. No award shall be made on the invitation unless such amendment has been issued in sufficient time to permit all prospective bidders to consider such information in submitting or modifying their bids.

§ 2.208 Cancellation of invitations before opening.

Cancellation of an invitation for bids usually involves the loss of time, effort, and money, spent by Government and bidders in carrying the procurement process up to the point of cancellation. Invitations for bids should not be canceled unless cancellation is clearly in the public interest, such as where there is no longer a requirement for the supplies or services or where amendments to the invitation would be of such magnitude that a new invitation is desirable. Where an invitation is canceled, bids which have been received shall be returned unopened to the bidders and a notice of cancellation shall be sent to all prospective bidders to whom invitations for bids were issued. The notice of cancellation shall identify the invitation for bids; briefly explain the reason the invitation is being canceled; and, where appropriate, assure prospective bidders that they will be given an opportunity to bid on any resolicitation of bids or any future requirements for the type of material or services involved. The cancellation shall be recorded in accordance with § 2.403.

§ 2.209 Qualified products.

See Subpart K, Part 1 of this subchapter.

Subpart C—Submission of Bids

§ 2.301 Responsiveness of bids.

(a) To be considered for award, a bid must comply in all material respects with the invitation for bids so that, both as to the method and timeliness of submission and as to the substance of any resulting contract, all bidders may stand on an equal footing and the integrity of the formal advertising system may be maintained.

(b) Telegraphic bids shall not be considered unless permitted by the invitation for bids.

(c) Bids should be filled out, executed, and submitted in accordance with the instructions which are contained in the invitation for bids. If a bidder uses its own bid form or a letter to submit a bid, the bid may be considered only if (1) the bidder accepts all the terms and conditions of the invitation, and (2) award on the bid would result in a binding contract the terms and conditions of which do not vary from the terms and conditions of the invitation.

§ 2.302 Time of bid submission.

Bids shall be submitted so as to be received in the office designated in the invitation for bids not later than the exact time set for opening.

§ 2.303 Late bids.

§ 2.303–1 General.

Bids which are received in the office designated in the invitation for bids after the exact time set for opening are "late bids," even though received only one or two minutes late. Late bids shall not be considered for award except as authorized in §§ 2.303 through 2.303–8.

§ 2.303–2 Consideration for award.

The contracting officer or his authorized representative shall determine whether late bids may be considered for award, in accordance with §§ 2.303 through 2.303–8. A late bid shall be considered for award only if received before award; and either:

(a) It is determined that its lateness was due solely to:

(1) Delay in the mails for which the bidder was not responsible, or

(2) Delay by the telegraph company for which the bidder was not responsible, where the invitation specifically authorizes telegraphic bids; or

(b) It is determined that the bid, if submitted by mail or telegram (where authorized) was received at the Government installation in sufficient time to be received at the office designated in the invitation by the time set for opening, and, except for delay due to mishandling on the part of the Government at the installation, would have been received on time at the office designated.

§ 2.303–3 Mailed bids.

(a) The time of mailing of late bids shall be determined as follows:

(1) The date and hour shown in a post office cancellation stamp or in a stamp affixed by an approved metering device shall be considered as the time of mailing;

(2) In the event of conflict between a post office cancellation stamp and a stamp of a metering device, the date and hour shown by the cancellation stamp shall govern;

(3) Except as stated in subparagraphs (5) and (6) of this paragraph, if the envelope or other outer covering shows the date but not the hour of mailing, the time of mailing shall be considered to be the last minute of the date shown;

(4) Except as stated in subparagraphs (5) and (6) of this paragraph, if the envelope or other covering does not show the date of mailing, the bid shall be presumed to have been mailed too late to be received in time;

(5) Information regarding the date and hour of mailing of registered mail, when not ascertainable from the post office cancellation stamp, shall be obtained from the postal authorities indicated in paragraph (b) of this section;

(6) Notwithstanding subparagraph (1) through (5) of this paragraph, if the bidder demonstrates the date and hour of mailing by clear and convincing evidence which includes substantiation by the post office of mailing, the date or hour thus demonstrated shall be considered the time of mailing.

(b) Information concerning the normal time for mail delivery, and concerning registered mail, shall be obtained by the purchasing activity from the postmaster, superintendent of mails, or a duly authorized representative for that purpose, of the post office serving that activity. When time permits, such information shall be obtained in writing.

§ 2.303–4 Telegraphic bids.

A late telegraphic bid shall be presumed to have been filed with the telegraph company too late to be received in time, except where the bidder demonstrates by clear and convincing evidence which includes substantiation by an authorized official of the telegraph company that the bid, as received in the office designated in the invitation for bids, was filed with the telegraph company in sufficient time to have been delivered by normal transmission procedure so as not to have been late.

§ 2.303–5 Hand-carried bids.

A late hand-carried bid, or any other late bid not submitted by mail or telegram, shall not be considered for award.

§ 2.303–6 Notification to late bidders.

Upon receipt of any late bid which is received before award, but which, on the basis of available information, cannot be considered for award under § 2.303–2(a), the contracting officer or his authorized representative shall promptly notify the bidder that his bid was received late. Such notification shall include substantially the following information:

> Your bid in response to Invitation for Bids No. _____, dated _____, was received after the time for opening specified in the Invitation. Accordingly, your bid will not be considered for award unless clear and convincing evidence is submitted promptly (and in any event before award) showing that late receipt was due solely to delay in the mails for which you were not responsible.
>
> The foregoing notification shall be appropriately modified in the case of late telegraphic bids.

§ 2.303–7 Disposition of late bids.

Late bids which are not considered for award shall be held unopened until after award and then returned to the bidder, unless other disposition is requested or agreed to by the bidder, except that an unidentified bid may be opened solely for purposes of identification as provided in § 2.401.

§ 2.303–8 Records.

The following shall, if available, be included in the purchasing office files with respect to each late bid:

(a) A statement of the date and hour of mailing, filing, or delivery, as the case may be;

(b) A statement of the date and hour of receipt;

(c) The determination of whether or not the late bid was considered for award, with supporting facts;

(d) A statement of the disposition of the late bid; and

(e) The envelope, or other covering, if the late bid was considered for award.

§ 2.304 Modification or withdrawal of bids.

Bids may be modified or withdrawn by written or telegraphic notice received prior to the exact time set for opening. In addition, a bid may be withdrawn in person by a bidder or his authorized representative, providing his identity is made known and he signs a receipt for the bid, but only if the withdrawal is prior to the exact time set for bid opening.

§ 2.305 Late modifications and withdrawals.

(a) Modifications of bids and requests for withdrawal of bids which are received in the office designated in the invitation for bids after the exact time set for opening are "late modifications" and "late withdrawals," respectively. A late modification or late withdrawal shall be subject to the rules applicable to late bids set forth in §§ 2.303–3 through 2.303–5 and shall be considered as being effective only if it is received before award; and either:

(1) It is determined that its lateness was due solely to:

(i) Delay in the mails for which the bidder was not responsible, or

(ii) Delay in telegraphic transmission for which the bidder was not responsible; or

(2) It is determined that the modification or withdrawal, if submitted by mail or telegram, was received at the Government installation in sufficient time to be received at the office designated in the invitation by the time set for opening and, except for delay due to mishandling on the part of the Government at the installation, would have been received on time at the office designated; *Provided, however:* A modification received from an otherwise successful bidder which is favorable to the Government and which would not be prejudicial to other bidders shall be considered at any time that such modification is received.

(b) Upon receipt of any late modification or late withdrawal which is received before award, but which, on the basis of available information, cannot be considered effective under paragraph (a) of this section, the contracting officer or his duly authorized representative shall promptly notify the bidder that his modification or request for withdrawal was received late. Such notification shall include substantially the following information:

> The (modification) (request for withdrawal) of your bid dated _____, in response to Invitation for Bids No. _____, dated _____, was received after the time for opening specified in the Invitation. Accordingly, your (modification) (request for withdrawal) will not be considered effective unless clear and convincing evidence is submitted promptly (and in any event before award) showing that late receipt was due solely to delay in the mails for which you were not responsible.
>
> The foregoing notification shall be appropriately modified in the case of late modifications or late withdrawals received by telegraph.

(c) Late modifications or late withdrawals, which are not considered as being effective, shall be held unopened until after award and then returned to the bidder, unless other disposition is requested or agreed to by the bidder, except that:

(1) An unidentified modification or request for withdrawal may be opened solely for purposes of identification, as provided in § 2.401; and

(2) Any modification received from an otherwise successful bidder shall be opened, so as to determine whether it should be considered as stated in the proviso in paragraph (a) of this section.

(d) Records of late modifications and late withdrawals shall be maintained in accordance with the record requirements for late bids set forth in § 2.303–8.

Subpart D—Opening of Bids and Award of Contract

§ 2.401 Receipt and safeguarding of bids.

(a) All bids (including modifications) received prior to the time of opening shall be kept secure, and, except as provided in paragraph (b) of this section, unopened, in a locked bid box or safe. If an invitation for bids is canceled, or if a bidder effectively withdraws his bid in accordance with § 2.304, bids shall be returned to the bidders. Necessary precautions shall be taken to insure the security of the bid box or safe. Prior to bid opening, information concerning the identity and number of bids received shall be made available only to Government employees, and then only on a "need to know" basis. When bid sam-

ples are submitted, they shall be handled with sufficient care to prevent disclosure of characteristics before bid opening.

(b) Unidentified bids may be opened solely for the purpose of identification, and then only by an official specifically designated for this purpose by the head of the purchasing activity. If a sealed bid is opened by mistake, the person who opens the bid will immediately write his signature and position on the envelope and deliver it to the aforesaid official. This official shall immediately write on the envelope an explanation of the opening, the date and time opened, the invitation for bids number, and his signature, and shall then immediately reseal the envelope.

§ 2.402 Opening of bids.

§ 2.402–1 Unclassified bids.

(a) The official designated as the bid opening officer shall decide when the time set for bid opening has arrived, and shall so declare to those present. He shall then personally and publicly open all bids received prior to that time, and when practicable read them aloud to the persons present, and have the bids recorded. The original of each bid shall be carefully safeguarded until the abstract of bids required by § 2.403 has been made and its accuracy verified.

(b) Performance of the procedure in paragraph (a) of this section may be delegated to an assistant, but the bid opening officer remains fully responsible for the actions of such assistant.

(c) Examinations of bids by interested persons shall be permitted if it does not interfere unduly with the conduct of Government business. However, original bids shall not be allowed to pass out of the hands of a Government official unless a duplicate bid is not available for public inspection. In such case, the original bid may be examined by the public only under the immediate supervision of a Government official and under conditions which preclude possibility of a substitution, addition, deletion, or alteration in the bid. However, see § 2.404–4 with respect to public disclosure of descriptive literature or material submitted by a bidder on a restrictive basis.

§ 2.402–2 Classified bids.

The opening of classified bids shall not be accessible to the general public. Such opening may be witnessed and the results recorded by those bidder representatives (a) who have been previously cleared from a security standpoint and (b) who represent bidders which were invited to bid on the procurement. Bids shall be made available only to those persons authorized to attend the opening of bids. The procedures set forth in § 2.402–1 for safeguarding unclassified bids are also applicable to classified bids. No public record shall be made of bids or bid prices received on classified invitations for bids.

§ 2.403 Recording of bids.

The invitation number, bid opening date, general description of the procurement item, names of bidders, prices bid, and any other information required for bid evaluation, shall be entered in an abstract or record which, except in the case of a classified procurement, shall be available for public inspection. When the items are too numerous to warrant the recording of all bids completely, an entry should be made of the opening date, invitation number, general description of the material, lot number, and the price bid. The record or abstract shall be completed as soon as practicable after the bids have been opened, and, as soon as all bids have been opened and read, the bid opening officer shall so certify in the record or abstract. If the invitation for bids is canceled before the time set for bid opening, this shall be recorded, together with a statement of the number of bids invited and the number of bids received.

§ 2.404 Rejection of bids.

§ 2.404–1 Cancellation of invitation after opening.

(a) The preservation of the integrity of the competitive bid system dictates that after bids have been opened, award must be made to that responsible bidder who submitted the lowest responsible bid, unless there is a compelling reason to reject all bids and cancel the invitation. Every effort shall be made to anticipate changes in a requirement prior to the date of opening and to notify all prospective bidders of any resulting modification or cancellation, thereby permitting bidders to change their bids and preventing the unnecessary exposure of bid prices. As a general rule, after opening, an invitation for bids should not be canceled and readvertised due solely to increased requirements for the items being procured; award should be made on the initial invitation for bids and the additional quantity required should be treated as a new procurement.

(b) Where it is determined prior to award but after opening that the requirements of § 1.305–3 of this subchapter (relating to the availability and identification of specifications) have not been met, the invitation for bids shall be canceled. Invitations for bids may be canceled after opening but prior to award where such action is consistent with paragraph (a) of this section, and the contracting officer determines in writing that:

(1) Inadequate or ambiguous specifications were cited in the invitation;

(2) Specifications have been revised;

(3) The supplies or services being procured are no longer required;

(4) The invitation did not provide for consideration of all factors of cost to the Government, such as cost of transporting Government-furnished property to bidders' plants;

(5) Bids received indicate that the needs of the Government can be satisfied by a less expensive article differing from that on which the bids were invited;

(6) All otherwise acceptable bids received are at unreasonable prices;

(7) The bids were not independently arrived at in open competition, were collusive, or were submitted in bad faith (see § 1.111 of this subchapter for reports to be made to Department of Justice); or

(8) For other reasons, cancellation is clearly in the best interest of the Government.

Determinations to cancel invitations for bids shall state the reasons therefor.

(c) Should administrative difficulties be encountered after bid opening which may delay award beyond bidders' acceptance periods, the several lowest bidders should be requested, before expiration of their bids, to extend the bid acceptance period (with consent of sureties if any) in order to avoid the need for readvertisement.

§ 2.404–2 Rejection of individual bids.

(a) Any bid which fails to conform to the essential requirements of the invitation for bids shall be rejected.

(b) Any bid which does not conform to the specifications contained or referenced in the invitation for bids shall be rejected unless the invitation authorized the submission of alternate bids and the supplies offered as alternates meet the requirements specified in the invitation.

(c) Any bid which fails to conform to the delivery schedule or permissible alternates thereto stated in the invitation for bids shall be rejected as nonresponsive.

(d) Ordinarily, a bid should be rejected where the bidder attempts to impose conditions which would modify requirements of the invitation for bids or limit his liability to the Government, since to allow the bidder to impose such conditions would be prejudicial to other bidders. For example, bids shall be rejected in which the bidder:

(1) Attempts to protect himself against future changes in conditions, such as increased costs, if total possible costs to the Government cannot be determined.

(2) Fails to state a price and in lieu thereof states that price shall be "price in effect at time of delivery";

(3) States a price but qualifies such price as being subject to "price in effect at time of delivery";

(4) Where not authorized by the invitation, conditions or qualifies his bid by stipulating that his bid is to be considered only if, prior to date of award, bidder receives (or does not receive) award under a separate procurement;

(5) Requires that Government is to determine that bidder's product meets Government specification; or

(6) Limits rights of Government under any contract clause.

A low bidder may be requested to delete objectionable conditions from his bid provided these conditions do not go to the substance, as distinguished from the form, of the bid, or work an injustice on other bidders. A condition goes to the substance of a bid where it affects price, quantity, quality, or delivery of the items offered.

(e) Any bid may be rejected if the contracting officer determines in writing that it is unreasonable as to price.

(f) Bids received from any person or concern whose name is included in the current "Joint Consolidated List of Debarred, Ineligible, and Suspended Contractors" shall be rejected if required by Subpart F, Part 1 of this subchapter.

(g) Low bids received from concerns determined to be not responsible, pursuant to § 1.904 of this subchapter, shall be rejected. (But see § 1.705–6 of this subchapter if the bidder is a small business concern.)

(h) Where a bid guarantee is required and a bidder fails to furnish it in accordance with the requirements of the invitation for bids, the bid shall be rejected unless failure of the bid guarantee to arrive on time was due solely to a delay in the mails for which the bidder was not responsible.

(i) The originals of all rejected bids, and any written findings with respect to such rejection, shall be preserved with the papers relating to the procurement.

§ 2.404–3 Notice to bidders of rejection of all bids.

When he determines to reject all bids, the contracting officer shall notify each bidder that all bids have been rejected, stating the reason for such action.

§ 2.404–4 Restrictions on disclosure of data in bids.

When a bid is accompanied by descriptive literature or material which is submitted with a restriction that the literature or material is to be used only for evaluating the bid and is not to be disclosed publicly, such restriction shall not render the bid nonresponsive if the restriction does not prevent public disclosure of those elements of the bid which relate to quantity, price, discount, and delivery, and if the literature or material does not vary the terms of the invitation for bids. Descriptive literature and material so restricted shall be used only to evaluate bids and shall not be disclosed outside the Government in a manner which would contravene the restriction, without the written permission of the bidder.

§ 2.404–5 All or none qualifications.

Unless the invitation for bids so provides, a bid is not rendered nonresponsive by the fact that the bidder specifies that award will be accepted only on all, or a specified group, of the items included in the invitation for bids. However, bidders shall not be permitted to withdraw or modify "all or none" qualifications after bid opening since such qualification is substantive and affects the rights of other bidders.

§ 2.405 Minor informalities or irregularities in bids.

A minor informality or irregularity is one which is merely a matter of form or is some immaterial variation from the exact requirements of the invitation for bids, not affecting the price, quality, quantity, or delivery of the supplies or performance of the services being procured, and the correction or waiver of which would not be prejudicial to other bidders. The contracting officer shall either give to the bidder an opportunity to cure any deficiency resulting from a minor informality or irregularity in a bid, or, waive any such deficiency where it is to the advantage of the Government. Examples of minor informalities or irregularities include:

(a) Failure of the bidder to return the number of copies of signed bids required by the invitation;

(b) Failure to furnish required information concerning the number of the bidders' employees;

(c) Failure of a bidder to sign his bid, but only if:

(1) The firm submitting the bid has formally adopted or authorized the execution of documents by typewritten, printed, or rubber stamped signature and submits evidence of such authorization and the bid carries such a signature, or

(2) The unsigned bid is accompanied by other material indicating the bidder's intention to be bound by the unsigned bid document such as the submission of a bid guarantee with bid, or a letter signed by the bidder with the bid referring to and clearly identifying the bid itself; and

(d) Failure of a bidder to acknowledge receipt of an amendment to an invitation for bids but only if:

(1) The bid received clearly indicates that the bidder received the amendment, such as where the amendment added another item to the invitation for bid and the bidder submitted a bid thereon, or

(2) The amendment clearly would have no effect on price, quality, quantity, or delivery, such as an amendment correcting a typographical mistake in the name of the Government purchasing activity.

§ 2.406 Mistakes in bids.

§ 2.406–1 General.

After the opening of bids, contracting officers shall examine all bids for mistakes. In cases of apparent mistakes, and in cases where the contracting officer has reason to believe that a mistake may have been made, he shall request from the bidder a verification of the bid, calling attention to the suspected mistake. If the bidder alleges a mistake, the matter shall be processed in the manner set forth below. Such actions shall be taken prior to award.

§ 2.406–2 Apparent clerical mistakes.

Any clerical mistake apparent on the face of a bid may be corrected by the contracting officer prior to award, if the contracting officer has first obtained from the bidder verification of the bid actually intended. Examples of such apparent mistakes are: obvious error in placing decimal point; obvious discount errors (for example—1 percent 10 days, 2 percent 20 days, 5 percent 30 days); obvious reversal of the price f.o.b. destination and the price f.o.b. factory; obvious error in designation of unit. Correction shall be reflected in the award document.

§ 2.406–3 Other mistakes.

(a) The Departments are authorized to make the following administrative determinations in connection with mistakes in bids, other than apparent clerical mistakes, alleged after opening of bids and prior to award.

(1) Where the bidder requests permission to withdraw a bid and clear and convincing evidence establishes the existence of a mistake, a determination permitting the bidder to withdraw his bid may be made.

(2) However, if the evidence is clear and convincing both as to the existence of the mistake and as to the bid actually intended, and if the bid, both as uncorrected and as corrected, is the lowest received, a determination may be made to correct the bid and not permit its withdrawal.

(3) Where the bidder requests permission to correct a mistake in his bid and clear and convincing evidence establishes both the existence of a mistake and the bid actually intended, a determination permitting the bidder to correct the mistake may be made; provided that, in the event such correction would result in displacing one or more lower bids, the determination shall not be made unless the existence of the mistake and the bid actually intended are ascertainable substantially from the invitation and the bid itself. If the evidence is clear and convincing only as to the mistake, but not as to the intended bid, a determination permitting the bidder to withdraw his bid may be made.

(4) Where the evidence is not clear and convincing that the bid as submitted was not the bid intended, a determination may be made requiring that the bid be considered for award in the form submitted.

(b) Authority for making the determinations described in paragraph (a) (1) of this section may be delegated, without power of redelegation, to any purchasing activity having legal counsel available. Authority for making the determinations described in paragraph (a) (2), (3) and (4) of this section may be delegated, without power of redelegation as set forth below:

(1) Department of the Army: To the Chief, Contracts Branch, Deputy Chief of Staff for Logistics; Chief of Engineers; Chief of Ordnance; The Quartermaster General.

(2) Department of the Navy: To the Director, Contracts Division, Bureau of Yards and Docks; the Assistant Chief for Purchasing, Bureau of Supplies and Accounts.

(3) Department of the Air Force: To the Staff Judge Advocate, Headquarters, Air Materiel Command.

(c) Each proposed determination shall have the concurrence of legal counsel within the Department concerned prior to issuance.

(d) To support correction of an allegedly erroneous bid subsequent to opening, the records submitted by the contracting officer in accordance with Departmental procedures shall contain the best available evidence conclusively establishing not only the existence of the error, but its nature, how it occurred, and what the bidder actually intended to bid. A mere statement that the administrative officials themselves are satisfied that an error was made is insufficient.

(e) In order to assure compliance with paragraph (d) of this section, suspected or alleged mistakes in bids will be processed as follows:

(1) In the case of any suspected mistake in bid, the contracting officer will immediately contact the bidder in question calling attention to the suspected mistake, and request verification of his bid. If the bid is verified, the contracting officer will consider the bid as originally submitted. If the time for acceptance of bids is likely to expire before a decision can be made, the contracting officer shall request all bidders whose bids may become eligible for award to extend the time for acceptance of their bids. If the bidder whose bid is believed erroneous does not grant such extension of time, the bid shall be considered as originally submitted. If a bidder alleges a mistake, the contracting officer will advise the bidder to make a written request indicating his desire to withdraw or modify the bid. The request must be supported by statements (sworn statements if possible) concerning the alleged mistake and shall include all pertinent evidence such as bidder's file copy of the bid, the original work sheets and other data used in preparing the bid, subcontractors' quotations, if any, published price lists, and any other evidence which conclusively establishes the existence of the error, the manner in which it occurred, and the bid actually intended.

(2) Where the bidder fails or refuses to furnish evidence in support of a suspected or alleged mistake, the contracting officer shall consider the bid as submitted unless the amount of the bid is so far out of line with the amounts of other bids received or with the amount estimated by the agency or determined by the contracting officer to be reasonable, or there are other indications of error so clear, as reasonably to justify the conclusion that acceptance of the bid would be unfair to the bidder or to other bona fide bidders. The attempts made to obtain the information required and the action taken with respect to the bid shall be fully documented.

(3) Where the bidder furnishes evidence in support of an alleged mistake, the contracting officer shall refer the case to the appropriate authority, together with the following data:

(i) A signed copy of the bid involved;

(ii) A copy of the invitation for bids and any specifications or drawings relevant to the alleged mistake;

(iii) An abstract or record of the bids received;

(iv) A written request by the bidder to withdraw, or modify the bid, together with the bidder's written statement and supporting evidence (such as work sheets, or other data used in preparing the bid) of the existence of the mistake and manner in which it occurred, and supporting evidence of the bid actually intended;

(v) A written statement by the contracting officer setting forth (*a*) a description of the supplies or services involved, (*b*) the expiration date of the bid in question and of the other bids submitted, (*c*) specific information as to how and when the mistake was alleged, (*d*) a summary of the evidence submitted by the bidder, (*e*) in the event only one bid was received, a quotation of the most recent contract price for the supplies involved, or, in the absence of a recent contract for the item, the contracting officer's estimate of a fair price for the item, and (*f*) any additional evidence considered pertinent. The statement shall recommend that either the bid be considered for award in the form submitted, or the bidder be authorized to withdraw the bid, or the bidder be authorized to modify the bid.

When time is of the essence because of the expiration of bids or otherwise, the contracting officer may refer the case by telegraph or telephone to the designated authority. Ordinarily, contracting officers will not refer mistake in bid cases by telegraph or telephone to the designated authority, when the determinations set forth in paragraph (a) (2) and (3) of this section are applicable, since actual examination is generally necessary to determine whether the evidence presented is clear and convincing.

(f) Nothing contained in this section prevents a Department from submitting doubtful cases to the Comptroller General for advance decision.

(g) A signed copy of the administrative determination authorizing withdrawal or modification of the bid made in accordance with paragraph (a) of this section shall accompany the General Accounting Office copy of the contract awarded. Each Department shall maintain records of all administrative determinations made in accordance with paragraph (a) of this section, together with a complete statement of the facts involved and the action taken in each case. Copies of all administrative determinations will be included in the contract file.

§ 2.406–4 Disclosure of mistake after award.

When a mistake in a contractor's bid is not discovered until after award, the mistake may be corrected by supplemental agreement if correcting the mistake would make the contract more favorable to the Government without changing the essential requirements of the specifications. In all other cases, where other authority within the Department concerned is lacking or inadequate, the case shall be processed in accordance with Part 17 of this subchapter or, where that part is inadequate, in accordance with Departmental procedures.

§ 2.407 Award.

§ 2.407–1 General.

Unless all bids are rejected, award shall be made by the contracting officer, within the time for acceptance specified in the bid or extension thereof, to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Government, price and other factors considered. If a proposed award requires approval of higher authority, such award shall not be made until approval has been obtained. Awards shall be made by mailing or otherwise furnishing to the bidder a properly executed award document (see Subpart A, Part 16 of this subchapter) or notice of award on such form as may be prescribed by the procuring activity. When a notice of award is issued, it shall be followed as soon as possible by the formal award. When more than one award results from any single invitation for bids, separate award documents shall be executed, each suitably numbered. When an award is made to a bidder for less than all the items which may be awarded to that bidder and additional items are being withheld for subsequent award, the first award to that bidder shall state that the Government may make subsequent awards on such additional items within the bidder's bid acceptance period. When two or more awards are made to a single bidder on an invitation, the copy of the successful bid marked "original" will be attached to the General Accounting Office copy and a copy marked "duplicate" will be attached to the retained office copy of the first award issued, and succeeding awards will be inscribed to indicate the number of the award to which the original and duplicate bids are attached. This is necessary for legal review and auditing in the General Accounting Office. All provisions of the invitation for bids, including any acceptable additions or changes made by a bidder in the bid, shall be clearly and accurately set forth (either expressly or by reference) in the award document, since the award is an acceptance of the bid, and the bid and the award constitute the contract.

§ 2.407–2 Responsible bidder.

Before awarding the contract, the contracting officer shall determine that a prospective contractor is responsible (see Subpart I, Part 1 of this subchapter).

§ 2.407–3 Discounts.

(a) Prior to issuing an invitation for bids (except for construction), a determination shall be made as to what minimum period for prompt payment discounts will be considered in the evaluation of bids, and such minimum periods shall be stated in the invitation for bids. In determining the minimum period for a particular procurement, consideration shall be given to:

(1) The place of delivery, inspection, and acceptance in relation to the place of payment of invoices or vouchers;

(2) The number of days required to process invoices or vouchers from receipt through payment in the normal course of business; and

(3) The need for prolonged acceptance testing or other unusual circumstances tending to retard the normal processing of invoices or vouchers.

Generally, the minimum period will be expressed in multiples of ten days; e.g., "ten calendar days," "twenty calendar days," or "thirty calendar days," since these time intervals coincide with the discount terms generally offered by industry.

(b) In determining which of several bids received is the lowest, any discount offered shall be deducted from the bid price on the assumption that the discount will be taken, unless the discount offered is for a lesser period than the minimum number of days specified in the invitation for bids (see paragraph

(a) of this section). Where bids otherwise equal offer the same discount rate, the bid offering the longer discount period shall be considered as being the most advantageous to the Government. If a bid offers a prompt payment discount, but fails to specify the period in which the discount may be taken, the discount may be considered since award to the bidder gives the Government the right to deduct the discount from any payments made with reasonable promptness.

(c) If a bid offers a prompt discount for a period less than that specified in the schedule, the discount shall not be considered in the evaluation of bids. If a bid would have been the lowest bid received if the discount offered were considered, but award is not made thereon because the offered discount cannot be considered, a notation to that effect shall be made upon the abstract or record of bids and on Standard Form 1036 (Statement and Certificate of Award) (see § 2.407–7).

(d) In any case, the offered discount of the successful bidder shall form a part of the award, whether or not such discount was considered in the evaluation of his bid, and such discount shall be taken if payment is made within the discount period.

§ 2.407–4 Price escalation.

(a) Where an invitation for bids does not contain a price escalation clause, bids received which quote a price and contain a price escalation provision, with a ceiling (usually expressed in terms of a maximum percentage increase) above which the price will not escalate, will be evaluated on the maximum possible escalation of the quoted base price. Bids which contain escalation with no ceiling shall be rejected unless a clear basis for evaluation exists.

(b) Where an invitation for bids contains a price escalation clause and no bidder takes exception to the escalation provisions, bids shall be evaluated on the basis of the quoted prices without the allowable escalation being added. Where a bidder increases the maximum percentage of escalation stipulated in the invitation for bids or limits the downward escalation provisions of the invitation, the bid will be rejected as nonresponsive. Where a bidder deletes the escalation clause from his bid, the bid will be rejected as nonresponsive since the downward escalation provisions are thereby limited. Where a bidder decreases the maximum percentage of escalation stipulated in the invitation for bids, the bid shall be evaluated at the base price on an equal basis with bids that do not reduce the stipulated ceiling. However, if after evaluation, the bidder offering the lower ceiling is in a position to receive the award, the award shall reflect the lower ceiling.

§ 2.407–5 Other factors to be considered.

The factors set forth in paragraphs (a) through (f) of this section, among others, may be considered in evaluating bids.

(a) Foreseeable costs or delays to the Government resulting from differences in inspection, location of supplies, transportation, etc. If pursuant to § 1.306 of this subchapter, bids are on an f.o.b. origin basis, transportation costs to the designated destination points shall be considered in determining the lowest cost to the Government.

(b) Changes made or requested in any of the provisions of the solicitation to the extent that any such change does not constitute ground for rejection of the bid under the provisions of § 2.404 of this subpart.

(c) Advantages or disadvantages to the Government that might result from making multiple awards.

(d) Qualified products (see Subpart K, Part 1 of this subchapter).

(e) Local, State, and Federal taxes (see Part 11 of this subchapter).

(f) Origin of supplies, whether domestic or foreign, and if foreign, the application of the Buy American Act or any other prohibition on foreign purchases (see Part 6 of this subchapter).

§ 2.407–6 Equal low bids.

(a) Except as provided in subparagraphs (1) through (4) of this paragraph, when two or more low bids are equal in all respects, all factors considered, award shall be made by a drawing by lot which shall be witnessed by at least three persons and which may be attended by the bidders or their representatives.

(1) Subject to subparagraphs (2), (3), and (4) of this paragraph, (i) in the case of equal low bids, one of which is submitted by a small business concern, as defined in § 1.701–1 of this subchapter, award shall be made to the small business concern, and (ii) in the case of equal low bids, two or more of which have been submitted by small business concerns, award shall be made by drawing by lot limited to the small business concerns.

(2) Where two or more equal low bids are received from small business concerns, one of which is also a labor surplus area concern, as defined in § 1.801 of this subchapter, award shall be made to the labor surplus area concern.

(3) In the case of equal low bids, two or more of which have been submitted by small business concerns which are also labor surplus area concerns, award shall be made by a drawing by lot limited to such concerns.

(4) Where two or more equal low bids are received, one being from a labor surplus area concern, award shall be made to such concern, even though other bidders are small business concerns.

(b) When award is to be made by drawing by lot and the information available shows that the product of a particular manufacturer has been offered by more than one bidder, a preliminary drawing by lot shall be made to ascertain which of the bidders offering the product of a particular manufacturer will be included in the final drawing to determine the award.

(c) When an award is determined by drawing by lot, the names and addresses of the three witnesses and the person supervising the drawings shall be placed on all copies of the abstract of bids or otherwise recorded.

§ 2.407–7 Statement and certificate of award.

In connection with each contract made by formal advertising, the contracting officer shall prepare and execute a statement and certificate of award on Standard Form 1036, in accordance with § 16.801 of this subchapter. Such certificate shall either state that the accepted bid was the lowest bid received, or list all lower bids and set forth reasons for their rejection. These reasons shall be set forth in such detail as is necessary to justify the award. For the purpose of this certificate, the lowest bid received is considered to be that bid which is lowest after a consideration of price factors only. The cost of transportation to the destination indicated in the invitation for bids, and any acceptable discount offered by a bidder, and if the invitation so specifies, any other Government cost factors, shall be considered price factors in determining the lowest bidder for purposes of this certificate. It is unnecessary to evaluate nonresponsive bids. In each case of equal low bids where an award is made pursuant to § 2.407–6(a) of this subpart, such certificate shall briefly recite the circumstances under which award was made. Where such award is to a small business or a labor surplus area concern the certificate shall state that it has been administratively determined that the award will further the Congressional policy with respect to small business expressed in 10 U.S.C. 2301 or will further the policy with respect to labor surplus areas, or both, as the case may be. Where an award involves a mistake in bid and the matter has been resolved by administrative action, the Standard Form 1036 will be accompanied by (a) a copy of the bidder's verification in the case of an apparent or obvious mistake or (b) the written administrative determination concerning a mistake of the type described in § 2.406–3 of this subpart. Where an award involves a mistake in bid on which the Comptroller General has rendered a decision, the certificate will contain a citation by number and date of the decision or will have a copy attached.

§ 2.408 Information to bidders.

§ 2.408–1 Unclassified awards.

In the case of all unclassified formally advertised contracts, the purchasing office shall as a minimum (subject to any restrictions in Subpart F, Part 1 of this subchapter) (a) notify unsuccessful bidders promptly of the fact that their bids were not accepted, and (b) extend the appreciation of the purchasing office for the interest the unsuccessful bidder has shown in submitting a bid. Notification to unsuccessful bidders may be either orally or in writing through the use of a form postal card or other appropriate means. Should additional information be requested, the purchasing office shall either provide the unsuccessful bidders with the name and address of

the successful bidder, together with the contract price, or when workload does not permit, inform the inquirers as to the location where a copy of the abstract of bids is available for inspection. In addition, when an inquiry is made by an unsuccessful bidder who is lower in price than the successful bidder, sufficient information shall be furnished in the reply to the unsuccessful bidder to fully explain the basis for award. Where request is received concerning an unclassified invitation for bids from an inquirer who is neither a bidder nor the representative of a bidder, the purchasing office may furnish the names of successful bidders and, if requested, the prices at which awards were made. However, where such requests require so large amount of work as to interfere with the normal operations of the purchasing office, the inquirer will be advised where a copy of the abstract of bids may be seen.

§ 2.408–2 Classified awards.

In the case of all classified formally advertised contracts, the purchasing office shall (a) notify unsuccessful bidders promptly of the fact that their bids were not accepted, and (b) extend the appreciation of the purchasing office for the interest the unsuccessful bidder has shown in submitting a bid. Information with respect to the name of the successful bidder and the contract price will be furnished only to unsuccessful bidders or their properly cleared representatives and then only upon request. No information regarding a classified award may be furnished by telephone.

§ 2.409 Synopsis of contract awards.

See § 1.1004 of this subchapter.

Subpart E—Voluntary Refunds

§ 2.501 Voluntary refunds.

See § 1.317 of this subchapter.

[Rev. 53, ASPR, April 1, 1960] (R.S. 161, Sec. 2202, 70A Stat. 120; 5 U.S.C. 22, 10 U.S.C. 2202. Interpret or apply secs. 2301–2314, 70A Stat. 127–133; 10 U.S.C. 2301–2314)

R. V. LEE,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 60–3606; Filed, Apr. 20, 1960; 8:45 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 2077]

[Fairbanks 024228]

ALASKA

Revoking Public Land Order No. 671 of September 11, 1950

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Public Land Order No. 671 of September 11, 1950, reserving 1,700 acres of public land on the Bering Sea at the northwestern tip of St. Lawrence Island, and two road rights-of-way 30 feet wide in connection therewith, for use of the Department of the Air Force for military purposes is hereby revoked.

The lands remain withdrawn by an Executive order of January 7, 1903, for use as a reindeer station under jurisdiction of the Bureau of Indian Affairs.

ROGER ERNST,
Assistant Secretary of the Interior.

APRIL 14, 1960.

[F.R. Doc. 60–3611; Filed, Apr. 20, 1960; 8:46 a.m.]

[Public Land Order 2078]

[Fairbanks 023812]

ALASKA

Partially Revoking Air Navigation Site Withdrawal No. 190

By virtue of the authority contained in section 4 of the act of May 24, 1928 (45 Stat. 729; 49 U.S.C. 214), it is ordered as follows:

1. The departmental order of September 24, 1942, which established Air Navigation Site Withdrawal No. 190, is hereby revoked so far as it affects the following-described lands:

MINCHUMINA AREA

From Meander Corner No. 5 or U.S. Survey 2655, go North 33°30′ W., 171.60 feet; thence North 13°45′ E., 528.00 feet; thence North 4°15′ W., 59.40 feet; thence North 46°30′ E., 105.60 feet; thence North 17°15′ E., 246.80 feet to the point of beginning; thence
N. 45°50′ W., 1,564.94 feet;
N. 44°47′ E., 2,647.93 feet;
S. 12°30′ E., 178.20 feet;
S. 4°30′ E., 72.60 feet;
S. 24°15′ W., 99.00 feet;
S. 11°00′ E., 297.00 feet;
S. 19°30′ E., 290.40 feet;
S. 5°15′ W., 158.40 feet;
S. 14°30′ W., 178.20 feet;
S. 21°15′ E., 151.80 feet;
S. 44°45′ W., 237.60 feet;
S. 48°30′ W., 171.60 feet;
S. 43°45′ W., 105.60 feet;
S. 7°00′ W., 112.20 feet;
S. 16°00′ W., 264.00 feet;
S. 32°15′ W., 224.40 feet;
S. 16°00′ W., 138.60 feet;
S. 36°30′ W., 237.60 feet;
S. 17°19′ W., 400.00 feet to the point of beginning.

The tract described contains approximately 61 acres.

2. The lands are located on or near the shore of Lake Minchumina, approximately 50 miles northeast of the Village or Kantishna, Alaska. Soils are derived from glacial material, with vegetation consisting of birch and spruce, with an understory of blueberries and cranberries.

3. Subject to any existing valid rights and the requirements of applicable law, the lands described in paragraph 1 hereof, are hereby opened to settlement and to filing of applications, selections, and locations as are allowable on unsurveyed lands in accordance with the following:

a. Applications and selections under the nonmineral public land laws, and applications and offers under the mineral leasing laws may be presented to the Manager mentioned below beginning on the date of this order. Such applications, selections, and offers will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) Until 10:00 a.m. on July 14, 1960, the State of Alaska shall have a preferred right of application to select the lands in accordance with and subject to the provisions of the act of July 28, 1956 (70 Stat. 709; 48 U.S.C. 46–3b), and section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339; Public Law 85–508).

(3) All valid applications and selections under the nonmineral public land laws, and applications and offers under the mineral leasing laws presented prior to 10:00 a.m. on July 14, 1960, will be considered as simultaneously filed at that hour. Rights under such applications, selections and offers filed after that hour will be governed by the time of filing.

(4) Subject to the applications and claims described in paragraphs 3(a)(1) and 3(a)(2), the lands shall be subject to settlement under the homestead and Alaska Homesite Laws beginning at 10:00 a.m. on July 14, 1960.

b. The lands will be open to applications and offers under the mineral-leasing laws and to location under the United States mining laws beginning at 10:00 a.m. on July 14, 1960.

4. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Fairbanks, Alaska.

ROGER ERNST,
Assistant Secretary of the Interior.

APRIL 14, 1960.

[F.R. Doc. 60–3612; Filed, Apr. 20, 1960; 8:46 a.m.]

[Public Land Order 2079]

[1119031]

CALIFORNIA

Order Opening Public Lands

Public Land Order No. 1633 of May 8, 1958, revoked a withdrawal for classification made by Executive Order No. 4203 of April 14, 1925. The following-described lands were not restored to disposition by that order:

MOUNT DIABLO MERIDIAN

T. 2 N., R. 15 E.,
Sec. 8, SE¼NW¼.

Containing 40 acres.

No application for the lands may be allowed under the homestead, desert land, small tract, or any other nonmineral public land law, unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon consideration of an application.

Subject to any existing valid rights and the requirements of applicable law, the lands are hereby opened to filing of applications, selections and locations in accordance with the following:

a. Applications and selections under the nonmineral public land laws and applications and offers under the mineral leasing laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications, selections, and offers will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications and selections under the nonmineral public land laws and applications and offers under the mineral leasing laws presented prior to 10:00 a.m. on May 20, 1960, will be considered as simultaneously filed at that hour. Rights under such applications and selections and offers filed after that hour will be governed by the time of filing.

The lands have been open to applications and offers under the mineral leasing laws and to location for metalliferous minerals. They will be open to location for nonmetalliferous minerals at 10:00 a.m. on May 20, 1960.

Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Sacramento, California.

ROGER ERNST,
Assistant Secretary of the Interior.

APRIL 14, 1960.

[F.R. Doc. 60-3613; Filed, Apr. 20, 1960; 8:46 a.m.]

[Public Land Order 2080]

[Fairbanks 023784]

ALASKA

Revoking Executive Orders No. 7219 of October 30, 1935, and No. 7354 of April 30, 1936, Nenana Townsite

By virtue of the authority vested in the President by the act of June 25, 1910 (36 Stat. 847; 43 U.S.C. 141), and the act of March 12, 1914 (38 Stat. 305), and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Executive Orders No. 7219 of October 30, 1935, and No. 7354 of April 30, 1936, which withdrew the following described lands for airport purposes under the jurisdiction of the Alaska Road Commission, are hereby revoked:

NENANA TOWNSITE

U.S. Survey 1127,
Blocks 30, 39, 40, 41, 42, 43, and 44.
U.S. Survey 1503,
Block 66.

The tracts described contain 38.86 acres.

The lands are withdrawn by Executive Orders No. 1919½ of April 21, 1914, and No. 3825 of April 14, 1923, for townsite purposes.

ROGER ERNST,
Assistant Secretary of the Interior.

APRIL 15,1960.

[F.R. Doc. 60-3614; Filed, Apr. 20, 1960; 8:46 a.m.]

Proposed Rule Making

FEDERAL AVIATION AGENCY

[14 CFR Part 507]

[Reg. Docket No. 347]

AIRWORTHINESS DIRECTIVES

Douglas

Pursuant to the authority delegated to me by the Administrator (§ 405.27, 24 F.R. 2196), notice is hereby given that the Federal Aviation Agency has under consideration a proposal to amend Part 507 of the regulations of the Administrator to include an airworthiness directive requiring corrective action on Douglas DC–3 aircraft with geared rudder tab installations.

Interested persons may participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section of the Federal Aviation Agency, Room B–316, 1711 New York Avenue NW., Washington 25, D.C. All communications received on or before May 23, 1960, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments submitted will be available, in the Docket Section, for examination by interested persons when the prescribed date for return of comments has expired. This proposal will not be given further distribution as a draft release.

This amendment is proposed under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423).

In consideration of the foregoing, it is proposed to amend § 507.10(a) (14 CFR Part 507), by adding the following airworthiness directive.

DOUGLAS. Applies to all DC–3 Series aircraft with geared rudder tab installations based on data approved prior to the effective date of this airworthiness directive.

Compliance is required as indicated.

(a) In order to correct rudder force reversal tendencies on existing installations, the following shall be accomplished:

(1) Within two weeks after the effective date of this directive and until the aircraft has been flight tested or modified in accordance with this directive, a placard shall be placed in the aircraft in full view of the pilot which reads as follows:

"Possible rudder force reversal and/or rudder lock may be experienced in this aircraft if rudder application is not coordinated with lateral control. Avoid yawed flight."

This placard shall be retained in the airplane and complied with until either of the applicable procedures described in (2) have been accomplished.

(2) To remove the placard, either of the following procedures must be accomplished:

(i) *Inspection and Test of the Geared Tab Installation.* (*a*) Check the rigging of the geared rudder tab installation in accordance with the manufacturer's approved installation data to prove conformity of this installation prior to the required flight test below. The results of the rigging check must be recorded in the aircraft logbook and signed by the individual making the check.

(*b*) Contact the nearest FAA Regional Office and make arrangements through the Flight Test Branch for having the aircraft tested. The results of this flight test must be recorded in the aircraft logbook and signed by the individual conducting the flight test.

(*c*) If the rudder control characteristics in the flight test are found to meet the requirements of Civil Air Regulations, Part 4a, § 4a.758–T (or Civil Air Regulations, Part 4b, Section 4b.157), the placard in paragraph (1) may be removed.

(*d*) If the rudder control characteristics in the flight test are found not to meet the requirements of Civil Air Regulations, Part 4a, § 4a.758–T (or Civil Air Regulations, Part 4b, Section 4b.157), the placard may not be removed until a corrective design modification has been made, officially inspected and flight tested, and found to comply with the above regulations.

(ii) *Replacement with an Approved New or Modified Geared Tab Installation.* At such time as a "fix" or a new design installation has been developed, officially inspected and flight tested, and found to comply with the regulations, such an FAA approved modification or design may be installed in accordance with the manufacturer's specifications, a rigging and installation check made and recorded in the aircraft logbook by the individual who made the check. No mandatory flight tests will be necessary for such installations and the above-mentioned placard may be removed at this time.

(b) To preclude the installation on other aircraft of geared tabs of the same design which may have rudder force reversal tendencies, the following shall be accomplished prior to each approval:

(1) An official flight test shall be arranged with the nearest FAA Regional Office to determine that the installation complies with the regulations. The results of this flight test, as well as the prior inspection for conformity with approved installation data, must be recorded in the aircraft logbook and signed by the individuals conducting the installation inspection and flight test.

Issued in Washington, D.C., on April 14, 1960.

OSCAR BAKKE,
Director, Bureau of Flight Standards.

[F.R. Doc. 60–3607; Filed, Apr. 20, 1960; 8:45 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[W–0102882]

WYOMING

Order Providing for Opening of Public Lands

APRIL 15, 1960.

1. The State of Wyoming has certified that the hereinafter described lands patented to the State under the provisions of section 4 of the act of August 18, 1894 (28 Stat. 422, 43 U.S.C. sec. 641) as amended, commonly known as the Carey Act, have not been reclaimed as required by the Carey Act and that water is not available for the irrigation of these tracts. The State or Wyoming, therefore, has reconveyed the lands to the United States:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 18 N., R. 74 W.,
Sec. 8, NW¼NW¼.
T. 19 N., R. 74 W.,
Sec. 30, Lot 4, SE¼SW¼, SW¼SE¼.
T. 18 N., R. 75 W.,
Sec. 2, Lots 1, 2, SW¼NE¼, SE¼NW¼, E½SW¼, NW¼SE¼;
Sec. 12, SE¼NE¼, SE¼NW¼, SW¼, NW¼SE¼.
T. 19 N., R. 75 W.,
Sec. 14, E½, E½W½;
Sec. 34 W½SW¼, NE¼SW¼, NW¼SE¼.
T. 21 N., R. 76 W.,
Sec. 10, N½NW¼, SW¼NW¼, W½SW¼.
T. 22 N., R. 76 W.,
Sec. 6, Lot 7;
Sec. 18, All;
Sec. 20, NW¼;
Sec. 22, NE¼;
Sec. 26, E½;
Sec. 28, NE¼, SW¼NW¼;
Sec. 30, N½.
T. 22 N., R. 77 W.,
Sec. 14, All;
Sec. 22, All;
Sec. 24, All;
Sec. 26, N½, E½SE¼;
Sec. 28, All;
Sec. 34, W½, S½SE¼.
T. 44 N., R. 78 W.,
Sec. 30, Lot 1.
T. 49 N., R. 90 W.,
Tract 47–D;
Tracts 65–A thru F, inclusive;
Tracts 82–U, V, W.
T. 50 N., R. 90 W.,
Tracts 48–A, F thru K, inclusive, P, Q, R;
Tracts 49–A, B, G, H, I, N;
Tracts 50–D, E, J;
Tracts 82–A, B, C, H, I, J, K, L, M, R, S, T.
T. 49 N., R. 91 W.
Tract 53–E;
Tracts 79–O, P, Q;
Tract 80–T;
Tracts 82–X, Y.
T. 50 N., R. 91 W.,
Sec. 3, Lots 3, 4, SW¼NE¼, S½NW¼, SW¼, NW¼SE¼;
Sec. 4, Lots 1, 5, S½NE¼, S½;
Sec. 5, SW¼NE¼, SE¼NW¼, NE¼SW¼, S½SW¼, SE¼;
Sec. 7, Lots 1, 2, 3, 4, E½W½, E½;
Sec. 8, All;
Sec. 9, All;
Sec. 10, W½, W½E½, E½SE¼;
Sec. 12, Lots 4, 8 thru 11, inclusive, SE¼NW¼, NE¼SW¼, S½SW¼;
Sec. 13, Lots 1 thru 8, inclusive, W½;
Sec. 14, SE¼NE¼, NE¼SE¼;
Sec. 15, All;
Sec. 17, All;
Sec. 18, Lots 1 thru 4, inclusive, E½W½, E½.
Sec. 19, Lots 1 thru 4, inclusive, E½W½, E½;
Sec. 20, All;
Sec. 21, All;
Sec. 22, All;
Sec. 23, All;
Sec. 24, Lots 1 thru 8, inclusive, W½;
Sec. 25, Lots 1 thru 8, inclusive, W½;
Sec. 26, N½, SW¼, N½SE¼, SE¼SE¼;
Sec. 27, N½, SW¼, S½SE¼;
Sec. 28, N½, SE¼;
Tracts 39–G, H, I;
Tracts 40–E thru Q, inclusive;
Tracts 48–B, C, D, E, L, M, N, O;
Tracts 49–C, D, E, F, J, K, L, M;
Tracts 50–A, B, C, F, G, H, I;
Tract 51;
Tracts 82–D, E, F, G, N, O, P, Q.
T. 51 N., R. 91 W.,
Tracts 39–A thru F, inclusive;
Tracts 40–C, D;
Tract 41–E.
T. 47 N., R. 92 W.,
Sec. 4, SE¼NE¼, E½SE¼;
Sec. 9, NE¼NE¼.
T. 48 N., R. 92 W.,
Sec. 3, Lot 1, SE¼NE¼, E½SE¼;
Sec. 10, NW¼SE¼;
Sec. 15, SE¼SW¼.
T. 50 N., R. 92 W.,
Sec. 7, Lot 8, SE¼SW¼, S½SE¼;
Sec. 8, SW¼SW¼;
Sec. 9, NE¼NE¼;
Sec. 10, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 11, All;
Sec. 12, All;
Sec. 13, All;
Sec. 14, All;
Sec. 15, N½NE¼, SW¼NE¼, NW¼SW¼, S½SW¼, SE¼;
Sec. 17, NW¼NE¼, S½NE¼, W½, SE¼;
Sec. 18, Lots 5, 6, 7, 8, E½W½, SW¼NE¼, SE¼;
Sec. 19, Lot 5, NE¼SW¼;
Sec. 20, N½, N½SE¼;
Sec. 21, All;
Sec. 22, NE¼, S½NW¼, S½;
Sec. 23, All;
Sec. 24, All;
Tracts 37–F thru T, inclusive;
Tracts 38–E, F, I, K thru S, inclusive;
Tracts 39–E thru T, inclusive;
Tracts 42–B, C, D.
T. 51 N., R. 92 W.,
Tracts 37–A, B, C;
Tracts 38–C, D;
Tracts 39–A, B, C, D;
Tracts 40–A, B;
Tracts 41–A, B, C, D;
Tract 42–A;
Tracts 43–A, B;
Tract 44;
Tracts 45–A thru P, inclusive;
Tracts 46–A thru P, inclusive;
Tracts 48–A, B;
Tracts 49–A thru P, inclusive;
Tracts 50–A thru P, inclusive;
Tracts 51–A thru P, inclusive;
Tracts 52–A thru G, inclusive;
Tracts 53–A thru I, inclusive;
Tracts 55–A thru D, inclusive;
Tracts 56–A thru P, inclusive;
Tracts 57–A thru P, inclusive;
Tracts 58–A thru P, inclusive;
Tract 59;
Tracts 60–A thru P, inclusive;
Tracts 61–A thru J, inclusive;
Tracts 62–A thru O, inclusive;
Tracts 63–A thru L, inclusive;
Tracts 64–B thru G, inclusive;
Tracts 65–E thru T, inclusive.
T. 52 N., R. 92 W.
Sec. 19, Lots 7, 8, 12, 13, 14, 15, 18, W½SE¼, SE¼SE¼;
Sec. 20, Lot 5;
Sec. 22, Lot 5, NW¼SE¼, S½SE¼;
Sec. 23, SE¼SW¼;
Sec. 26, Lots 1, 2, N½, SW¼, N½SE¼;
Sec. 27, NE¼, S½NW¼, S½;
Sec. 28, SE¼NE¼, W½SW¼, SE¼SW¼, SE¼;
Sec. 29, Lot 1, NW¼NE¼, S½NE¼, NW¼, N½SE¼, SE¼SE¼;
Sec. 30, E½NE¼;
Sec. 33, E½NE¼, NE¼NW¼;
Sec. 34, NE¼, N½NW¼, SW¼NW¼;
Sec. 35, Lots 1 thru 6, inclusive, NW¼;
Tracts 38–A, B, C, D;
Tract 64–A;
Tracts 65–A, B, C, D.
T. 45 N., R. 93 W.,
Tract 39;
Tracts 41–A, C.
T. 46 N., R. 93 W.
Tract 41–E;
Tract 72;
Tract 76–C.
T. 50 N., R. 93 W.,
Sec. 4, Lot 10;
Sec. 9, Lot 6.
T. 51 N., R. 93 W.,
Sec. 4, Lot 72;
Sec. 5, Lot 4;
Sec. 17, Lot 4;
Sec. 26, Lots 6, 7, 8;
Sec. 27, Lot 11;
Sec. 33, Lots 3, 4.
T. 52 N., R. 93 W.,
Sec. 13, SE¼SE¼;
Sec. 24, E½NE¼;
Sec. 30, Lots 11, 12, 13.
T. 45 N., R. 94 W.,
Tract 41–D.
T. 52 N., R. 95 W.,
Tract 41–A, B, C;
Tract 42–H, I, J, K;
Tracts 43–I thru P, inclusive;
Tracts 46–I thru P, inclusive;
Tracts 47–B thru F, inclusive;
Tracts 60–A thru F, inclusive.
T. 53 N., R. 95 W.,
Sec. 1, S½SW¼;
Sec. 2, SW¼, S½SE¼;
Sec. 3, SE¼SE¼;
Sec. 10, E½NE¼, SE¼;
Sec. 11, All;
Sec. 12, N½NE¼.
T. 56 N., R. 95 W.,
Lot 63–C;
Tracts 113–B, D, C;
Tracts 116–A, B;
Tract 119–H.
T. 52 N., R. 96 W.,
Tract 81;
Tracts 90–C thru J, inclusive;
Tracts 117–B, C, D, E;
Tract 118.
T. 55 N., R. 96 W.,
Lot 39;
Lot 41;
Lot 42.
T. 56 N., R. 96 W.,
Lot 71–G;
Lots 86–A, B, C, G, H;
Lot 109–G.
T. 57 N., R. 96 W.,
Sec. 27, NE¼NW¼;
Sec. 28, N½NW¼;
Sec. 35, W½SW¼, SE¼SE¼.

T. 23 N., R. 97 W.,
Sec. 1, Lots 7, 9, 12, 13, E½SW¼, SW¼SE¼;
Sec. 3, Lots 5, 6, 9 thru 14, inclusive, S½NW¼, NW¼SW¼;
Sec. 4, SE¼NE¼, NE¼SW¼, S½SW¼, SE¼;
Sec. 5, SE¼SW¼, S½SE¼;
Sec. 8, N½N½;
Sec. 9, N½N½;
Sec. 10, S½NE¼, N½SE¼;
Sec. 11, S½N½, N½S½, SW¼SW¼;
Sec. 12, Lot 3, W½NE¼, NE¼NW¼, S½NW¼, N½SW¼, NW¼SE¼.
T. 52 N., R. 97 W.,
Tracts 73–A, B.
T. 56 N., R. 97 W.,
Lots 41–A, B, C, D;
Lot 45–A;
Lots 47–D, E;
Lots 54–A, E;
Lot 58–B;
Lot 59–M;
Lots 64–A, B;
Lot 109–F.
T. 52 N., R. 102 W.,
Lot 54, NW¼NW¼.
T. 51 N., R. 103 W.,
Lots 60–B, D.
T. 52 N., R. 103 W.,
Lots 74–B, D.
T. 51 N., R. 104 W.,
Tract 76.
T. 31 N., R. 110 W.,
Sec. 6, Lot 1.
T. 32 N., R. 110 W.,
Sec. 6, Lots 2, 3, SE¼SW¼;
Sec. 19, Lots 1, 2, 3, 4, NE¼NW¼, E½SW¼;
Sec. 29, W½SW¼;
Sec. 30, Lots 1, 2, 3, 4, NW¼NE¼, S½NE¼, E½W½, SE¼;
Sec. 31, Lots 1, 2, 3, E½, E½NW¼, NE¼SW¼;
Sec. 32, SW¼NE¼, NW¼NW¼, S½NW¼, N½SW¼, SW¼SW¼.
T. 33 N., R. 110 W.,
Sec. 31, Lots 3, 4, SE¼NE¼, E½SW¼, NE¼SE¼, S½SE¼;
Sec. 32, SW¼, SE¼SE¼.
T. 30 N., R. 111 W.,
Sec. 3, S½SW¼;
Sec. 4, All;
Sec. 5, E½SE¼;
Sec. 8, NE¼NE¼, S½NE¼, E½NW¼, S½;
Sec. 9, N½NE¼, W½, SE¼SE¼, SW¼NE¼, W½SE¼;
Sec. 14, NE¼NE¼, W½E½, W½;
Sec. 17, NE¼, NW¼SW¼, SE¼;
Sec. 18, Lots 1, 2, E½NW¼, NE¼SW¼, E½;
Sec. 20, NW¼NW¼;
Sec. 21, E½E½;
Sec. 22, N½;
Sec. 23, NE¼, W½;
Sec. 25, N½, SE¼;
Sec. 26, NE¼, W½;
Sec. 27, E½;
Sec. 34, N½.
T. 31 N., R. 111 W.,
Sec. 3, SW¼NE¼, S½NW¼, SW¼, N½SE¼, SW¼SE¼;
Sec. 4, SW¼, W½SE¼, SE¼SE¼;
Sec. 5, Lots 2, 3, 4, S½N½, S½;
Sec. 6, Lots 1, 2, SE¼NE¼, E½SE¼;
Sec. 7, NE¼NE¼;
Sec. 8, NE¼, N½NW¼, SE¼NW¼, N½SE¼, SE¼SE¼;
Sec. 9, All;
Sec. 10, NW¼NE¼, S½NE¼, W½, SE¼;
Sec. 11, S½NW¼;
Sec. 15, N½NE¼, SW¼NE¼, SW¼, W½SE¼;
Sec. 17, N½NE¼, SE¼SE¼;
Sec. 20, NE¼NE¼;
Sec. 21, E½, E½W½, NW¼NW¼;
Sec. 22, NW¼NE¼, NW¼, W½SW¼;
Sec. 27, W½NW¼;
Sec. 28, NE¼, N½NW¼, SE¼NW¼, S½;
Sec. 33, E½, NE¼NW¼, S½NW¼, SW¼.
T. 32 N., R. 111 W.,
Sec. 1, Lots 1, 2, 3, 4, SE¼SE¼;
Sec. 2, Lots 1, 2, 3, 4;
Sec. 3, Lot 1;
Sec. 10, E½NE¼, SE¼SW¼, SW¼SE¼;
Sec. 11, All;
Sec. 12, NW¼NE¼, S½NE¼, W½, SE¼;
Sec. 13, All;
Sec. 14, All;
Sec. 15, NE¼, NE¼NW¼, E½SE¼;
Sec. 23, E½, E½W½, NW¼SW¼;
Sec. 24, All;
Sec. 25, E½, E½NW¼, SW¼SW¼;
Sec. 26, NE¼NW¼;
Sec. 31, E½SW¼, S½SE¼;
Sec. 32, SW¼SW¼.
T. 30 N., R. 112 W.,
Sec. 13, NE¼NE¼.
T. 31 N., R. 113 W.,
Sec. 11, SW¼, W½SE¼;
Sec. 12, S½SW¼;
Sec. 13, NW¼NE¼, NW¼SW¼;
Sec. 14, SE¼NE¼, E½NE¼, NW¼.

Containing approximately 74,374.71 acres of public land.

2. The lands are widely scattered throughout Wyoming. Topography ranges from reasonably level to moderately rolling and broken. The lands are semi-arid, but have value for grazing by range livestock. Vegetation consists generally of sagebrush, saltbrush, and other low-growing shrubs and grasses at the lower elevations. Perennial grasses and browse plants are found at the higher elevations.

3. No application for these lands will be allowed under the homestead, desert land, small tract or any other nonmineral public land law, unless the lands have already been classified as valuable, or suitable for such type of application, or shall be so classified upon consideration of an application. Any application which is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

4. Subject to any existing valid rights and the requirements of applicable law, the lands described in paragraph 1, are hereby opened to filing of applications and selections in accordance with the following:

a. Applications and selections under the non-mineral public land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications and selections will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

1. Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

2. All valid applications and selections under the nonmineral public land laws, other than those coming under paragraph 1 above presented prior to 10:00 a.m. on May 16, 1960, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

b. The lands will be open to location under the United States mining laws beginning at 10:00 a.m. on May 16, 1960.

5. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

6. The lands described below are restored to the extent they were not heretofore subject to application and selection by reason of Carey Act segregation, but they remain subject to withdrawal pursuant to the authorities cited:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 48 N., R. 90 W.,
Tract 54;
Tract 57;
Tract 58, Lot 10.

The above lands are included in Stock Driveway Withdrawal Number 48, pursuant to Departmental Order of 1/29/52.

T. 49 N., R. 91 W.,
Tracts 37–A, B, C;
Tracts 39–A, B;
Tracts 47–A, B, C, D;
Tract 52;
Tract 53–K;
Tract 58–B;
Tracts 80–Q, R, S.
T. 50 N., R. 91 W.,
Sec. 28, SW¼;
Sec. 29, All;
Sec. 30, Lots 1, 2, 3, 4, SE¼NW¼, E½SW¼, E½;
Tracts 77–A thru F, inclusive;
Tracts 79–A thru N, inclusive;
Tracts 80–C thru G, inclusive, and I thru P, inclusive.
T. 50 N., R. 92 W.,
Sec. 19, NE¼, N½SE¼;
Sec. 20, N½SW¼, SE¼SW¼, S½SE¼;
Sec. 25, N½, N½SW¼, SE¼;
Sec. 26, N½;
Sec. 27, NE¼NW¼, S½NW¼, NE¼;
Sec. 28, SE¼NE¼, N½N½.
T. 46 N., R. 93 W.,
Tract 98–C.

The above lands are included in First Form Reclamation Withdrawal, Act of June 17, 1902, in connection with the Missouri River Basin Project, Paintrock Unit, pursuant to orders dated October 20, 1943, April 19, 1951, and April 13, 1955.

T. 52 N., R. 96 W.,
Tracts 105–O, P, V, W, X, Y, Z, U;
Tract 106;
Tracts 107–A thru H, inclusive.
T. 57 N., R. 96 W.,
Sec. 27, W½SE¼.
T. 51 N., R. 97 W.,
Sec. 5, Lots 7, 9, 10, 12, SW¼NW¼;
Sec. 6, Lots 35, 36, 37;
Sec. 7, Lot 42.
T. 52 N., R. 97 W.,
Sec. 1, Lots 12 thru 17, inclusive, 22, 23, 24, 40, 41, 42, S½;
Sec. 2, Lots 12 thru 17, inclusive, 22, 23, 24, 40, 41, 42, S½;
Sec. 3, Lots 13 thru 19, inclusive, 22, 23, 24, 25, 39, 41, 42;
Sec. 9, Lots 9, 21, 22, 23;
Sec. 10, Lots 26, 27, 28, E½W½, E½;
Sec. 11, All;
Sec. 12, Lots 11, 12, 26, 27, N½, NW¼SW¼;
Sec. 13, Lot 29, W½NW¼, SW¼;
Sec. 14, All;

Sec. 15, Lots 4, 7, 26, SW¼SW¼, E½W½, E½;
Sec. 17, Lot 30, SW¼, W½SE¼, SE¼SE¼;
Sec. 18, Lots 24, 35, E½SW¼, SE¼;
Sec. 19, Lots 9, 10, 18 thru 22, inclusive, NE¼, E½NW¼, NE¼SW¼, N½SE¼;
Sec. 20, Lots 14, 18, 25, 30, 31, N½, E½SE¼;
Sec. 21, Lots 10, 11, 12, 26, N½;
Sec. 22, E½;
Sec. 23, All;
Sec. 24, Lots 31, 32, 34, NW¼NW¼, NW¼SW¼;
Sec. 26, Lots 1, 4, 12, 13, 34, N½NW¼;
Sec. 27, Lots 13, 14, 27, 28, 29, NE¼;
Sec. 28, Lots 32, 33;
Sec. 29, Lots 4, 33;
Sec. 32, Lots 24, 27, 33, 34, NE¼SW¼, NW¼SE¼, S½SW¼;
Sec. 33, Lots 10, 11, 12, 28, S½NE¼, SE¼NW¼;
Tract 74–A, B, E, F;
Tracts 99–A, B, C, D;
Tracts 103–A thru H, inclusive;
Tract 106–A, B.

T. 55 N., R. 97 W.,
Tracts 64–C, D, G, H.

T. 56 N., R. 97 W.,
Lot 65–C.

T. 51 N., R. 103 W.,
Lots 74–E, G.

The above lands are included in Reclamation Withdrawal, Act of June 17, 1902, in connection with the Shoshone Project, Oregon Basin Unit, pursuant to orders dated March 2, 1909, July 31, 1913, August 8, 1913, November 19, 1913, May 2, 1915, May 10, 1919, April 2, 1929, December 27, 1946, and October 8, 1947.

T. 45 N., R. 94 W.,
Sec. 19, Lot 12.

T. 56 N., R. 95 W.,
Sec. 31, Lot 1.

All portions of the above described lands lying within 25 feet of the center line of the transmission line location were reserved from entry, location, or other disposal under the laws of the United States by the provisions of section 24 of the Federal Water Power Act, in connection with Line project No. 933.

T. 57 N., R. 96 W.,
Sec. 26, NE¼SE¼.

The above is included in Public Water Reserve No. 107, Interpretation No. 204, dated June 5, 1934.

7. Inquiries concerning these lands shall be addressed to the Manager, Land Office, Bureau of Land Management, P.O. Box 929, Cheyenne, Wyoming.

EUGENE L. SCHMIDT,
Lands and Minerals Officer.

[F.R. Doc. 60–3609; Filed, Apr. 20, 1960; 8:46 a.m.]

[Notice 5]

ALASKA

Notice of Filing of Alaska Protraction Diagrams; Fairbanks Land District

APRIL 15, 1960.

Notice is hereby given that the following protraction diagrams have been officially filed of record in the Fairbanks Land Office, 516 Second Avenue, Fairbanks, Alaska. In accordance with 43 CFR 192.42a(c), (24 F.R. 4140, May 22, 1959), oil and gas offers to lease lands shown in these protracted surveys, filed 30 days after publication of this notice, must describe the lands only according to the Section, Township, and Range shown on the approved protracted surveys. The protraction diagrams are also applicable for all other authorized uses.

ALASKA PROTRACTION DIAGRAMS (UNSURVEYED)

FAIRBANKS MERIDIAN—FOLIO NO. 2

Sheet No.:
1. T. 37 N., Rs. 13 thru 16 E.
2. T. 37 N., Rs. 9 thru 12 E.
3. T. 37 N., Rs. 5 thru 8 E.
4. T. 37 N., Rs. 1 thru 4 E.
5. Ts. 33 thru 36 N., Rs. 1 thru 4 E.
6. Ts. 33 thru 36 N., Rs. 5 thru 8 E.
7. Ts. 33 thru 36 N., Rs. 9 thru 12 E.
8. Ts. 33 thru 36 N., Rs. 13 thru 16 E.
9. Ts. 29 thru 32 N., Rs. 13 thru 16 E.
10. Ts. 29 thru 32 N., Rs. 9 thru 12 E.
11. Ts. 29 thru 32 N., Rs. 5 thru 8 E.
12. Ts. 29 thru 32 N., Rs. 1 thru 4 E.
13. Ts. 25 thru 28 N., Rs. 1 thru 4 E.
14. Ts. 25 thru 28 N., Rs. 5 thru 8 E.
15. Ts. 25 thru 28 N., Rs. 9 thru 12 E.
16. Ts. 25 thru 28 N., Rs. 13 thru 16 E.
17. Ts. 21 thru 24 N., Rs. 13 thru 16 E.
18. Ts. 21 thru 24 N., Rs. 9 thru 12 E.
19. Ts. 21 thru 24 N., Rs. 5 thru 8 E.
20. Ts. 21 thru 24 N., Rs. 1 thru 4 E.
21. Ts. 17 thru 20 N., Rs. 1 thru 4 E.
22. Ts. 17 thru 20 N., Rs. 5 thru 8 E.
23. Ts. 17 thru 20 N., Rs. 9 thru 12 E.
24. Ts. 17 thru 20 N., Rs. 13 thru 16 E.

Cover sheet showing location map and index.

FAIRBANKS MERIDIAN—FOLIO NO. 3

Sheet No.:
1. T. 37 N., Rs. 1 thru 4 W.
2. T. 37 N., Rs. 5 thru 8 W.
3. T. 37 N., Rs. 9 thru 12 W.
4. T. 37 N., Rs. 13 thru 16 W.
5. Ts. 33 thru 36 N., Rs. 13 thru 16 W.
6. Ts. 33 thru 36 N., Rs. 9 thru 12 W.
7. Ts. 33 thru 36 N., Rs. 5 thru 8 W.
8. Ts. 33 thru 36 N., Rs. 1 thru 4 W.
9. Ts. 29 thru 32 N., Rs. 1 thru 4 W.
10. Ts. 29 thru 32 N., Rs. 5 thru 8 W.
11. Ts. 29 thru 32 N., Rs. 9 thru 12 W.
12. Ts. 29 thru 32 N., Rs. 13 thru 16 W.
13. Ts. 25 thru 28 N., Rs. 13 thru 16 W.
14. Ts. 25 thru 28 N., Rs. 9 thru 12 W.
15. Ts. 25 thru 28 N., Rs. 5 thru 8 W.
16. Ts. 25 thru 28 N., Rs. 1 thru 4 W.
17. Ts. 21 thru 24 N., Rs. 1 thru 4 W.
18. Ts. 21 thru 24 N., Rs. 5 thru 8 W.
19. Ts. 21 thru 24 N., Rs. 9 thru 12 W.
20. Ts. 21 thru 24 N., Rs. 13 thru 16 W.
21. Ts. 17 thru 20 N., Rs. 13 thru 16 W.
22. Ts. 17 thru 20 N., Rs. 9 thru 12 W.
23. Ts. 17 thru 20 N., Rs. 5 thru 8 W.
24. Ts. 17 thru 20 N., Rs. 1 thru 4 W.

Cover sheet showing location map and index.

KATEEL RIVER MERIDIAN—FOLIO NO. 8

Sheet No.:
1. Ts. 13 thru 16 N., Rs. 13 thru 16 E.
2. Ts. 13 thru 16 N., Rs. 9 thru 12 E.
3. Ts. 13 thru 16 N., Rs. 5 thru 8 E.
4. Ts. 13 thru 16 N., Rs. 1 thru 4 E.
5. Ts. 9 thru 12 N., Rs. 1 thru 4 E.
6. Ts. 9 thru 12 N., Rs. 5 thru 8 E.
7. Ts. 9 thru 12 N., Rs. 9 thru 12 E.
8. Ts. 9 thru 12 N., Rs. 13 thru 16 E.
9. Ts. 5 thru 8 N., Rs. 13 thru 16 E.
10. Ts. 5 thru 8 N., Rs. 9 thru 12 E.
11. Ts. 5 thru 8 N., Rs. 5 thru 8 E.
12. Ts. 5 thru 8 N., Rs. 1 thru 4 E.
13. Ts. 1 thru 4 N., Rs. 1 thru 4 E.
14. Ts. 1 thru 4 N., Rs. 5 thru 8 E.
15. Ts. 1 thru 4 N., Rs. 9 thru 12 E.
16. Ts. 1 thru 4 N., Rs. 13 thru 16 E.

Cover sheet showing location map and index.

Copies of these diagrams are for sale at one dollar ($1.00) per sheet and may be obtained from the Fairbanks Land Office, Bureau of Land Management, mailing address: 516 Second Avenue, Fairbanks, Alaska.

DANIEL A. JONES,
Manager.

[F.R. Doc. 60–3610; Filed, Apr. 20, 1960; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[P. & S. Docket No. 2472]

CATTLEMAN'S LIVESTOCK AUCTION, INC.

Notice of Complaint, Order of Suspension, and Hearing Regarding Respondent's Schedule of Rates and Charges

In re Cattleman's Livestock Auction, Inc., Nampa, Idaho, Respondent.

Notice is hereby given that on March 21, 1960, the respondent, by its attorney, filed an amendment to its current schedule of rates and charges, under Title III of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), to become effective on April 4, 1960. The modifications proposed by the amendment are indicated below.

SELLING COMMISSION (REGULAR SALES)

Classification	Cattle		Calves	
	Present	Proposed	Present (500 pounds and under)	Proposed (450 pounds and under)
Singles (per head)	$3.50	$4.00	$2.50	$3.00
Groups (2 drafts allowed):				
2	7.00	8.00	5.00	6.00
3	10.00	11.50	7.00	8.50
4	12.00	15.00	9.00	11.00
5	14.00	18.00	10.50	13.00
6	16.00	20.50	12.00	14.50
7	17.50	23.00	13.25	16.00
8	19.00	24.50	14.25	17.50
9	20.00	26.00	15.00	19.00
10	21.00	27.50	15.75	20.00
Over 10 add (per head)	1.00	1.25	.75	1.00

[Delete: Maximum of $40 per car on cattle and $45 per car on calves]

Milk cows:

Present: Milk cows sold by the head add $1.50 per head to the above rates.

Proposed: Milk cows, sold by the head, up to $200.00, add $2.50 per head to above rates. Milk cows, sold by the head, over $200.00 add $3.50 per head to above rates.

Bulls:

Present: Bulls weighing 600 pounds and over add $1.50 per head to above rates.

Proposed: Bulls, under 1,000 pounds, add $1.00 per head to above rates. Bulls, over 1,000 pounds, add $3.50 per head to above rates.

Registered cattle and calves:

Present: Registered cattle or calves sold by the head add $2.00 per head to above rates.

Proposed: Registered cattle and calves, add $3.00 per head to above rates.

Cows with calves at side (thrown in), 75 cents per calf added to above rates.

Combination of drafts of cattle and calves are allowed on the cattle rates if the resulting charge is cheaper than calculating them separately.

Resales—Livestock changing ownership, regular commission will be assessed.

All rates limited to a maximum of 10 percent (presently 5 percent) of the sales price or a minimum of 25 cents per head.

Notice is given hereby also that on April 1, 1960, the Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, filed a "Complaint, Order of Suspension, and Notice of Hearing" with respect to the respondent's rates and charges. The contents of such document are as follows:

This proceeding is instituted pursuant to the provisions of Title III of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), hereafter referred to as the act.

I. The respondent is now, and at all times mentioned herein was, registered with the Secretary of Agriculture as a Market Agency to sell on commission at the Cattleman's Livestock Auction, Inc., which is now, and at all times mentioned herein was, a posted stockyard subject to the provisions of the act.

II. In accordance with the requirements of the act, the respondent has heretofore filed and presently has in effect a schedule of rates and charges for its services.

III. On March 21, 1960, the respondent filed an amendment to its current schedule of rates and charges effective April 4, 1960, containing certain increases in the current rates and charges.

IV. Upon an analysis of the information available to the Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, there is reason to believe that certain of such increases are unjust, unreasonable, or discriminatory.

V. It is concluded, therefore, that a proceeding under Title III of the act should be instituted for the purpose of determining the reasonableness and lawfulness of the rates and charges set forth in the respondent's schedule of rates and charges as modified by the amendment filed on March 21, 1960, and that pending a hearing and decision in this proceeding, the operation of the modifications of the current schedule of rates and charges should be suspended and the use of such modified rates and charges deferred.

VI. It is further concluded that a hearing should be had for the purpose of determining the lawfulness of all rates and charges of the respondent and of any rule, regulation, or practice affecting said rates and charges.

It is therefore ordered, That the operation and use by the respondent of the modifications of the current schedule of rates and charges filed on March 21, 1960, to become effective on April 4, 1960, is hereby suspended and deferred until the expiration of thirty days beyond the time when such tariff would otherwise go into effect.

It is further ordered, That notice to the respondent shall be, and is hereby, given that a hearing concerning the matters set forth herein will be held before an Examiner of the Department at a time and place to be specified at a later date, of which the respondent will receive adequate notice. At such hearing the respondent and all other interested persons will have a right to appear and present such evidence with respect to the matters and things set forth herein as may be relevant and material.

It is further ordered, That any and all interested persons who may wish to appear and present evidence relative to the issues in this proceeding shall give notice thereof by filing a statement to that effect with the Hearing Clerk, United States Department of Agriculture, Washington, D.C., within 20 days from the date of the publication hereof in the FEDERAL REGISTER.

It is further ordered, That a copy hereof be served upon the respondent.

It is further ordered, That this document be published in the FEDERAL REGISTER.

Done at Washington, D.C., this 15th day of April 1960.

LEE D. SINCLAIR,
Acting Director, Livestock Division, Agricultural Marketing Service.

[F.R. Doc. 60–3579; Filed, Apr. 20, 1960; 8:45 a.m.]

[P. & S. Docket No. 2475]

EMMETT LIVESTOCK COMMISSION

Notice of Complaint, Order of Suspension, and Hearing Regarding Respondents' Schedule of Rates and Charges

In re C. C. Sawyer and James A. Goodhue, d/b/a Emmett Livestock Commission, Emmett, Idaho, Resondents.

Notice is hereby given that on March 21, 1960, the respondents, by their attorney, filed an amendment to their current schedule of rates and charges, under Title III of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), to become effective on April 4, 1960. The modifications proposed by the amendment are indicated below.

SELLING COMMISSION (REGULAR SALES)

Classification	Cattle		Calves (450 pounds and under)	
	Present	Proposed	Present	Proposed
Singles (per head)	$3.50	$4.00	$2.50	$3.00
Groups (2 drafts allowed):				
2	7.00	8.00	5.00	6.00
3	10.00	11.50	7.00	8.50
4	12.00	15.00	9.00	11.00
5	14.00	18.00	10.50	13.00
6	16.00	20.50	12.00	14.50
7	17.50	23.00	13.25	16.00
8	19.00	24.50	14.25	17.50
9	20.00	26.00	15.00	19.00
10	21.00	27.50	15.75	20.00
Over 10 add (per head)	1.00	1.25	.75	1.00

Milk cows:
Present: Milk cows sold by the head add $1.50 per head to above rate.
Proposed: Milk cows, sold by the head, up to $200, add $2.50 per head to above rates. Milk cows, sold by the head, over $200, add $3.50 per head to above rates.
Bulls:
Present: Bulls weighing 600 pounds and over add $1.50 per head to above rate.
Proposed: Bulls, under 1,000 pounds, add $1.00 per head to above rates. Bulls, over 1,000 pounds, add $3.50 per head to above rates.
Registered cattle and calves:
Present: Registered cattle or calves sold by the head add $2.00 per head to above rates.
Proposed: Registered cattle and calves, add $3.00 per head to above rates.
Cows with calves:
Present: Cows sold with calves thrown in add 75 cents per calf to above rate.
Proposed: Cows with calves at side (thrown in), add 75 cents per calf to above rates.
Maximum:
Present: Rates limited to a maximum of 10 percent of sale price on sales and 5 percent on no sales with the exception of minimum of 25 cents per head.
Proposed: All rates limited to a maximum of 10 percent of the sale price.
Combination of drafts:
Present: Combination of drafts of cattle and calves are allowed on the cattle rates if the resulting charge is cheaper than calculating them separately.
Proposed: Deleted.
No sale commission:
Present: No sale commission 25 percent of regular rates with a minimum of $2.00 on cattle and $1.50 on calves and a maximum of $10.00 for any one consignment. No charge if cattle are held in yards and sold on following week.
Proposed: Deleted.
Resale commission:
Present: Resale commission will be calculated at the regular rates less credit for amount collected on original sale.
Proposed: Deleted.

Notice is given hereby also that on April 1, 1960, the Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, filed a "Complaint, Order of Suspension, and Notice of Hearing" with respect to the respondents' rates and charges. The contents of such document are as follows:

This proceeding is instituted pursuant to the provisions of Title III of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), hereafter referred to as the act.

I. The respondents are now, and at all times mentioned herein were, registered with the Secretary of Agriculture as a market agency to sell on commission at the Emmett Livestock Commission, which is now, and at all times mentioned herein was, a posted stockyard subject to the provisions of the act.

II. In accordance with the requirements of the act, the respondents have heretofore filed and presently have in effect a schedule of rates and charges for their services.

III. On March 21, 1960, the respondents filed an amendment to their current schedule of rates and charges, effective April 4, 1960, containing certain increases in the current rates and charges.

IV. Upon an analysis of the information available to the Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, there is reason to believe that certain of such increases are unjust, unreasonable, or discriminatory.

V. It is concluded, therefore, that a proceeding under Title III of the Act should be instituted for the purpose of

determining the reasonableness and lawfulness of the rates and charges set forth in the respondents' schedule of rates and charges as modified by the amendment filed on March 21, 1960, and that pending a hearing and decision in this proceeding, the operation of the modifications of the current schedule of rates and charges should be suspended and the use of such modified rates and charges deferred.

VI. It is further concluded that a hearing should be had for the purpose of determining the lawfulness of all rates and charges of the respondents and of any rule, regulation, or practice affecting said rates and charges.

It is therefore ordered, That the operation and use by the respondents of the modification of the current schedule of rates and charges filed on March 21, 1960, to become effective on April 4, 1960, is hereby suspended and deferred until the expiration of thirty days beyond the time when such tariff would otherwise go into effect.

It is further ordered, That notice to the respondents shall be, and is hereby, given that a hearing concerning the matters set forth herein will be held before an Examiner of the Department at a time and place to be specified at a later date of which the respondents will receive adequate notice. At such hearing the respondents and all other interested persons will have a right to appear and present such evidence with respect to the matters and things set forth herein as may be relevant and material.

It is further ordered, That any and all interested persons who may wish to appear and present evidence relative to the issues in this proceeding shall give notice thereof by filing a statement to that effect with the Hearing Clerk, United States Department of Agriculture, Washington, D.C., within 20 days from the date of the publication of this order.

It is further ordered, That this document shall be published in the FEDERAL REGISTER.

Done at Washington, D.C., this 15th day of April 1960.

LEE D. SINCLAIR,
Acting Director, Livestock Division, Agricultural Marketing Service.

[F.R. Doc. 60-3580; Filed, Apr. 20, 1960; 8:45 a.m.]

[P. & S. Docket No. 2476]

DAVIS LIVESTOCK AUCTION

Notice of Complaint, Order of Suspension, and Hearing Regarding Respondents' Schedule of Rates and Charges

In re H. S. Davis and Cecil McIndoo, d/b/a Davis Livestock Auction, Caldwell, Idaho.

Notice is hereby given that on March 21, 1960, the respondents, by their attorney, filed an amendment to their current schedule of rates and charges, under Title III of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), to become effective on April 4, 1960. The modifications proposed by the amendment are indicated below.

SELLING COMMISSION (REGULAR SALES)

Classification	Cattle		Calves	
	Present	Proposed	Present (under 450 pounds)	Proposed (450 pounds and under)
Singles (per head)	$3.50	$4.00	$2.50	$3.00
Groups (2 drafts allowed)				
2	7.00	8.00	5.00	6.00
3	10.00	11.50	7.00	8.50
4	12.00	15.00	9.00	11.00
5	14.00	18.00	10.50	13.00
6	16.00	20.50	12.00	14.50
7	17.50	23.00	13.25	16.00
8	19.00	24.50	14.25	17.50
9	20.00	26.00	15.00	19.00
10	21.00	27.50	15.75	20.00
Over 10 add (per head)	1.00	1.25	.75	1.00

Milk cows:

Present: Milk cows sold by the head add $1.50 per head to above rates.

Proposed: Milk cows, sold by the head, up to $200 add $2.50 per head to above rates. Milk cows, sold by the head, over $200 add $3.50 per head to above rates.

Bulls:

Present: Bulls weighing 600 pounds and over add $1.50 per head to above rates.

Proposed: Bulls, under 1,000 pounds, add $1.00 per head to above rates. Bulls, over 1,000 pounds, add $3.50 per head to above rates.

Registered cattle or calves:

Present: Registered cattle or calves sold by the head add $2.00 per head to above rates.

Proposed: Registered cattle and calves add $3.00 per head to above rates.

Cows with calves:

Present: Cows sold with calves thrown in add 75 cents per calf to above rates.

Proposed: Cows with calves at side (thrown in) add 75 cents per head to above rates.

Maximum:

Present: Rates limited to a maximum of 10 percent of sale price on sales with the exception of minimum of 25 cents per head.

Proposed: All rates limited to a maximum of 10 percent of the sale price.

Combination of drafts:

Present: Combination of drafts of cattle and calves are allowed on the cattle rates if the resulting charge is cheaper than calculating them separately.

Proposed: Deleted.

No sale commission:

Present: No sale commission 25 percent of regular rates with a minimum of $2.00 on cattle and $1.50 on calves and a maximum of $10.00 for any one consignment. No charge if cattle are held in yards and sold on following week.

Proposed: Deleted.

Resale commission:

Present: Resale commission will be calculated at the regular rates less credit for amount collected on original sale.

Proposed: Deleted.

Notice is given hereby also that on April 1, 1960, the Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, filed a "Complaint, Order of Suspension, and Notice of Hearing" with respect to the respondents' rates and charges. The contents of such document are as follows:

This proceeding is instituted pursuant to the provisions of Title III of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), hereafter referred to as the act.

I. The respondents are now, and at all times mentioned herein were, registered with the Secretary of Agriculture as a market agency to sell on commission at the Davis Livestock Auction, which is now, and at all times mentioned herein was, a posted stockyard subject to the provisions of the act.

II. In accordance with the requirements of the act, the respondents have heretofore filed and presently have in effect a schedule of rates and charges for their services.

III. On March 21, 1960, the respondents filed an amendment to their current schedule of rates and charges, effective April 4, 1960, containing certain increases in the current rates and charges.

IV. Upon an analysis of the information available to the Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, there is reason to believe that certain of such increases are unjust, unreasonable, or discriminatory.

V. It is concluded, therefore, that a proceeding under Title III of the Act should be instituted for the purpose of determining the reasonableness and lawfulness of the rates and charges set forth in the respondents' schedule of rates and charges as modified by the amendment filed on March 21, 1960, and that pending a hearing and decision in this proceeding, the operation of the modifications of the current schedule of rates and charges should be suspended and the use of such modified rates and charges deferred.

VI. It is further concluded that a hearing should be had for the purpose of determining the lawfulness of all rates and charges of the respondents and of any rule, regulation, or practice affecting said rates and charges.

It is therefore ordered, That the operation and use by the respondents of the modification of the current schedule of rates and charges filed on March 21, 1960, to become effective on April 4, 1960, is hereby suspended and deferred until the expiration of 30 days beyond the time when such tariff would otherwise go into effect.

It is further ordered, That notice to the respondents shall be, and is hereby, given that a hearing concerning the matters set forth herein will be held before an Examiner of the Department at a time and place to be specified at a later date of which the respondents will receive adequate notice. At such hearing the respondents and all other interested persons will have a right to appear and present such evidence with respect to the matters and things set forth herein as may be relevant and material.

It is further ordered, That any and all interested persons who may wish to appear and present evidence relative to the issues in this proceeding shall give notice thereof by filing a statement to that effect with the Hearing Clerk, United States Department of Agriculture, Washington, D.C., within 20 days from the date of the publication of this order.

It is further ordered, That this document shall be published in the FEDERAL REGISTER.

Done at Washington, D.C., this 15th day of April 1960.

LEE D. SINCLAIR,
Acting Director, Livestock Division, Agricultural Marketing Service.

[F.R. Doc. 60-3581; Filed, Apr. 20, 1960; 8:45 a.m.]

[P. & S. Docket No. 2477]

BOISE VALLEY LIVESTOCK COMMISSION CO.

Notice of Complaint, Order of Suspension, and Hearing Regarding Respondent's Schedule of Rates and Charges

In re Boise Valley Livestock Commission Company, Caldwell and Nampa, Idaho, Respondent.

Notice is hereby given that on March 21, 1960, the respondent, by its attorney, filed an amendment to its current schedule of rates and charges at the Boise Valley Livestock Commission Company Stockyard at Caldwell, Idaho, and the Boise Valley Livestock Commission Company Stockyard at Nampa, Idaho, under Title III of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), to become effective on April 4, 1960. The modifications proposed by the amendment are indicated below.

SELLING COMMISSION (REGULAR SALES)

Classification	Cattle		Calves (450 pounds and under)	
	Present	Proposed	Present	Proposed
Single head (per head)	$3.50	$4.00	$2.50	$3.00
Multiple lots—2 drafts allowed:				
2	7.00	8.00	5.00	6.00
3	10.00	11.50	7.00	8.50
4	12.00	15.00	9.00	11.00
5	14.00	18.00	10.50	13.00
6	16.00	20.50	12.00	14.50
7	17.50	23.00	13.50	16.00
8	19.00	24.50	14.25	17.50
9	20.00	26.00	15.00	19.00
10	21.00	27.50	15.75	20.00
Over 10 add (per head)	1.00	1.25	.75	1.00

Milk cows:

Present: Milk cows sold by the head add $1.50 per head to above rates.

Proposed: Milk cows sold by the head up to $200.00 add $2.50 per head to above rate. Milk cows sold by the head, over $200.00 add $3.50 per head to above rate.

Bulls:

Present: Bulls weighing 600 pounds and over add $1.50 per head to above rates.

Proposed: Bulls weighing under 1,000 pounds add $1.00 per head to above rate. Bulls weighing over 1,000 pounds add $3.50 per head to above rate.

Registered cattle or calves:

Registered cattle or calves sold by the head add $3.00 (presently $2.00) per head to above rates.

Cows with calves:

Present: Cows sold with calves thrown in add 75 cents per calf to above rates.

Proposed: Cows sold with calves thrown in add 75 cents per head to above rate.

Maximum:

Present: Rates limited to a maximum of 10 percent of sale price on sales, with the exception of minimum of 25 cents per head.

Proposed: All rates limited to a maximum of 10 percent of the sale price.

Combination of drafts: Combination of drafts of cattle and calves are allowed on the cattle rates if the resulting charge is cheaper than calculating them separately.

No sales: No charge on no sales.

Resale: Resale commission will be calculated at the regular rates less credit for amount collected on original sale.

Notice is given hereby also that on April 1, 1960, the Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, filed a "Complaint, Order of Suspension, and Notice of Hearing" with respect to the respondent's rates and charges. The contents of such document are as follows:

This proceeding is instituted pursuant to the provisions of Title III of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), hereafter referred to as the act.

I. The respondent is now, and at all times mentioned herein was, registered with the Secretary of Agriclulture as a market agency to sell on commission at the Boise Valley Livestock Commission Company Stockyard, Caldwell, Idaho, and at the Boise Valley Livestock Commission Company Stockyard, Nampa, Idaho, which are now, and at all times mentioned herein were, posted stockyards subject to the provisions of the act.

II. In accordance with the requirements of the act, the respondent has heretofore filed and presently has in effect a schedule of rates and charges for its services at the aforementioned stockyards.

III. On March 21, 1960, the respondent filed an amendment to the current schedule of rates and charges effective April 4, 1960, containing certain increases in the current rates and charges.

IV. Upon an analysis of the information available to the Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, there is reason to believe that certain of such increases are unjust, unreasonable, or discriminatory.

V. It is concluded, therefore, that a proceeding under Title III of the act should be instituted for the purpose of determining the reasonableness and lawfulness of the rates and charges set forth in the respondent's schedule of rates and charges as modified by the amendment filed on March 21, 1960, and that pending a hearing and decision in this proceeding, the operation of the modifications of the current schedule of rates and charges should be suspended and the use of such modified rates and charges deferred.

VI. It is further concluded that a hearing should be had for the purpose of determining the lawfulness of all rates and charges of the respondent and of any rule, regulation, or practice affecting said rates and charges.

It is therefore ordered, That the operation and use by the respondent of the modifications of the current schedule of rates and charges filed on March 21, 1960, to become effective on April 4, 1960, is hereby suspended and deferred until the expiration of thirty days beyond the time when such tariff would otherwise go into effect.

It is further ordered, That notice to the respondent shall be, and is hereby, given that a hearing concerning the matters set forth herein will be held before an Examiner of the Department at a time and place to be specified at a later date, of which the respondent will receive adequate notice. At such hearing the respondent and all other interested persons will have a right to appear and present such evidence with respect to the matters and things set forth herein as may be relevant and material.

It is further ordered, That any and all interested persons who may wish to appear and present evidence relative to the issues in this proceeding shall give notice thereof by filing a statement to that effect with the Hearing Clerk, United States Department of Agriculture, Washington, D.C., within 20 days from the date of the publication hereof in the FEDERAL REGISTER.

It is further ordered, That a copy hereof be served upon the respondent.

It is further ordered, That this document be published in the FEDERAL REGISTER.

Done at Washington, D.C., this 15th day of April 1960.

LEE D. SINCLAIR,
Acting Director, Livestock Division, Agricultural Marketing Service.

[F.R. Doc. 60-3582; Filed, Apr. 20, 1960; 8:45 a.m.]

[P. & S. Docket No. 2478]

WEISER LIVESTOCK COMMISSION CO.

Notice of Complaint, Order of Suspension, and Hearing Regarding Respondents' Schedule of Rates and Charges

In re F. Norman Sitz and Rodney E. McCullough, d/b/a Weiser Livestock Commission Company, Weiser, Idaho.

Notice is hereby given that on March 21, 1960, the respondents, by their attorney, filed an amendment to their current schedule of rates and charges, under Title III of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), to become effective on April 4, 1960. The modifications proposed by the amendment are indicated below.

ITEM NO. I OF TARIFF NO. 1

Classification	Cattle		Calves	
	Present	Proposed	Present (under 450 pounds)	Proposed (450 pounds and under)
Singles (per head)	$3.50	$4.00	$2.50	$3.00
Groups (2 drafts allowed):				
2	7.00	8.00	5.00	6.00
3	10.00	11.50	7.00	8.50
4	12.00	15.00	9.00	11.00
5	14.00	18.00	10.50	13.00
6	16.00	20.50	12.00	14.50
7	17.50	23.00	13.25	16.00
8	19.00	24.50	14.25	17.50
9	20.00	26.00	15.00	19.00
10	21.00	27.50	15.75	20.00
Over 10 add (per head)	1.00	1.25	.75	1.00

Milk cows:
Present: Milk cows, sold by the head, add $1.50 to above per head rates.
Proposed: Milk cows, sold by the head, up to $200.00, add $2.50 per head to above rates. Milk cows, sold by the head, over $200.00, add $3.50 per head to above rates.
Bulls:
Present: Bulls, 600 pounds and over, add $1.50 per head to above rate.
Proposed: Bulls, under 1,000 pounds, add $1.00 per head to above rates. Bulls over 1,000 pounds, add $3.50 per head to above rates.
Registered cattle or calves:
Present: Registered cattle or calves sold by the head, add $2.00 to above per head rate.
Proposed: Registered cattle and calves, add $3.00 per head to above rates.
Cows with calves:
Present: Cows with calves thrown in add 75 cents per calf to above rates.
Proposed: Cows with calves at side (thrown in) add 75 cents per head to above rates.
Maximum:
Present: Rates limited to maximum of 10 percent of sale price on sales and 5 percent on no sale, with exceptions of minimum 25 cents per head.
Proposed: All rates limited to a maximum of 10 percent of the sale price.
Combination of drafts:
Present: Combination drafts of cattle and calves are allowed on cattle rates if resulting charge is cheaper than figured separately.
Proposed: Deleted.
No sale and resale commission:
Present: No sale commission 25 percent of regular rate with minimum of $2.00 on cattle, $1.50 on calves, maximum $10.00 for one consignment. Resale commission, is calculated at regular rates less credit for amount collected at original sale. No charge if cattle are held in yards and sold following week.
Proposed: Deleted.

Notice is given hereby also that on April 1, 1960, the Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, filed a "Complaint, Order of Suspension, and Notice of Hearing" with respect to the respondents' rates and charges. The contents of such document are as follows:

This proceeding is instituted pursuant to the provisions of Title III of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), hereafter referred to as the act.

I. The respondents are now, and at all times mentioned herein were, registered with the Secretary of Agriculture as a market agency to sell on commission at the Weiser Livestock Commission Company, which is now, and at all times mentioned herein was, a posted stockyard subject to the provisions of the act.

II. In accordance with the requirements of the act, the respondents have heretofore filed and presently have in effect a schedule of rates and charges for their services.

III. On March 21, 1960, the respondents filed an amendment to their current schedule of rates and charges, effective April 4, 1960, containing certain increases in the current rates and charges.

IV. Upon an analysis of the information available to the Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, there is reason to believe that certain of such increases are unjust, unreasonable, or discriminatory.

V. It is concluded, therefore, that a proceeding under Title III of the Act should be instituted for the purpose of determining the reasonableness and lawfulness of the rates and charges set forth in the respondents' schedule of rates and charges as modified by the amendment filed on March 21, 1960, and that pending a hearing and decision in this proceeding, the operation of the modifications of the current schedule of rates and charges should be suspended and the use of such modified rates and charges deferred.

VI. It is further concluded that a hearing should be had for the purpose of determining the lawfulness of all rates and charges of the respondents and of any rule, regulation, or practice affecting said rates and charges.

It is therefore ordered, That the operation and use by the respondents of the modification of the current schedule of rates and charges filed on March 21, 1960, to become effective on April 4, 1960, is hereby suspended and deferred until the expiration of thirty days beyond the time when such tariff would otherwise go into effect.

It is further ordered, That notice to the respondents shall be, and is hereby, given that a hearing concerning the matters set forth herein will be held before an Examiner of the Department at a time and place to be specified at a later date of which the respondents will receive adequate notice. At such hearing the respondents and all other interested persons will have a right to appear and present such evidence with respect to the matters and things set forth herein as may be relevant and material.

It is further ordered, That any and all interested persons who may wish to appear and present evidence relative to the issues in this proceeding shall give notice thereof by filing a statement to that effect with the Hearing Clerk, United States Department of Agriculture, Washington, D.C., within 20 days from the date of the publication of this order.

It is further ordered, That this document shall be published in the FEDERAL REGISTER.

Done at Washington, D.C., this 15th day of April 1960.

LEE D. SINCLAIR,
Acting Director, Livestock Division, Agricultural Marketing Service.

[F.R. Doc. 60-3583; Filed, Apr. 20, 1960; 8:45 a.m.]

[P. & S. Docket No. 2479]

ONTARIO LIVESTOCK COMMISSION CO.

Notice of Complaint, Order of Suspension, and Hearing Regarding Respondents' Schedule of Rates and Charges

In re Morgan G. Beck, Man Bundy, Sam Buxton, E. B. Crossley, F. W. Elder, L. H. Fritts, R. D. Harris, Cress Jackson, G. A. Masterson, Tom McElroy, Gene Griffin, N. W. Remsen, George B. Russell, Dave Stoner, D. E. Taylor, Ellis A. White, d/b/a Ontario Livestock Commission Company, Ontario, Oregon, Respondents.

Notice is hereby given that on March 21, 1960, the respondents, by their attorney, filed an amendment to their current schedule of rates and charges, under Title III of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), to become effective on April 4, 1960. The modifications proposed by the amendment are indicated below.

SELLING COMMISSIONS (REGULAR SALES)

Classification	Cattle		Calves	
	Present	Proposed	Present (under 450 pounds)	Proposed (450 pounds and under)
Single (per head)	$3.50	$4.00	$2.50	$3.00
Multiple lots (2 drafts allowed):				
2	7.00	8.00	5.00	6.00
3	10.50	11.50	7.50	8.50
4	13.00	15.00	9.75	11.00
5	16.00	18.00	12.00	13.00
6	18.50	20.50	14.00	14.50
7	20.50	23.00	15.50	16.00
8	22.00	24.50	16.50	17.50
9	23.50	26.00	17.75	19.00
10	25.00	27.50	18.75	20.00
11 and over add (per head)	1.00	1.25	.75	1.00

Milk cows:
Present: Milk cows sold by the head add $1.50 per head to above rates.
Proposed: Milk cows, sold by the head, up to $200 add $2.50 per head to above rates. Milk cows, sold by the head, over $200 add $3.50 per head to above rates.
Bulls:
Present: Bulls weighing 600 pounds and over add $1.50 per head to above rates.
Proposed: Bulls, under 1,000 pounds, add $1.00 per head to above rates. Bulls, over 1,000 pounds, add $3.50 per head to above rates.
Registered cattle and calves:
Present: Registered cattle and calves sold by the head add $2.00 per head to above rates.
Proposed: Registered cattle and calves, add $3.00 per head to above rates.
Cows with calves at side (thrown in) add 75 cents per calf to above rates.
Combination of drafts of cattle and calves allowed on cattle rates if resulting charge is less than calculating them separately.
Resale commission will be calculated at the regular rates less credit for amount collected on original sale.
All rates limited to a maximum of 10 percent of sale price with the exception of a minimum charge of 25 cents per head.

Notice is given hereby also that on April 1, 1960, the Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, filed a "Complaint, Order of Suspension, and Notice of Hearing" with respect to the respondents' rates and charges. The contents of such document are as follows:

This proceeding is instituted pursuant to the provisions of Title III of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), hereafter referred to as the act.

I. The respondents are now, and at all times mentioned herein were, registered with the Secretary of Agriculture as a market agency to sell on commission at the Ontario Livestock Commission Company, which is now, and at all times mentioned herein was, a posted stockyard subject to the provisions of the act.

II. In accordance with the requirements of the act, the respondents have heretofore filed and presently have in effect a schedule of rates and charges for their services.

III. On March 21, 1960, the respondents filed an amendment to their current schedule of rates and charges, effective April 4, 1960, containing certain increases in the current rates and charges.

IV. Upon an analysis of the information available to the Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, there is reason to believe that certain of such increases are unjust, unreasonable, or discriminatory.

V. It is concluded, therefore, that a proceeding under Title III of the Act should be instituted for the purpose of determining the reasonableness and lawfulness of the rates and charges set forth in the respondents' schedule of rates and charges as modified by the amendment filed on March 21, 1960, and that pending a hearing and decision in this proceeding, the operation of the modifications of the current schedule of rates and charges should be suspended and the use of such modified rates and charges deferred.

VI. It is further concluded that a hearing should be had for the purpose of determining the lawfulness of all rates and charges of the respondents and of any rule, regulation, or practice affecting said rates and charges.

It is therefore ordered, That the operation and use by the respondents of the modification of the current schedule of rates and charges filed on March 21, 1960, to become effective on April 4, 1960, is hereby suspended and deferred until the expiration of thirty days beyond the time when such tariff would otherwise go into effect.

It is further ordered, That notice to the respondents shall be, and is hereby, given that a hearing concerning the matters set forth herein will be held before an Examiner of the Department at a time and place to be specified at a later date of which the respondents will receive adequate notice. At such hearing the respondents and all other interested persons will have a right to appear and present such evidence with respect to the matters and things set forth herein as may be relevant and material.

It is further ordered, That any and all interested persons who may wish to appear and present evidence relative to the issues in this proceeding shall give notice thereof by filing a statement to that effect with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C., within 20 days from the date of the publication of this order.

It is further ordered, That this document shall be published in the FEDERAL REGISTER.

Done at Washington, D.C., this 15th day of April, 1960.

LEE D. SINCLAIR,
Acting Director, Livestock Division, Agricultural Marketing Service.

[F.R. Doc. 60-3584; Filed, Apr. 20, 1960; 8:45 a.m.]

[P. & S. Docket No. 2480]

MERIDIAN SALE YARD

Notice of Complaint, Order of Suspension, and Hearing Regarding Respondents' Schedule of Rates and Charges

In re Hardy Ward and Aden R. Wheeler, d/b/a Meridian Sale Yard, Meridian, Idaho.

Notice is hereby given that on March 21, 1960, the respondents, by their attorney, filed an amendment to their current schedule of rates and charges, under Title III of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), to become effective on April 4, 1960. The modifications proposed by the amendment are indicated below.

PRESENT RATES

Cattle sold singly

Number	Cattle	Calves (450 pounds and under)
1	$3.50	$2.50
2	7.00	5.00
3	10.50	7.50
4	14.00	10.00
5	17.50	12.50
6	21.00	15.00
7	24.50	17.50
8	28.00	20.00
9	31.50	22.50
10	35.00	25.00
11	38.50	27.50
12	42.00	30.00
13	45.50	32.50
14	49.00	35.00
15	52.50	37.50
16	56.00	40.00
17	59.50	42.50
18	63.00	45.00
19	66.50	47.50
20	70.00	50.00

Calves selling for $25.00 and under, 10 percent of sale price.

Multiple lots—Two drafts allowed

Number	Cattle	Weight	Calves
2	$7.00	900	$5.00
3	10.00	1,350	7.00
4	12.00	1,800	9.00
5	14.00	2,250	10.50
6	16.00	2,700	12.00
7	17.50	3,150	13.25
8	19.00	3,600	14.25
9	20.00	4,050	15.00
10	21.00	4,500	15.75
11	22.00	4,950	16.50
12	23.00	5,400	17.25
13	24.00	5,850	18.00
14	25.00	6,300	18.75
15	26.00	6,750	19.50
16	27.00	7,200	20.25
17	28.00	7,650	21.00
18	29.00	8,100	21.75
19	30.00	8,550	22.50
20	31.00	9,000	23.25
21	32.00	9,450	24.00
22	33.00	9,900	24.75
23	34.00	10,350	25.50
24	35.00	10,800	26.25
25	36.00	11,250	27.00

CATTLE

1. Bulls weighing 600 pounds and over add $1.50 per head to above rates.

2. Milk cows sold by the head add $1.50 per head to above rates.

3. Registered cattle or calves sold by the head add $2.00 per head to above rates.

4. Cows sold with calves thrown in add 75 cents per calf.

5. Combination of drafts of cattle and calves are allowed on the cattle rates if the resulting charge is cheaper than calculating them separately.

6. No sale commission 25 percent of regular rates with a minimum of $2.00 on cattle and $1.50 on calves and a maximum of $10.00 for any one consignment. No charge if cattle are held in yards and sold the following week.

7. Resale commission will be calculated at the regular rates less credit for amount collect on original sale.

8. Rates limited to a maximum of 10 percent of sale price on sales and 5 percent on no sales with the exception of a minimum of 25 cents per head.

I. Cattle ordinary.

PROPOSED RATES

Classification	Cattle	Calves (450 pounds and under)
Singles (per head)	$4.00	$3.00
Groups (2 drafts allowed):		
2	8.00	6.00
3	11.50	8.50
4	15.00	11.00
5	18.00	13.00
6	20.50	14.50
7	23.00	16.00
8	24.50	17.50
9	26.00	19.00
10	27.50	20.00
Over 10 add (per head)	1.25	1.00

II. Cattle specified amount to be added to "Cattle" in I above.

1. Milk cows, sold by the head up to $200.00, add $2.50 per head.

2. Milk cows, sold by the head, $200.00 and over, add $3.50 per head.

3. Bulls, under 1,000 pounds, add $1.00 per head.

4. Bulls, 1,000 pounds and over, add $3.50 per head.

5. Registered cattle and calves, add $3.00 per head.

6. Cows with calves at side, add 75 cents per calf.

7. All rates limited to a maximum of 10 percent of the sale price.

Notice is given hereby also that on April 1, 1960, the Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, filed a "Complaint, Order of Suspension, and Notice of Hearing" with respect to the respondents' rates and charges. The contents of such document are as follows:

This proceeding is instituted pursuant to the provisions of Title III of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), hereafter referred to as the act.

I. The respondents are now, and at all times mentioned herein were, registered with the Secretary of Agriculture as a market agency to sell on commission at the Meridian Sale Yard, which is now, and at all times mentioned herein was, a posted stockyard subject to the provisions of the act.

II. In accordance with the requirements of the act, the respondents have heretofore filed and presently have in effect a schedule of rates and charges for their services.

III. On March 21, 1960, the respondents filed an amendment to their current schedule of rates and charges, effective April 4, 1960, containing certain increases in the current rates and charges.

IV. Upon an analysis of the information available to the Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, there

is reason to believe that certain of such increases are unjust, unreasonable, or discriminatory.

V. It is concluded, therefore, that a proceeding under Title III of the Act should be instituted for the purpose of determining the reasonableness and lawfulness of the rates and charges set forth in the respondents' schedule of rates and charges as modified by the amendment filed on March 21, 1960, and that pending a hearing and decision in this proceeding, the operation of the modifications of the current schedule of rates and charges should be suspended and the use of such modified rates and charges deferred.

VI. It is further concluded that a hearing should be had for the purpose of determining the lawfulness of all rates and charges of the respondents and of any rule, regulation, or practice affecting said rates and charges.

It is therefore ordered, That the operation and use by the respondents of the modification of the current schedule of rates and charges filed on March 21, 1960, to become effective on April 4, 1960, is hereby suspended and deferred until the expiration of thirty days beyond the time when such tariff would otherwise go into effect.

It is further ordered, That notice to the respondents shall be, and is hereby, given that a hearing concerning the matters set forth herein will be held before an Examiner of the Department at a time and place to be specified at a later date of which the respondents will receive adequate notice. At such hearing the respondents and all other interested persons will have a right to appear and present such evidence with respect to the matters and things set forth herein as may be relevant and material.

It is further ordered, That any and all interested persons who may wish to appear and present evidence relative to the issues in this proceeding shall give notice thereof by filing a statement to that effect with the Hearing Clerk, United States Department of Agriculture, Washington, D.C., within 20 days from the date of the publication of this order.

It is further ordered, That this document shall be published in the FEDERAL REGISTER.

Done at Washington, D.C., this 15th day of April 1960.

LEE D. SINCLAIR,
Acting Director, Livestock Division, Agricultural Marketing Service.

[F.R. Doc. 60-3585; Filed, Apr. 20, 1960; 8:45 a.m.]

Office of the Secretary

ILLINOIS

Designation of Area for Production Emergency Loans

For the purpose of making production emergency loans pursuant to section 2 (a) of Public Law 38, 81st Congress (12 U.S.C. 1148a-2 (a)), as amended, it has been determined that in the following counties in the State of Illinois a production disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

ILLINOIS

Adams. Hancock.

Pursuant to the authority set forth above, production emergency loans will not be made in the above-named counties after June 30, 1961, except to applicants who previously received such assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 15th day of April 1960.

TRUE D. MORSE,
Acting Secretary.

[F.R. Doc. 60-3622; Filed, Apr. 20, 1960; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 13461; FCC 60-382]

J. P. BEACOM ET AL.

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In re application of J. P. Beacom, Transferor, and Thomas P. Johnson and George W. Eby, Transferee, Docket No. 13461, File No. BTC-3360; for consent to the relinquishment of positive control of WJPB-TV, Inc., permittee of station WJPB-TV, Weston, West Virginia.

1. The Commission has before it for consideration (a) the "Protest" filed on March 18, 1960, pursuant to section 309 (c) of the Communications Act of 1934, as amended, by WSTV, Inc., licensee of Television Station WBOY-TV, Clarksburg, West Virginia, directed against the Commission's action of February 17, 1960, granting without hearing the above-entitled application; (b) the "Opposition of WJPB-TV, Inc., to Protest of WSTV, Inc.," filed by the applicants herein on March 28, 1960; and (c) the "Reply to 'Opposition of WJPB-TV, Inc., to Protest of WSTV, Inc.' "

2. The above-entitled application requested Commission consent to the voluntary relinquishment of positive control of WJPB-TV, Inc., permittee of Station WJPB-TV, Weston, West Virginia, by J. P. Beacom through the sale of stock to Thomas P. Johnson and George W. Eby.[1] On February 22, 1960, the parties consummated the transaction.

3. In its Protest, protestant alleges, in substance, that it is the licensee of Station WBOY-TV, Clarksburg, West Virginia; that Clarksburg is approximately 17 miles from Weston; that the cities of Clarksburg, Fairmont and Weston, West Virginia, and other communities in the surrounding area are served by WBOY-TV and presently receive service (through the medium of a number of community antenna television companies) from the following stations: KDKA-TV (Channel 2), WIIC (Channel 11), and WTAE (Channel 4), all in Pittsburgh, Pennsylvania; WTRF-TV (Channel 7), Wheeling, West Virginia, and WSTV-TV (Channel 9), Steubenville, Ohio; that due to intense television competition in the Clarksburg-Fairmont area, the operation of WJPB-TV in said area will result in increased competition with protestant's station, and protestant, therefore, will suffer economic injury. In support thereof, protestant further alleges that mutually exclusive applications were filed by WJPB-TV, Inc., and Telecasting, Inc., to operate on commercial Channel 5, Weston, West Virginia; that the application of WJPB-TV, Inc., specified particularly (among other items) the proposed use of Radio Corporation of America equipment in the station, estimated the cost of construction at $146,000, specified that 15.30 percent of total air time would be devoted to educational interests,[2] and that the applicant had a loan commitment for financing from Wonock Enterprises Corporation, New York, in the amount of $200,000; that the Commission, by Order dated March 19, 1958, designated said applications for hearing; that on May 15, 1959, WJPB-TV, Inc., and Telecasting, Inc., entered into an agreement whereby Telecasting, Inc., was to dismiss its application in consideration of a three-year option to acquire a 50 percent interest in WJPB-TV, Inc.; that on October 16, 1959, an Initial Decision of the Hearing Examiner found (with specific regard to two of the issues involved therein) that, based upon data obtained from Radio Corporation of America concerning the proposed antenna, the proposed operation of the station (by WJPB-TV, Inc.) would meet minimum Commission requirements, and, that with respect to the above-mentioned option agreement, "The questions as to whether the ownership of a television station at

[1] The Ownership Report (FCC Form 323) filed by WJPB-TV, Inc., on December 30, 1959, and reflecting information rendered as of November 4, 1959, indicated that WJPB-TV, Inc., was authorized to issue 500 shares of common voting $100 par value stock, of which 270 shares were issued and outstanding to J. P. Beacom, president of said licensee, and 230 shares held as treasury stock. The transaction involved in the above application called for Beacom to surrender 120 (out of his 270) shares to the permittee, and pay $85,000 for an additional 100 shares of new stock. Johnson was to pay $95,000 for 237½ shares, and Eby $5,000 for 12½ shares.

[2] Commission records indicate that in 1955, WJPB-TV, Inc., petitioned the Commission for rulemaking to make Channel 5, then assigned to Weston, West Virginia, and reserved for education, available for commercial use. On October 6, 1955, the Commission issued a Notice of Proposed Rulemaking pursuant to said petition. In said petition, WJPB-TV, Inc., represented that it would devote 25 percent of total air time to educational interests. In its application for construction permit, for commercial station on Channel 5 (BPCT-2318), referred to above, Commission records indicate that WJPB-TV, Inc., stated that 15.30 percent of total air time would be devoted to educational interests, the decrease being due to the educational officials indicating that they "would not be in a position to accept * * * as much as 25 percent of the time."

Weston * * * by Telecasting is in compliance with the Commission's rules on multiple ownership will be determined * * * at the time an application is filed for transfer of control pursuant to the option agreement"; and that the aforesaid Initial Decision was adopted by the Commission on November 4, 1959.

4. Protestant further alleges that on January 25, 1960, an application was filed (BTC–3360) for Commission consent to the transfer of a 50 percent interest in WJPB–TV, Inc., to Messrs. Johnson and Eby; that submitted therewith was a corporate resolution of Telecasting, Inc., which indicated that all of the rights in the above-mentioned option agreement had been assigned to Messrs. Johnson and Eby; that the application states that the transfer "to Messrs. Johnson and Eby represents exercise of options previously approved by Commission in Docket Nos. 12349 and 12351"; that in said application, Mr. Johnson was shown to have extensive interests, including connections with the Pittsburgh Athletic Company, Inc., as Director, Vice President, Secretary and stockholder; that an amendment to said application, filed February 8, 1960, indicated that in order to meet the balance of commitments, notes would be acquired upon the signature of "J. Patrick Beacom and/or Thomas P. Johnson, transferee"; that said amendment also indicated that a contract had been entered into "* * * whereby WJPB–TV, Incorporated purchased some General Electric Company television broadcasting equipment in the amount of $165,000 * * *"; that on February 1, 1960, WJPB–TV, Inc., filed an application (BMPCT–5437) for modification of its construction permit to change the location of its main studio from Weston to Fairmont, and for a waiver of § 3.613(a) of the Commission's rules; that on March 10, 1960, an application (BTC–3390) was filed for Commission consent to transfer control of Telecasting, Inc., permittee of Station WENS–TV, Pittsburgh, Pennsylvania, to Mr. Thomas P. Johnson;[3] and "* * * that no Commission approval had ever been obtained for any of the stock transactions described in said application, and no ownership reports have ever been filed to reflect such changes in stock ownership."

5. Protestant alleges in support of its protest, in substance, that Pittsburgh Athletic Company, Inc., is the owner of a National League Professional Baseball Club, the Pittsburgh Pirates; that its station, WBOY–TV, telecasts the Pirates' games, which telecasts have increased the viewing audience of said station, and from which telecasts protestants reasonably anticipate revenues in 1960 to exceed $10,000; that Commission approval of the ownership interest in WJPB–TV, Inc., by Johnson will result in the diversion of such programs to WJPB–TV and the loss of substantial revenues to WBOY–TV due to Johnson's dual position; that this result is indicated by recent announcements and advertisements;[4] that "* * * the transferees herein, have engaged in acts constituting transfer of control of Telecasting, Inc., * * * during the pendency of the proceedings on the Telecasting application for construction permit for Channel 5 * * * [and] * * * failed to disclose such transfer in said application and in the instant application * * * [and have] * * * misrepresented in each of such applications the respective stock interests held in Telecasting, Inc."; that the misrepresentations and nondisclosures and the knowledge thereof by "the transferor" are indicated by the failure to mention in the instant transfer application that Johnson then had any interest in Telecasting, Inc., and by the non-disclosure to the Commission at the time Telecasting, Inc., dismissed its application that the option rights in the agreement between it and WJPB–TV, Inc., could or would be assigned to Johnson and Eby when the agreement itself provided for non-assignable rights to Telecasting, Inc.;[5] that WJPB–TV, Inc., in its application for construction permit for a station on Channel 5 in Weston, and in the proceedings on that application, "* * * failed to make candid disclosure of its actual intentions with respect to the location of its main studio, and misrepresented to the Commission its intention to have only an auxiliary studio in Fairmont * * *"; that WJPB–TV, Inc., had operated a television station in Fairmont with its main studio there, and has at all times had such facilities available to it; and that public announcements were made that WJPB–TV's main offices and main studio would be located in Fairmont.

6. Protestant further alleges that there has been a premature exercise of control over WJPB–TV, Inc., by Mr. Johnson; that in the amendment to the transfer application dated February 8, 1960, "* * * it was disclosed that WJPB–TV, Inc. abandoned its proposal to operate * * * [with Radio Corporation of America equipment] * * * and had substituted General Electric equipment * * *"; that such substitution, and the negotiations attendant thereto, were conducted by Mr. Johnson, or persons acting in his behalf, prior to Commission approval of the transfer application; that on January 7, 1960, Mr. Johnson was publicly held out to be Chairman of the Board of Directors of WJPB–TV; that the expected construction costs for the proposed station were represented as not to exceed $250,000, but public announcements disclosed that the costs are in excess of $500,000; that the required additional funds to meet the extra cost would be supplied by or through the transferees giving them "de facto" positive, rather than negative, control because Mr. Beacom has failed to establish his financial ability to meet a 50 percent share of an expenditure in excess of $500,000; that Beacom's alleged source of funds is an alleged loan which "* * * would be available only upon guarantee by Johnson"; that Johnson's financial position is such that he is readily able to provide the greater portion of required funds in excess of $500,000; and that the parties to the transfer application "failed to disclose in said application that WJPB–TV, Inc. expected to broadcast programs promoting a business or activity in which Johnson was engaged or financially interested."[6]

7. In its prayer for relief, protestant requests that the above-entitled application be designated for hearing upon the issues specified by it; and that the effective date of the Commission's grant of the above-entitled application be stayed pending final decision after hearing in this proceeding.

8. In its Opposition, the applicants allege, in substance, that protestant is not protesting a grant of a new facility, but that of the transfer of control of an existing television franchise; that where, as here, standing is predicated upon economic injury, the protestant, in order to bring himself within the provisions of section 309(c), must show that the injury on which he relies for standing arises out of the "particular grant which he is protesting"; that it was the Commission's Order, released November 6, 1959, whereby WJPB–TV, Inc. was

[3] Commission records indicate that appended to said application was a statement which disclosed that on July 1, 1958, a special stockholders meeting was held allegedly with a view toward relieving them of further financial risk; that on October 31, 1958, an offer was made to all stockholders to repurchase their stock, the result of the acceptance of which by a majority rendered Johnson's 6,500 shares as representing 52 percent of the stock left issued and outstanding instead of its original 27 percent representation; and that on November 28, 1958, Johnson acquired an additional 1,000 shares raising his total holdings to 7,500 shares or approximately 60 percent of the issued and outstanding stock of Telecasting, Inc. None of these transactions had ever been disclosed to the Commission prior to the filing of BTC–3390.

[4] It is alleged in the protest, and in some instances supported by exhibits, that on January 7, 1960, Johnson was described at a luncheon in Fairmont as "Chairman of the Board of Directors of WJPB–TV * * * [and as] * * * majority owner of the Pittsburgh Pirates Baseball Club"; that on January 24, February 14, and 21, 1960, WJPB–TV advertised it would carry games of the Pirates this coming season; and that on March 10, 1960, the Pittsburgh Press announced that the Pirates' TV schedule included telecasts on "Channel 5 (Fairmont, West Virginia, not yet on the air)."

[5] Protestant further alleges that the date, terms, nature and consideration of the transfer of the option rights to Johnson and Eby have never been disclosed, and that a copy of the "actual assignment" of option rights has never been filed with the Commission. Commission records fail to disclose the filing of a copy of the "actual assignment." However, a certified copy of the resolution of the Board of Directors of Telecasting, setting forth the transfer of option rights to Johnson and Eby, and the reasons therefor, was filed on January 25, 1960, along with the application (BTC–3360) whose grant is herein protested.

[6] Protestant refers to section IV, paragraph 9 of FCC Form 315, said form being the transfer application (BTC–3360), which calls for a statement as to the average number of hours per week which will be used to advertise or promote any business, profession or activity other than broadcasting in which an applicant is engaged or financially interested, either directly or indirectly. This section in the present transfer application did not contain any statement whatsoever.

granted its construction permit for Channel 5, and "not the action here complained of" which is causing the increase in competition with the protestant's television station; that "The sole remedy available to petitioner [protestant] on the basis of such 'economic injury' was (in addition to opposing the use of Channel 5 in the area on a commercial basis) intervention in the Channel 5 proceeding"; that protestant's allegations in support of its standing are unrelated to the action of which it complains, and, even if they could be related to that action, are too speculative and insubstantial to permit the finding of "economic injury" essential to standing; that a mere showing of competition between protestant's station and the station being transferred is not sufficient; and that the protestant fails to show how the particular grant further aggravates the competitive situation.

9. In opposition to the allegations as to the loss of baseball games and the economic loss resulting therefrom, due to Mr. Johnson's position with the Pittsburgh Athletic Company, Inc., it is alleged, in substance, that Johnson has a less than 25 percent interest in Pittsburgh Athletic Company, Inc.;[7] that the radio and television rights to the Pirate games have been sold to N. W. Ayer & Son, Inc., an advertising agency; that the decision as to the facility over which the games are to be broadcast rests with this company and not the Pirates organization or any individual stockholder; that although the decision as to whether to place the games on Channel 5 or 12 has not yet been made, the present probability is that the 30 Pirate games (the full amount to be telecast) will be telecast over the protestant's station and not Channel 5; that even if the games were to be lost, no significant injury would occur to protestant; that the above-named applicants are "advised and therefore allege" that during 1959, WBOY–TV obtained gross revenues from broadcasting in the amount of $267,142.38; that the $10,000 expected loss, as alleged by protestant if it lost the Pirate games, represents less than 4 percent of the station's total revenues; that the games themselves represent "at most" 90 hours of program material or less than 2 percent of the station's total programming "assuming an average broadcast day of 17 hours"; that WJPB–TV is advised that in 1959, WBOY–TV telecast only 12 games and was paid $1.00 per game per sponsor, giving it a total of $24.00 for the year; that, therefore, the $10,000 figure could not have been obtained from that source and is "unfounded and unrealistic"; and that, therefore, the economic loss is too speculative and "de minimis" in character to qualify.

10. In opposition to the allegations concerning the transfer of control of Telecasting, Inc., main studio locations, educational programming, and the premature exercise of control over WJPB–TV, Inc., by Mr. Johnson, it is alleged that Mr. Johnson acquired majority control of Telecasting, Inc., through "inadvertence"; that the officers of Telecasting realized the significance of the stock transaction occurring in 1958 only shortly before the filing of the application herein protested; that the off-the-air status of WENS–TV and the desire of some of the stockholders to sell in order to realize a tax loss renders "understandable (if not entirely excusable)" the fact that the officers overlooked the significance of the transaction; that any further inquiry which the Commission finds necessary with respect to the transaction should be made in its consideration of the pending application for transfer of control of Telecasting, Inc. (BTC–3390); that the Commission had knowledge of WJPB–TV, Inc.'s plan to have auxiliary studios in Fairmont; that the application (BMPCT–5437) to change location was filed promptly, and in the public interest, to provide better television service; that the proposed educational programming of 25 percent of total broadcast time is still available, but that the educational groups are unable at this time to provide material for such air time; that the public introduction of Mr. Johnson as Chairman of the Board of Directors of WJPB–TV, Inc., included the statement that such position was "subject to the action of the FCC"; that the deletion of this latter qualification was a result of the "shorthand" of a newspaper; that Mr. Johnson in no way participated in the negotiations with General Electric which resulted in a contract with that company rather than with the Radio Corporation of America; that such negotiations were conducted by Mr. Beacom as a result of more satisfactory arrangements and newer equipment offered by that company, and of sound business judgment; that the $500,000 installation cost referred to in the advertisements, appended as an Exhibit to the protest, comprehended expenditures by utility companies and property owners, making the station a "$500,000 facility"; and that the reason Mr. Johnson did not list the telecasting of the Pirate games in response to paragraph 9, section IV of FCC Form 315, of the protested application, was "simply that there was not then, nor is there now, any understanding that such games will be telecast."

11. In opposition to protestant's request to stay the effective date of the protested grant, it is alleged, in substance, that protestant, not having alleged facts showing that it is a "party in interest," is in no position to demand that the grant be suspended under the protest procedure; that even if facts had been alleged showing standing, protestant has not made "any valid showing how competition will be more to its detriment if WJPB–TV is operated by Messrs. Beacom, Johnson and Eby rather than by Mr. Beacom alone"; that the matters concerning the transfer of control of Telecasting, Inc., are before the Commission, do not concern the protestant, and can be fully dealt with in the Commission's consideration of the Telecasting application; and that the Commission is "in a position to make an affirmative finding that the public interest requires the grant to remain in effect (47 U.S.C. section 309(c))—where no irreparable injury is shown * * *"

12. In a section of the Opposition entitled "Other Considerations," the above-named applicants alleged, in substance, that the protest "* * * is a frantic and desperate effort to delay the establishment of a competitive television service in the area"; and that the "allegations of petty economic injury are particularly ill-suited from the petitioner which owns its full quota of five VHF stations one of which (WSTV, Steubenville), by contour overlap and through the extensive antennacoverage (sic) in the area, provides another service in the same area as WBOY–TV and WJPB–TV."

13. In its reply, protestant, in substance, reaffirms the points raised in its protest as to its standing, alleging that WJPB–TV has not been constructed; that questions concerning the qualifications of both the transferor and the transferee are herein involved; that it has alleged facts showing that a new injury will result from the grant of the application protested; and that it will lose substantial expected revenues from programs which would be diverted to WJPB–TV due to Mr. Johnson's "substantial ownership and other connections with the program source." It is further alleged that, with respect to the transfer of control of Telecasting, Inc., the applicants concede the facts with respect to its unauthorized effectuation, and that the application therefor (BTC–3390) contained nondisclosures "* * * for the purpose of keeping that (the unauthorized transfer of control) from the Commission in order to avoid the risk of endangering the grant of that application," which nondisclosures and misrepresentations were misleading; that with regard to the opposition's denials to the protestant's allegation that there were "payoffs" made concerning the transfer of rights under the option agreement to Messrs. Johnson and Eby, the opposition still does not explain what "other valuable considerations" were existing; that the opposition's "explanations" regarding studio locations, educational programming, and the premature exercise of control over WJPB–TV, Inc., by Mr. Johnson, are "inconsistent," "ambiguous," and raise further questions; that with regard to the cost and status of construction, "The applicant does not deny the facts supporting protestant's allegation * * *" of misrepresentation, and that any disclosure by the applicants of a much higher anticipated cost of construction would have placed into question the financial qualifications of Mr. Beacom, "which have always been thin"; and that with regard to the opposition's request for a denial of the request for a stay of authorization, the opposition "has not advanced a single fact which could evenly (sic) remotely support a denial of the stay" under the provisions of section 309(c).

14. In view of the facts alleged in the protest that the protestant is the licensee of Station WBOY–TV, Clarksburg, West Virginia; that protestant's station is in

[7] In further support of these allegations, the opposition has attached thereto an affidavit of Douglas S. Parker, Timebuyer for N. W. Ayer & Son, Inc.; an affidavit of Thomas P. Johnson; and an affidavit of J. P. Beacom.

direct competition with WJPB–TV; that the operation of WJPB–TV as proposed will result in increased competition for programs, revenues derived from advertising, and for the "relatively small" television audience in said area; and that as a direct result of the acquisition of 50 percent of the stock of WJPB–TV, Inc., by Thomas P. Johnson and George W. Eby, Station WJPB–TV will be able to compete more effectively with protestant, we find the protestant to be a "party in interest" within the meaning of section 309(c) of the Communications Act of 1934, as amended. FCC v. Sanders Brothers, 309 U.S. 470; Camden Radio, Inc. v. FCC, 94 U.S. App. D.C. 312, 220 F. 2d 191; In re General-Times Television Corporation, 13 Pike and Fischer RR 1049. We find further that protestant has specified with particularity, within the meaning of section 309(c), the facts upon which it relies and upon which it contends that the grant by the Commission was improperly made or otherwise would not be in the public interest. Accordingly, the above-entitled application will be designated for an evidentiary hearing. The issues presented by protestant have been revised in some minor instances without change in scope. However, we are not adopting any of said issues, and the burden of proof thereon, both in proving the facts alleged and in demonstrating their materiality and relevancy, will be on the protestant.

15. The protestant has also requested that the effective date of the Commission's grant of the above-entitled application be stayed pending final decision after hearing in this proceeding. Section 309(c) presents two tests controlling the question as to when the Commission may authorize the applicant to utilize the facilities or authorization in question pending decision after hearing. The first of these is when the Commission is able to find that the "authorization involved is necessary to the maintenance or conduct of an existing service." That is not the case here. The second consideration provided for in section 309(c) is when "the Commission affirmatively finds, for reasons set forth in the decision, that the public interest requires that the grant remain in effect." The change in the position of the parties was a voluntary one, effectuated with full knowledge that the grant remained subject to protest by a party in interest for a period of 30 days. Although the applicant contends that "the public interest requires the grant to remain in effect * * * where no irreparable injury is shown and the chances of ultimately prevailing are nonexistent," and that "under these circumstances the Commission should not permit its processes to be abused," no facts have been presented which warrant the public interest finding required by the statute. While we appreciate the extent to which private interests might be affected by a stay of our grant, we are of the view that such circumstances were not within the contemplation of Congress when it provided for a "public interest" finding by the Commission to support an avoidance of stay. In re Saunders, 16 Pike and Fischer RR 444; In re Mitchell Motors, 14 Pike and Fischer RR 85.

16. In light of the above: *It is ordered,* That, the subject protest is granted to the extent provided for below and is denied in all other respects; that, pursuant to section 309(c) of the Communications Act of 1934, as amended, the effective date of the grant of the above-entitled application is postponed pending a final determination by the Commission in the hearing ordered below; and that the above-entitled application is designated for hearing at the office of the Commission in Washington, D.C., on the following issues:

1. To determine whether an unauthorized transfer of control of Telecasting, Inc., to Thomas P. Johnson occurred during the pendency of the Telecasting application for construction permit for a station on Channel 5 in Weston, West Virginia; whether there was a willful non-disclosure of such unauthorized transfer in said application, in the proceedings on said application, and in the application for transfer of control of WJPB–TV, Inc., to Messrs. Johnson and Eby; and whether there was a willful misrepresentation and non-disclosure in said applications as to the respective ownership interests of the stockholders of Telecasting, Inc.

2. To determine whether the agreement dated May 15, 1959, entered into between WJPB–TV, Inc., and Telecasting, Inc., embodied all the considerations and understandings by and among those parties or by and among the stockholders of those parties in regard to the dismissal of the application of Telecasting, Inc., and the option or other interests of such parties and stockholders in the television station granted to WJPB–TV, Inc.

3. To determine whether there has been a failure to make full disclosure to the Commission concerning all agreements, understandings and arrangements entered into between Messrs. Johnson and Eby with Telecasting, Inc., or the other stockholders of Telecasting, Inc., pursuant to which Johnson and Eby succeeded to the rights of Telecasting, Inc., under the agreement dated May 15, 1959.

4. To determine whether WJPB–TV, Inc., in its application for construction permit for a station on Channel 5 in Weston, West Virginia, and in the proceedings on that application, failed to make candid disclosures, and misrepresented its actual intentions, with respect to the location of its main studio.

5. To determine whether the transferees exercised acts of ownership and control with respect to the television station authorized by the Commission to WJPB–TV, Inc., in Weston, West Virginia, prior to the Commission's grant of the application for transfer of negative control of WJPB–TV, Inc.

6. To determine whether the parties to the transfer application, in such application or in the original application by WJPB–TV, Inc., for construction permit, misrepresented to the Commission the expected costs of construction of the proposed television station.

7. To determine whether there are any understandings among the parties to the transfer application pursuant to which funds additional to those committed by such parties, as asserted in the transfer application, will be supplied or furnished by either or both of the transferees or pursuant to which de facto positive control of the permittee of Station WJPB–TV will be exercised by either or both of the transferees.

8. To determine whether the parties to the transfer application misrepresented to the Commission in such application, the status of the construction of the facilities at the transmitter location of Station WJPB–TV.

9. To determine whether the applicants made full disclosure to the Commission in the transfer application of their plans or expectations to carry programs advertising or promoting any business, profession or activity in which the transferee Johnson is engaged or financially interested, either directly or indirectly.

10. To determine, on the basis of the record made in connection with the foregoing issues, whether a grant of the above-entitled application would serve the public interest, convenience and necessity.

17. *It is further ordered,* That, the burden of proceeding with the introduction of evidence and the burden of proof shall be on the protestant.

18. *It is further ordered,* That, the protestant and the Chief, Broadcast Bureau are hereby made parties to the proceeding herein and that:

(a) The hearing on the above issues shall commence at a time and place and before an Examiner to be specified in a subsequent Order;

(b) The parties to the proceeding herein shall have fifteen (15) days after the issuance of the Examiners' decision to file exceptions thereto and seven (7) days thereafter to file replies to any such exceptions;

(c) The appearances by the parties intending to participate in the above hearing shall be filed not later than April 25, 1960.

19. *It is further ordered,* That, within thirty (30) days from the date of this Order, the parties to the above-entitled application shall rescind the transfer of control of WJPB–TV, Inc., and said control shall be returned to the transferor, J. P. Beacom.

Adopted: April 13, 1960.

Released: April 18, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60–3633; Filed, Apr. 20, 1960; 8:48 a.m.]

[Docket No. 12604 etc.; FCC 60–371]

BLUE ISLAND COMMUNITY BROADCASTING CO., INC., ET AL.

Memorandum Opinion and Order Amending Issues

In re applications of Blue Island Community Broadcasting Co., Inc., Blue Island, Illinois, Docket No. 12604, File No.

BPH-2458; The News-Sun Broadcasting Co., Waukegan, Illinois, Docket No. 13292, File No. BPH-2543; William O. Barry and H. C. Young, Jr., d/b as Hi-Fi Broadcasting Company, Chicago, Illinois, Docket No. 13293, File No. BPH-2589; Elmwood Park Broadcasting Corporation, Elmwood Park, Illinois, Docket No. 13294, File No. BPH-2636; for construction permits; Evelyn R. Chauvin Schoonfield, Elmwood Park, Illinois, Docket No. 13296, File No. BRH-179; for renewal of license.

1. The Commission has before it for consideration (1) the petition of Blue Island to modify and enlarge issues, filed December 29, 1959; (2) the opposition of Elmwood Park, filed January 11, 1960; (3) the statement of the Commission's Broadcast Bureau, filed February 9, 1960; (4) the reply of Blue Island, filed February 12, 1960; (5) the petition of Blue Island to sever the above-captioned proceeding, filed February 4, 1960; and (6) the statement of the Broadcast Bureau filed February 17, 1960.

2. By separate petitions Blue Island seeks modification and enlargement of the issues in the above-captioned FM broadcast proceeding, and requests that its application and the applications of Elmwood Park Broadcasting Corporation and Evelyn R. Chauvin Schoonfield be severed from this proceeding and a separate hearing held thereon. We will treat the latter petition first.

PETITION TO SEVER

3. In support of the requested severance, petitioner points out that Mrs. Schoonfield, Elmwood Park, and Blue Island each seek to operate on Channel 290, while News-Sun and Hi-Fi each request Channel 294, and submits that the Order released January 15, 1960 (FCC 60M-98), permitting Suburban Broadcasters to amend its application to specify Channel 240 instead of Channel 292 and severing Suburban from this proceeding has removed the only reason for consolidation of these applications. Blue Island's petition is supported by the Broadcast Bureau and is unopposed. As there are no interference problems between the applicants seeking Channel 290 and those requesting Channel 294, we will grant the petition and order separate hearing as to the applications of Evelyn R. Chauvin Schoonfield, Blue Island, and Elmwood Park.

PETITION TO MODIFY AND ENLARGE ISSUES

4. Blue Island seeks modification of Issue 8, which calls for a comparison as to the two applicants for a station in Elmwood Park, Illinois, in the event it is determined under Issue 7 (the standard 307(b) issue) that one of the proposals for that community should be granted. The proposed modification would call for a comparison of all applicants in the event a choice cannot be made under Issue 7. In support of its proposal petitioner alleges that Blue Island and Elmwood Park are suburbs of Chicago and within the metropolitan and urbanized areas of Chicago, that the proposals of each of the applicants for these communities would serve both communities, and that it may be determined that a choice cannot be based upon 307 (b) considerations. While we are persuaded of the need for the proposed issue, we feel that it should supplement rather than replace Issue 8, for, as the Broadcast Bureau points out, the proposed modification would not limit a comparative consideration to the Elmwood Park proposals even though it should be determined, under Issue 7, that Blue Island and Elmwood Park are separate communities and that Elmwood Park has a greater need for a new station. Accordingly, we will add an issue calling for a comparative consideration of the three applications in the event it is determined that a choice among them cannot be based upon section 307(b) considerations.

5. Blue Island requests an issue to inquire into the financial qualifications of Elmwood Park, alleging that there is an obvious conflict between Mrs. Schoonfield and Elmwood Park as to the ownership of the equipment used by the former for Station WXFM. Elmwood Park concedes that in order to perfect its ownership it must repossess the equipment from Mrs. Schoonfield, and has made no showing of the cost of similar equipment in the event it is unsuccessful in repossessing the WXFM equipment. Until the conflict between Elmwood Park and Mrs. Schoonfield is resolved in the civil courts, sufficient doubt as to Elmwood Park's financial qualifications remains to warrant the addition of the proposed issue.

6. Blue Island also proposes an issue to inquire into the reasons for the assignment of the WXFM license from Elmwood Park to Mrs. Schoonfield, alleging that the application for assignment (BALPH-9) stated the reason to be the illness of Zeb Zarnecki, the president of Elmwood Park, that Mr. Zarnecki is still president of the corporation, and that the present application was filed less than twenty-seven months after the assignment to Mrs. Schoonfield. Blue Island states that it relies on "simple logic" to arrive at the conclusion that Elmwood Park's statement concerning the reason for its assignment was inaccurate. The facts alleged do not, in our opinion, warrant the conclusion drawn by Blue Island, and the proposed issue will be denied.

7. Blue Island's proposed issue which would inquire into the accuracy of statements made by Elmwood Park in various applications is supported by petitioner's recital of three statements of Elmwood Park: (1) that Elmwood Park "owns all equipment such as transmitter * * * antenna, tower, real estate, on which the studios, tower and transmitters are located * * * and is repossessing same from Mrs. Evelyn Schoonfield * * *"; (2) that the reason for the assignment of the WXFM license to Mrs. Schoonfield was the illness of Mr. Zarnecki; and (3) that at a meeting of the directors of Elmwood Park it was decided to apply to the Commission to regain its FM license because of the insolvency and default of Mrs. Schoonfield and the persons to whom she proposed to assign WXFM, and the resulting necessity for Elmwood Park to repossess the equipment. As to the first statement, Blue Island states that it is quesionable that Elmwood Park owns all of the equipment, and that an affidavit of Lester E. Frost, dated January 13, 1959, stated that certain equipment was on hand at Station WXFM which was not listed in the conditional sales agreement. We think that Elmwood Park's statement, taken as a whole, claims ownership only in a titular sense and not in a possessory sense, since it concedes that it must take legal steps to perfect its ownership. Nor do we think its statement was intended to encompass every item contained in the WXFM studio, particularly record players, turn tables, and other relatively minor electronic accessories described by Frost in his affidavit. As pointed out in paragraph 6, above, petitioner relies only on "simple logic" to support the conclusion that the second statement alluded to is inaccurate, and we have already found this conclusion to be unfounded. Blue Island does not allege that the third statement is untrue nor does it allege facts which would tend to indicate that it might be untrue; it only alleges that if the statement is untrue, such would "raise serious doubts concerning the qualifications of Elmwood Park * * *" Again, Blue Island has failed totally to make a factual showing which would support the requested issue.

8. As to the requested issue concerning Elmwood Park's participation in any unauthorized transfer of control of Station WXFM, petitioner points out that Mrs. Schoonfield agreed to assign the station to Edward Krupkowski and applied for Commission approval of the sale in November, 1958, withdrawing such application in October, 1959. Blue Island alleges that Mr. Krupkowski actually operated the station during a part of this period, Elmwood Park accepting payments of rent and other monies from him. Such allegation does not, in our opinion, provide a basis for inferring that Elmwood Park participated in an unauthorized transfer of control, and the requested issue is not warranted.

9. Blue Island's petition to modify and enlarge issues was admittedly filed one day late, and petitioner requests that the Commission waive § 1.141 of the rules, urging as good cause therefor that counsel's unexpected workload resulting from the "payola" questionnaire coupled with the intervening Christmas holidays made it impossible for it to file sooner. Good cause having been shown, the request for waiver will be granted.

Accordingly, it is ordered, This 13th day of April 1960, That the petition to modify and enlarge issues, filed by Blue Island Community Broadcasting Co., Inc., on December 29, 1959, is granted to the extent noted above, and in all other respects is denied; and That Issues 7, 8, and 9 as set forth in the Commission's Order released December 9, 1959 (FCC 59-1225), are renumbered 8, 9, and 11, respectively, and that the following issues are added thereto:

7. To determine whether Elmwood Park Broadcasting Corporation is financially qualified to construct and operate the proposed station.

10. To determine, in the event that a choice between the applications herein cannot be based upon considerations with

respect to section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better serve the public interest in the light of the evidence adduced pursuant to the foregoing issues and the record made with respect to the significant differences between the applicants as to:

(a) The background and experience of each having a bearing on the applicant's ability to own and operate the proposed station.

(b) The proposals of each of the instant applicants with respect to the management and operation of the proposed station.

(c) The programing service proposed in each of the instant applications.

It is further ordered, That the petition to sever and hold separate hearing filed by Blue Island Community Broadcasting Company, Inc., on February 4, 1960, is granted; That the above-identified applications of Blue Island Community Broadcasting Company, Inc., Elmwood Park Broadcasting Corporation, and Evelyn R. Chauvin Schoonfield are severed from the above-captioned proceeding; and that the applications so severed shall be retained in a consolidated hearing to determine the issues specified as to them.

Released: April 18, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-3634; Filed, Apr. 20, 1960; 8:48 a.m.]

[Docket Nos. 13466-13468; FCC 60-385]

BRANDYWINE BROADCASTING CORP. ET AL.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Brandywine Broadcasting Corporation, Media, Pennsylvania, requests 690 kc, 500 w, DA-Day, Docket No. 13466, File No. BP-11856; David G. Hendricks and Lester Grenewalt, d/b as Boyertown Broadcasting Company, Boyertown, Pennsylvania, requests 690 kc, 250 w, Day, Docket No. 13467, File No. BP-12548; Dinkson Corporation, Hammonton, New Jersey, requests 690 kc, 250 w, Day, Docket No. 13468, File No. BP-12955; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 13th day of April 1960;

The Commission having under consideration the above-captioned and described applications;

It appearing that except as indicated by the issues specified below, each of the instant applicants is legally, technically, financially, and otherwise qualified to construct and operate its instant proposal; and

It further appearing that pursuant to section 309(b) of the Communications Act of 1934, as amended, the Commission, in a letter dated December 31, 1959, and incorporated herein by reference, notified the instant applicants, and any other known parties in interest, of the grounds and reasons for the Commission's inability to make a finding that a grant of any one of the applications would serve the public interest, convenience, and necessity; and that a copy of the aforementioned letter is available for public inspection at the Commission's offices; and

It further appearing that the instant applicants filed timely replies to the aforementioned letter, which replies have not, however, entirely eliminated the grounds and reasons precluding a grant of the said applications and requiring an evidentiary hearing on the particular issues as hereinafter specified; and in which the applicants stated that they would appear at a hearing on the instant applications; and

It further appearing that by amendment filed July 16, 1959, Boyertown Broadcasting Company (BP-12548), moved its proposed transmitter site 225 feet and increased the length of the ground radials; that by letters dated July 31 and August 10, 1959, counsel for Brandywine Broadcasting Corporation (BP-11856) contended that the said amendment involved a change of the engineering proposal "other than with respect to the type of equipment specified" and that the amended application of Boyertown (citing §§ 1.106(b)(1) and 1.354(h)(1)) required a new file number and could not be considered in a comparative proceeding with the applications of Brandywine Broadcasting Corporation and Dinkson Corporation (BP-12955); that by letters dated August 5 and 13, 1959, counsel for Boyertown Broadcasting Company contended that by their amendment no change in coverage or interference occurred; that no change to the subject proposal in relation to other stations and applications resulted; and that the amendment did not alter frequency or radiation, as the proposed 175 mv/m radiation was unchanged, and only a slight shift of the proposed tower was made; and

It further appearing that the provisions of § 1.354(h)(1) in effect when the amendment in question was filed on July 16, 1959 required the assignment of a new file number upon a change in the engineering proposal except for type of equipment, but that, since the changes specified in the amendment are not sufficiently substantial to make any appreciable difference in radiation toward other facilities or in the processing of the amended application, and since the changes specified would not require a new file number under the provisions of § 1.354(h)(1) as amended, effective April 1, 1960, we are of the opinion that, with respect to the said amendment, the provisions of § 1.354(h)(1) then obtaining should be waived; and

It further appearing that after consideration of the foregoing and the applicants replies, the Commission is still unable to make the statutory finding that a grant of the applications would serve the public interest, convenience, and necessity; and is of the opinion that the applications must be designated for hearing in a consolidated proceeding on the issues specified below;

It is ordered, That, pursuant to section 309(b) of the Communications Act of 1934, as amended, the instant applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which would receive primary service from each of the instant applicants and the availability of other primary service to such areas and populations.

2. To determine the nature and extent of the interference, if any, that each of the instant proposals would cause to and receive from each other and all other existing standard broadcast stations, the areas and populations affected thereby, and the availability of other primary service to the areas and populations affected by interference from any of the instant proposals.

3. To determine whether the instant proposal of Brandywine Broadcasting Corporation would involve objectionable interference with Stations WADS, Ansonia, Connecticut; WCBM, Baltimore, Maryland, and WOR, New York, New York, or any other existing standard broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

4. To determine whether the instant proposal of Boyertown Broadcasting Company would involve objectionable interference with Stations WADS, Ansonia, Connecticut, WNNT, Warsaw, Virginia, and WOR, New York, New York, or any other existing standard broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

5. To determine whether the instant proposal of Dinkson Corporation would involve objectionable interference with Stations WADS, Ansonia, Connecticut, WCBM, Baltimore, Maryland, WNNT, Warsaw, Virginia, and WOR, New York, New York, or any other existing standard broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

6. To determine whether the interference received from any of the other proposals herein and any existing stations would affect more than ten percent of the population within the normally protected primary service area of any one of the instant proposals in contravention of § 3.28(c)(3) of the Commission rules and, if so, whether circumstances exist which would warrant a waiver of said Section.

7. To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the instant proposals would best provide a fair, efficient and equitable distribution of radio service.

8. To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if any, of the instant applications should be granted.

It is further ordered, That, The Valley Broadcasting Company, Baltimore

Broadcasting Corporation, RKO General, Inc., Grayson Headley tr/as Northern Neck and Tidewater Broadcasting Co., licensees of Stations WADS, WCBM, WOR, and WNNT, respectively, are made parties to the proceeding.

It is further ordered, That the provisions of § 1.354(h)(1) which were in effect when the above-described amendment was filed by Boyertown Broadcasting Company on July 16, 1959, are waived with respect to the assignment of a new file number to its instant application; and that Brandywine Broadcasting Corporation's aforementioned request that a new file number be assigned to the said application of Boyertown Broadcasting Company is denied.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and parties respondent herein, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

It is further ordered, That, the issues in the above-captioned proceeding may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding, and upon sufficient allegations of fact in support thereof, by the addition of the following issue: To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

Released: April 18, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-3635; Filed, Apr. 20, 1960; 8:48 a.m.]

[Docket Nos. 13462-13465; FCC 60-383]

BROCKWAY CO. (WMSA) ET AL.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of The Brockway Company (WMSA), Massena, New York, has 1340 kc, 250 w, U, requests 1340 kc, 250 w, 1 kw-LS, Docket No. 13462, File No. BP-12290; Twin State Broadcasters, Inc. (WTWN), St. Johnsbury, Vermont, has 1340 kc, 250 w, U, requests 1340 kc, 250 w, 1 kw-LS, U, Docket No. 13463, File No. BP-13040; Trustees of Dartmouth College (WDCR), Hanover, New Hampshire, has 1340 kc, 250 w, U, requests 1340 kc, 250 w, 1 kw-LS, Docket No. 13464, File No. BP-13112; WIRY, INC. (WIRY), Plattsburg, New York, has 1340 kc, 250 w, U, requests 1340 kc, 250 w, 1 kw-LS, DA-D, U, Docket No. 13465, File No. BP-13631; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 13th day of April 1960;

The Commission having under consideration the above-captioned and described applications;

It appearing that except as indicated by the issues specified below, each of the instant applicants is legally, technically, financially, and otherwise qualified to construct and operate its instant proposal; and

It further appearing that pursuant to section 309(b) of the Communications Act of 1934, as amended, the Commission, in a letter dated January 13, 1960, and incorporated herein by reference, notified the instant applicants, and any other known parties in interest, of the grounds and reasons for the Commission's inability to make a finding that a grant of any one of the applications would serve the public interest, convenience, and necessity; and that a copy of the aforementioned letter is available for public inspection at the Commission's offices; and

It further appearing that the instant applicants filed timely replies to the aforementioned letter, which replies have not, however, entirely eliminated the grounds and reasons precluding a grant of the said applications and requiring an evidentiary hearing on the particular issues hereinafter specified; and

It further appearing that after consideration of the foregoing, and the applicants' replies, the Commission is still unable to make the statutory finding that a grant of the applications would serve the public interest, convenience, and necessity; and is of the opinion that the applications must be designated for hearing in a consolidated proceeding on the issues specified below;

It is ordered, That, pursuant to section 309(b) of the Communications Act of 1934, as amended, the instant applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the proposed operations of each of the instant proposals and the availability of other primary service to such areas and populations.

2. To determine the nature and extent of the interference, if any, that each of the instant proposals would cause to and receive from each other and all other existing standard broadcast stations, the areas and populations affected thereby, and the availability of other primary service to the areas and populations affected by interference from any of the instant proposals.

3. To determine whether the instant proposal of Station WMSA would involve objectionable interference with Station WIRY, Plattsburg, New York, or any other existing standard broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

4. To determine whether the instant proposal of Station WTWN would involve objectionable interference with Stations WIRY, Plattsburg, New York and WDCR, Hanover, New Hampshire, or any other existing standard broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

5. To determine whether the instant proposal of Station WDCR would involve objectionable interference with Station WTWN, St. Johnsbury, Vermont, or any other existing standard broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

6. To determine whether the instant proposal of Station WIRY would involve objectionable interference with Station WMSA, Massena, New York, or any other existing standard broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

7. To determine whether interference received from the proposed operation of Station WIRY would affect more than ten percent of the population within the normally protected primary service area of the instant proposal of Station WMSA, in contravention of § 3.28(c)(3) of the Commission rules, and, if so, whether circumstances exist which would warrant a waiver of said Section.

8. To determine whether interference received from the existing operation of Station WMSA and the other proposals herein would affect more than ten percent of the population within the normally protected primary service area of the instant proposal of Station WIRY, in contravention of § 3.28(c)(3) of the Commission rules, and, if so, whether circumstances exist which would warrant a waiver of said Section.

9. To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the instant proposals would best provide a fair, efficient and equitable distribution of radio service.

10. To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if any, of the instant applications should be granted.

It is further ordered, That, each of the instant applicants is made a party to the instant proceeding with respect to its existing operations.

It is further ordered, That, to avail themselves of the opportunity to be heard, each of the instant applicants, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

It is further ordered, That, the issues in the above-captioned proceeding may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding, and upon sufficient allegations of fact in support

thereof, by the addition of the following issue: To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

Released: April 18, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-3636; Filed, Apr. 20, 1960; 8:49 a.m.]

[Docket No. 12615 etc., FCC 60-374]

COOKEVILLE BROADCASTING CO. ET AL.

Memorandum Opinion and Order Amending Issues

In re applications of Hamilton Parks, tr/as Cookeville Broadcasting Company, Cookeville, Tennessee, et al; Docket No. 12615, File No. BP-11518, etc.; for construction permits.

1. The Commission has before it for consideration (1) a petition to enlarge the issues in the above-styled proceeding filed by KGMO Radio-Television, Inc., on January 28, 1960; (2) an opposition to that petition filed by Gertrude Baker on February 8, 1960; (3) comments of the Commission's Broadcast Bureau filed on February 10, 1960; (4) a reply to Gertrude Baker's opposition filed by KGMO Radio-Television, Inc., on February 15, 1960; (5) a request for leave to file a further opposition to the petition filed by Gertrude Baker on March 1, 1960; (6) a further opposition to the subject petition filed by Gertrude Baker on March 1, 1960; and (7) other matters of record herein.

2. Gertrude Baker (Mrs. Baker) and KGMO Radio-Television, Inc., (KGMO) seek construction permits for new standard broadcast stations, the former to serve Poplar Bluff, Missouri, and the latter to serve Cape Girardeau, Missouri. Their applications were designated for consolidated hearing with the several other applications involved in this proceeding. KGMO seeks enlargement of the issues to determine (1) whether Mrs. Baker's husband, James R. Baker (Baker), is a party in interest to her application; (2) if so, whether he possesses the necessary character qualifications to become a licensee; and (3) whether Mrs. Baker possesses the necessary character qualifications to become a licensee.

3. In support of requested issue (1), KGMO notes that Mrs. Baker's application discloses that Mrs. Baker proposes to use assets of the Baker Land Company, jointly owned by her and her husband, to meet the construction and initial operating costs of the proposed station. In view of this reliance upon common funds and the husband-wife relationship, KGMO maintains that Mr. Baker is a party in interest to the application. Mrs. Baker denies that her husband is a party in interest, asserting that the operation of the proposed station will be totally divorced from his control. The Bureau is of the view that Mrs. Baker's reliance on jointly owned assets, together with the fact that Mrs. Baker as an individual does not own any property other than a checking account in the amount of $106.82, serve to create an interest in Mr. Baker in the proposed operation. The Bureau further notes that in response to a 309(b) letter, Mrs. Baker submitted an affidavit by her husband in which he stated that he is primarily responsible for the management of their business and "* * * has always considered what his wife owned as his and what he owned as hers." It is the Commission's view that the factual allegations in KGMO's petition and in the Bureau's comments warrant the addition of an issue to determine whether Mr. Baker is a party in interest in Mrs. Baker's application.

4. In support of requested issue (2), KGMO asserts that in 1945 Mr. Baker was convicted on two counts of using the mails to defraud in conjunction with a transaction for the sale of land on behalf of the Baker Land Company. Mrs. Baker admits the mail fraud conviction but argues that there is no basis for the theory of "guilt by association and marriage", and that the conviction has no bearing upon her application. The Bureau supports the requested issue, stating that Mr. Baker would operate the proposed station under the guise of his wife's ownership without having to disclose his own character qualifications. It is the Commission's view that a sufficient showing has been made to warrant an inquiry into Mr. Baker's character qualifications in the event he is found to be a party in interest in the instant application.

5. The character issue against Mrs. Baker is requested by KGMO on the ground that she was a part owner of the Baker Land Company when the activities leading to Mr. Baker's conviction occurred. KGMO also suggests that Mrs. Baker's real estate license was cancelled for cause and would have the requested issue include inquiry into this. Mrs. Baker points out that her real estate license expired, that she did not renew it, and that it was not cancelled for cause. She submits correspondence from the Secretary of the Missouri Real Estate Commission to that effect. She alleges the absence of any foundation for an issue against her character qualifications. It is the Commission's view that Mrs. Baker's proprietary interest in and connection with the Baker Land Company at the time of the use of the mails to defraud warrants the addition of the third requested issue to determine whether any responsibility therefor or prior knowledge thereof should be ascribed to her.

6. In justification of the late filing of the subject petition, KGMO states that it only recently became aware of the facts and information cited and that the filing of the petition was accomplished promptly thereafter. Mrs. Baker asks that the petition be dismissed because of its untimeliness. We find that good cause for the late filing has been shown. Mrs. Baker's request for leave to file a further opposition to the petition should be granted due to the fact that a statement by the Secretary of the Real Estate Commission, submitted with KGMO's reply to Mrs. Baker's initial opposition, was the first indication as to the basis of the allegation that her real estate license was cancelled for cause.

Accordingly, it is ordered, This 13th day of April 1960, That the request for leave to file a further opposition to the petition to enlarge the issues, filed by Gertrude Baker on March 1, 1960, is granted and the further opposition filed therewith is accepted;

It is further ordered, That the petition to enlarge the issues filed by KGMO Radio-Television, Inc., on January 28, 1960, is granted; the present issues (5), (6), (7), (8), (9), (10), (11) and (12) are renumbered as issues (8), (9), (10), (11), (12), (13), (14) and (15); and the following issues are added:

5. To determine whether James R. Baker is, in fact, a party in interest to the application of Gertrude Baker.

6. To determine, in the event James R. Baker is found to be a party in interest to the application of Gertrude Baker, whether he possesses the necessary character qualifications to be a licensee of the Commission.

7. To determine whether Gertrude Baker possesses the necessary character qualifications to be a licensee of the Commission.

Released: April 18, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-3637; Filed, Apr. 20, 1960; 8:49 a.m.]

[Docket Nos. 13065-13071; FCC 60-372]

CONSOLIDATED BROADCASTING INDUSTRIES, INC., ET AL.

Memorandum Opinion and Order

In re applications of Consolidated Broadcasting Industries, Inc., Natick, Massachusetts, Docket No. 13065, File No. BP-11677; Charles A. Bell, George J. Helmer, III, Wayne H. Lewis and Edward Bleier, d/b as Newton Broadcasting Company, Newton, Massachusetts, Docket No. 13067, File No. BP-12884; Transcript Press, Inc., Dedham, Massachusetts, Docket No. 13068, File No. BP-12901; Berkshire Broadcasting Corporation, Hartford, Connecticut, Docket No. 13069, File No. BP-12917; United Broadcasting Co., Inc., Beverly, Massachusetts, Docket No. 13070, File No. BP-13103; Grossco, Inc., West Hartford, Connecticut, Docket No. 13071, File No. BP-13141; for construction permits.

1. The Commission has before it for consideration (1) the petition of United Broadcasting Co., Inc., for severance from the above-captioned proceeding, filed February 24, 1960; (2) the opposition of Newton Broadcasting Company, filed March 8, 1960; (3) the comment of the Commission's Broadcast Bureau, filed March 8, 1960; (4) the reply of United Broadcasting Co., Inc., filed March 10, 1960; and (5) the reply of the Commission's Broadcast Bureau, filed March 17, 1960.

2. United Broadcasting Co., Inc., (United), applicant for a new standard broadcast station at Beverly, Massachusetts, to operate on 1570 kilocycles with power of 500 watts, requests severance from this proceeding, and a separate hearing on its application, alleging in support thereof that its proposed operation does not involve objectionable interference with any of the other consolidated proposals, each of which seeks to operate on 1550 kc. As United points out, the dismissal of the two applications mutually exclusive with its own has removed the link between its application and those remaining in this proceeding. Conceding that its application cannot be granted immediately because of issues applicable to it, petitioner submits that the proper dispatch of the Commission's business warrants the requested severance. The Commission's Broadcast Bureau supports United's request.

3. The opposition of Newton Broadcasting Company (Newton) is based primarily on the fact that United's proposal will cause interference within Newton's proposed 0.5 mv/m contour, which interference, because it lies wholly within an urbanized area outside of Newton's proposed 2.0 mv/m contour, is not deemed objectionable. While it concedes that it would not receive objectionable interference from United's proposal, Newton alleges that the interference will result in economic injury to itself, as it intends to attract an audience from such area, and it contends that this potential injury would give it standing to intervene in a proceeding on United's application; hence, Newton submits, the net effect of granting United's petition would be to require Newton to participate in two proceedings instead of one. Newton also alleges that there exists a possible violation of § 3.35 of the rules due to the partial common ownership between United and Consolidated Broadcasting Industries, Inc., applicant herein for a station at Natick, Massachusetts, and a slight overlap of the service areas proposed by these two applicants.

4. We do not agree with Newton's basic position that it has intervenor status as to United's application; as pointed out by the Broadcast Bureau in its reply to Newton's opposition, it is well-settled that potential economic injury to another applicant is not sufficient to constitute the latter a party in interest entitled to intervene. See Versluis Radio and Television, Inc., 8 RR 808 (1952); and Ian S. Landsdown (KRIS), 14 RR 488 (1956).

5. We have previously disposed of the question of a possible violation of § 3.35 of the rules; in our Memorandum Opinion and Order released December 17, 1959 (FCC 59–1264), we found the area of overlap between United and Consolidated to be so slight (1.9 square miles, with a population of 849 persons) that no concentration of control of broadcasting facilities was indicated. Even if the § 3.35 question were in issue, retention of United in the consolidated proceeding would not be required, since such an issue could be determined in the separate proceeding involving United.

Accordingly, it is ordered, This 13th day of April 1960, That the petition of United Broadcasting Co., Inc., filed February 24, 1960, is granted; that the order of the Commission released August 10, 1959 (FCC 59–853), is amended by severing therefrom the application of United Broadcasting Co., Inc. (File No. BP–13103); That the application so severed shall be retained in hearing status to determine the issues specified as to it; and that Silver City Broadcasting Corp., licensee of Station WPEP, Taunton, Massachusetts, is made a party to the proceeding involving said application of United Broadcasting Co., Inc.

Released: April 18, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60–3638; Filed, Apr. 20, 1960; 8:49 a.m.]

[Docket Nos. 13469–13471; FCC 60–386]

WILMER E. HUFFMAN ET AL.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re application of Wilmer E. Huffman, Pratt, Kansas, requests 1290 kc, 500 w, 5 kw–LA, DA–2, U, Docket No. 13469, File No. BP–12021; Francis C. Morgan, Jr., Larned, Kansas, requests 1290 kc, 500 w, Day, Docket No. 13470, File No. BP–12749; Pier San, Inc., Larned, Kansas, requests 1290 kc, 500 w, Day, Docket No. 13471, File No. BP–12750; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 13th day of April 1960;

The Commission having under consideration the above-captioned and described applications;

It appearing that except as indicated by the issues specified below, each of the instant applicants is legally, technically, financially, and otherwise qualified to construct and operate its instant proposal; and

It further appearing that pursuant to section 309(b) of the Communications Act of 1934, as amended, the Commission, in a letter dated October 14, 1959, and incorporated herein by reference, notified the instant applicants, and any other known parties in interest, of the grounds and reasons for the Commission's inability to make a finding that a grant of any one of the applications would serve the public interest, convenience, and necessity; and that a copy of the aforementioned letter is available for public inspection at the Commission's offices; and

It further appearing that the instant applicants filed timely replies to the aforementioned letter, which replies have not, however, entirely eliminated the grounds and reasons precluding a grant of any one of the applications and requiring a hearing on each of the particular issues hereinafter specified; and

It further appearing, that, after consideration of the foregoing and the applicants' replies, the Commission is still unable to make the statutory finding that a grant of the applications would serve the public interest, convenience, and necessity; and is of the opinion that the applications must be designated for hearing in a consolidated proceeding on the issues specified below;

It is ordered, That, pursuant to section 309(b) of the Communications Act of 1934, as amended, the instant applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which would receive primary service from each of the instant proposals and the availability of other primary service to such areas and populations.

2. To determine the nature and extent of the interference, if any, that each of the instant proposals would cause to and receive from each other and all other existing standard broadcast stations, the areas and populations affected thereby, and the availability of other primary service to the areas and populations affected by interference from any of the instant proposals.

3. To determine whether the instant proposals of BP–12749 and BP–12750 would involve objectionable interference with Station KSOK, Arkansas City, Arkansas, or any other existing standard broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

4. To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, whether the proposal for Pratt, Kansas, or one of the proposals for Larned, Kansas, would better provide a fair, efficient and equitable distribution of radio service.

5. To determine, in the event it is concluded pursuant to the foregoing issue that one of the proposals for Larned, Kansas, should be favored, which of the proposals of BP–12749 or BP–12750, would better serve the public interest, convenience and necessity in the light of the evidence adduced under the issues herein and the record made with respect to the significant difference between the said applicants as to:

a. The background and experience of each having a bearing on the applicant's abilty to own and operate the proposed standard broadcast station.

b. The proposals of each of the applicants with respect to the management and operation of the proposed station.

c. The programming service proposed in each of the said applications.

6. To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if any, of the instant applications should be granted.

It is further ordered, That, the KSOK Broadcasting Company, Inc., licensee of Station KSOK, Arkansas City, Arkansas, is made a party to the proceeding.

It is further ordered, That, to avail themselves of the opportunity to be heard, the instant applicants and party respondent herein, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the

mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

It is further ordered, That, the issues in the above-captioned proceeding may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding, and upon sufficient allegations of fact in support thereof, by the addition of the following issue: To determine whether the funds available to the appilcant will give reasonable assurance that the proposals set forth in the application will be effectuated.

Released: April 18, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-3639; Filed, Apr. 20, 1960; 8:49 a.m.]

[Docket Nos. 12680, 12681; FCC 60-368]

KANSAS BROADCASTERS, INC., AND SALINA RADIO, INC.

Memorandum Opinion and Order Amending Issues

In re applications of Kansas Broadcasters, Inc., Salina, Kansas, Docket No. 12680, File No. BP-11527; Salina Radio, Inc., Salina, Kansas, Docket No. 12681, File No. BP-11802; for construction permits.

1. The Commission has before it for consideration (1) a Petition to Clarify or Enlarge Issues, filed by Kansas Broadcasters, Inc., on January 27, 1960; (2) a reply filed by the Broadcast Bureau on February 3, 1960; and (3) the matters of record in the above-entitled proceeding.

2. Kansas Broadcasters, Inc. (Kansas) and Salina Radio, Inc. (Salina) are mutually exclusive applicants for a new standard broadcast station to operate on 910 kilocycles, 500 watts, daytime only, at Salina, Kansas. The applicants propose different transmitter sites. Kansas' proposal would employ a three element directional antenna, and Salina's proposal would employ a five element directional antenna. By Order released November 24, 1958 (FCC 58-1102), the Commission designated their applications for consolidated hearing on issues including the standard comparative issue but not including a specific comparative coverage issue. By Memorandum Opinion and Order released May 8, 1959 (FCC 59-416), several issues not here pertinent were added.

3. Kansas requests that the issues be clarified to allow evidence of comparative coverage, or, in the alternative, that the following issue be added: "To determine the areas and populations which would receive primary service from each of the operations proposed in the above-captioned applications and the availability of other primary service to such areas and populations."

Kansas asserts that there is a substantial difference of decisional significance between the technical proposals of the applicants and the service that would be rendered,[1] and that such facts are necessarily material to a determination of which applicant would better serve the public interest, convenience and necessity.

4. The Commission is of the opinion that petitioner has made a sufficient showing to warrant consideration of the differences in proposed coverage of the applicants. Good cause exists for the enlargement of issues at this time in that confusion in the interpretation of the existing issues apparently led Kansas to believe that evidence of comparative coverage was admissible, and that when the Hearing Examiner ruled otherwise, it acted diligently in filing its petition.

Accordingly, it is ordered, This 13th day of April 1960, That the Petition to Clarify or Enlarge Issues, filed by Kansas Broadcasters, Inc., on January 27, 1960, is granted to the extent indicated herein and is in all other respects denied; that the designation Order (FCC 58-1102), as amended, is further amended to renumber Issues (2), (3), (4) and (5) as Issues (3), (4), (5) and (6), respectively; That the issues are enlarged by adding the following issues:

(2) To determine the areas and populations which would receive primary service from each of the operations proposed in the above-captioned applications and the availability of other primary service to such areas and populations.

Released: April 18, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-3640; Filed, Apr. 20, 1960; 8:49 a.m.]

[Docket No. 13472; FCC 60-389]

PIONEER BROADCASTING CO. (KNOW)

Order Designating Application for Hearing on Stated Issues

In re application of Pioneer Broadcasting Company (KNOW), Austin, Texas, has 1490 kc, 250 w, U, req. 1490 kc, 250 w, 1 kw-LS, U, Docket No. 13472, File No. BP-12736; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 13th day of April 1960;

The Commission having under consideration the above-captioned and described application;

It appearing that except as indicated by the issues specified below, the instant applicant is legally, technically, financially, and otherwise qualified to construct and operate the instant proposal; and

It further appearing that pursuant to section 309(b) of the Communications Act of 1934, as amended, the Commission, in a letter dated December 11, 1959, and incorporated herein by reference, notified the applicant, and any other known parties in interest, of the grounds and reasons for the Commission's inability to make a finding that a grant of the application would serve the public interest, convenience and necessity; and that a copy of the aforementioned letter is available for public inspection at the Commission's offices; and

It further appearing that the applicant filed a timely reply to the aforementioned letter, which reply has not, however, entirely eliminated the grounds and reasons precluding a grant of the application and requiring an evidentiary hearing on the particular issues hereinafter specified; and

It further appearing that it will be necessary for the applicant to submit field intensity measurement data to establish that the proposed 2 mv/m contour of the instant proposal will not overlap the 25 mv/m contour of Station KCNY, San Marcos, Texas, in violation of § 3.37 of the rules; and

It further appearing that after consideration of the foregoing and the applicant's reply, the Commission is still unable to make the statutory finding that a grant of the application would serve the public interest, convenience, and necessity; and is of the opinion that the application must be designated for hearing on the issues specified below;

It is ordered, That, pursuant to section 309(b) of the Communications Act of 1934, as amended, the instant application is designated for hearing, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the proposed operation of Station KNOW and the availability of other primary service to such areas and populations.

2. To determine whether the instant proposal of Station KNOW would involve objectionable interference with Stations KCNY, San Marcos, Texas, KIBL, Beeville, Texas, KNEL, Brady, Texas and KSAM, Huntsville, Texas, or any other existing standard broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

3. To determine whether overlap of the 2 mv/m and 25 mv/m contours would occur between the instant proposal of Stations KNOW and KCNY, in contravention of § 3.37 of the Commission rules, and, if so, whether circumstances exist which would warrant a waiver of said Section.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether a grant of the

[1] Kansas supports this assertion with an engineering affidavit showing that the ground conductivities to the northwest, north and northeast of Salina, Kansas are significantly greater than that indicated by Figure M-3 of the rules. Thus, Kansas would radiate a greater signal in those directions, and as a result, provide a 2.0 mv/m signal to two cities within the trading area of Salina, Kansas, having populations in excess of 2,500 which would not be so served by Salina.

instant application would serve the public interest, convenience and necessity.

It is further ordered, That John D. Rossi, tr/as Bee Broadcasting Company, Central Broadcasting Company, Brady Broadcasters, Inc., and Verla Cauthen, Independent Executrix of the Estate of M. B. Cauthen, Deceased, licensees of Stations KIBL, KCNY, KNEL and KSAM, respectively, are made parties to the proceeding.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicant and parties respondent, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

Released: April 18, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-3641; Filed, Apr. 20, 1960; 8:49 a.m.]

[Docket Nos. 13473, 13474; FCC 60-391]

TALIESIN BROADCASTING CO. AND DOUGLAS G. OVIATT & SON, INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Mary W. Carpenter tr/as The Taliesin Broadcasting Company, Cleveland, Ohio, req. 95.5 Mc, #238; 2.82 kw; 254.1 ft., Docket No. 13473, File No. BPH-2859; The Douglas G. Oviatt & Son, Inc., Cleveland, Ohio, req. 95.5 Mc, #238; 40 kw; 249.25 ft., Docket No. 13474, File No. BPH-2914 for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 13th day of April 1960;

The Commission having under consideration the above-captioned and described applications;

It appearing, that except as indicated by the issues specified below, the instant applicants are legally, technically, financially, and otherwise qualified to construct and operate the instant proposals; and

It further appearing, that pursuant to section 309(b) of the Communications Act of 1934, as amended, the Commission, in a letter dated March 14, 1960, and incorporated herein by reference, notified the applicants and any other known parties in interest, of the grounds and reasons for the Commission's inability to make a finding that a grant of any one of the applications would serve the public interest, convenience, and necessity; and that a copy of the aforementioned letter is available for public inspection at the Commission's offices; and

It further appearing that the applicants' replies to the aforementioned letter have not entirely eliminated the grounds and reasons precluding a grant of the said applications and requiring a hearing on the particular issues hereinafter specified; and

It further appearing that both applicants request assignment of a frequency only 200 kilocycles removed from Station WCUY, Cleveland Heights, Ohio, approximately 7 miles distant, but that WCUY has a construction permit to change its facilities and operate on Channel 222, and that, in the event of a grant of either application the construction permit should contain the condition hereinafter ordered; and

It further appearing that after consideration of the foregoing and the applicants' replies, the Commission is still unable to make the statutory finding that a grant of the applications would serve the public interest, convenience and necessity; and is of the opinion that the applications must be designated for hearing in a consolidated proceeding on the issues specified below;

It is ordered, That pursuant to section 309(b) of the Communications Act of 1934, as amended, the instant applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations within the 1 mv/m contours, the areas and populations therein which would be served by the proposed stations, and the availability of other FM services (at least 1 mv/m) to such proposed service areas.

2. To determine whether the antenna structure proposed by The Douglas G. Oviatt & Son, Inc., would constitute a hazard to air navigation.

3. To determine, on a comparative basis, which of the instant proposals would better serve the public interest, convenience and necessity in the light of the evidence adduced pursuant to the foregoing issues and the record made with respect to the significant differences between the applicants as to:

a. The background and experience of each having a bearing on the applicant's ability to own and operate the proposed station.

b. The proposals of each of the applicants with respect to the management and operation of the proposed station.

c. The programming service proposed in each of the said applications.

4. To determine in the light of the evidence adduced, pursuant to the foregoing issues, which, if either, of the instant applications should be granted.

It is further ordered, That in the event of a grant of either application the construction permit shall contain a condition stating that program tests will not be authorized until Station WCUY begins program tests on some other frequency and a station license will not be granted until WCUY is licensed for some other frequency.

It is further ordered, That to avail themselves of the opportunity to be heard, the applicants, pursuant to § 1.140 of the Commission's rules in person or by attorney, shall within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That, the issues in the above-captioned proceeding may be enlarged by the examiner, on his own motion or on petition properly filed by a party to the proceeding, and upon sufficient allegations of fact in support thereof, by the addition of the following issue: To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

Released: April 18, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-3642; Filed, Apr. 20, 1960; 8:49 a.m.]

[Docket No. 13460; FCC 60M-664]

BILLY G. WATTERS

Order Scheduling Hearing

In the matter of Billy G. Watters, 315 South Third Street, Elkhart, Indiana, Docket No. 13460; order to show cause why there should not be revoked the license for Citizens Radio Station 18W5911.

It is ordered, This 14th day of April 1960, that Millard F. French will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on June 10, 1960, in Washington, D.C.

Released: April 15, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-3643; Filed, Apr. 20, 1960; 8:49 a.m.]

[Docket No. 12939; FCC 60M-666]

WPGC, INC. (WPGC)

Order Continuing Hearing

In re application of WPGC, Inc. (WPGC), Morningside, Maryland, Docket No. 12939, File No. BML-1790; for modification of license.

Upon verbal request of counsel for the applicant: *It is ordered,* This 15th day of April 1960, that the hearing in this proceeding now scheduled for this date be, and the same is hereby, continued to May 16, 1960, at 10:00 o'clock a.m. in the Offices of the Commission, Washington, D.C.

Released: April 15, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-3644; Filed, Apr. 20, 1960; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. E-6933]

EL PASO ELECTRIC CO.

Notice of Application

APRIL 15, 1960.

Take notice that on April 4, 1960, an application was filed with the Federal Power Commission pursuant to section 204 of the Federal Power Act by El Paso Electric Company ("Applicant"), a corporation organized under the laws of the State of Texas and doing business in the States of Texas and New Mexico, with its principal business office at El Paso, Texas. Applicant proposes to (1) reclassify its 1,989,673 presently issued and outstanding shares of Common Stock, par value $5 per share, into an equal number of shares of Common Stock, without par value; (2) issue 132,644 additional shares of its Common Stock, without par value, as a Stock Dividend on the basis of one share for each 15 shares of Common Stock held; and (3) issue 52,444 shares of Common Stock, without par value, under the Employee Stock Purchase Plan, as amended, in lieu of the 49,167 shares of $5 par value Common Stock now reserved for issuance thereunder pursuant to the authorization contained in the Commission's order issued June 18, 1959, in Docket No. E-6886 to issue 50,000 shares of Common Stock, par value $5 per share, under the Plan. Stockholders of Applicant entitled to a fractional share interest will receive in lieu of fractional shares or scrip, a Fractional Interest Order Form on which instructions may be given to the Transfer Agent for the purchase or sale of fractional interests which will provide that if the form is not completed, signed and mailed to the Transfer Agent by July 1, 1960, the fractional interest will be sold at the then market price and the proceeds plus any dividends declared payable prior to said date and applicable to such fractional interest will be remitted to the stockholders.

Following the declaration and payment of the proposed Common Stock Dividend, Applicant proposes to issue and sell 52,444 shares of Common Stock without par value under the Employee Stock Purchase Plan which became effective July 1, 1959. With respect to the aforesaid 52,444 shares of Common Stock, Applicant requests exemption from § 34.1a (b) and (c) of the Commission's Regulations under the Federal Power Act requiring competitive bidding. Applicant states that the purpose of the proposed reclassification of the aforesaid shares of Common Stock will be to simplify its capital stock accounts; that the proposed issuance of additional Common Stock as a Stock Dividend would tend to broaden the market for the sale of Applicant's Common Stock and increase the salability thereof; and that the net proceeds from such of the 52,444 shares as are sold under the Employee Purchase Plan will be added to working capital for ultimate application toward the cost of additions to the Company's utility properties.

Any person desiring to be heard or to make any protest with reference to said application should on or before the 2d day of May 1960, file with the Federal Power Commission, Washington, D.C., petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-3628; Filed, Apr. 20, 1960; 8:47 a.m.]

[Docket No. G-13202]

EL PASO NATURAL GAS CO.

Order Redesignating Proceeding, Permitting Substitution of Tariff Sheets and Allowing Increased Rates To Continue in Effect Upon Filing by Successor Company of Undertaking To Assure Refund of Excess Charges

APRIL 14, 1960.

El Paso Natural Gas Company (successor to Pacific Northwest Pipeline Corporation), Docket No. G-13202.

On December 23, 1959, the Commission issued its order in Docket Nos. G-13018 and G-13019 authorizing El Paso Natural Gas Company (El Paso) to acquire and operate all of the properties and facilities of Pacific Northwest Pipeline Corporation (Pacific). The merger was effected on December 31, 1959. On the same date, and subsequently on January 22, 1960, El Paso submitted for filing, consistent with the requirements of §§ 154.63, 154.64 and 154.65 of the Commission's Regulations under the Natural Gas Act and the requirements of ordering clause (G) [1] of the Commission's order issued December 23, 1959, (1) A Certificate of Adoption of Pacific's FPC Gas Tariffs and service agreements (2) El Paso's proposed FPC Gas Tariffs, Original Volumes Nos. 3 and 4 to replace the adopted tariffs of Pacific (Pacific's Original Volumes Nos. 1 and 2), (3) changes in El Paso's FPC Gas Tariff, Original Volume No. 1 and Third Revised Volume No. 2 required to accommodate the tariffs of the merged company, and (4) notices of cancellation of rate schedules and tariff required by ordering clause (G) of the aforementioned merger order issued December 23, 1959. The Commission, by order issued February 10, 1960, accepted for filing El Paso's aforementioned tariffs, tariff changes and notices of cancellation and allowed the same to become effective as of January 1, 1960.

El Paso, by letter dated January 22, 1960, advised that it is adopting the assurance of refund required of Pacific by Commission's order issued April 28, 1958, in the above-captioned proceeding, with respect to the increased rates of Pacific made effective as of February 5, 1958.

Pacific's tariff changes involved in Docket No. G-13202 are as follows: On August 6, 1957, Pacific tendered for filing First Revised Sheets Nos. 4, 7, 10, 15, 16-C and 16-E; Second Revised Sheets Nos. 6, 8, 9, 11, 12, 13, 14 and 20; and Original Sheet No. 20-A to its FPC Gas Tariff, Original Volume No. 1.[2] The Commission, by order issued September 4, 1957, in Docket No. G-13202, suspended Pacific's aforementioned tariff changes, except for First Revised Sheet No. 15 and Second Revised Sheet No. 14, and deferred the use thereof until February 5, 1958, and until such further time as they may be made effective in the manner prescribed by the Natural Gas Act. On October 21, 1957, Pacific tendered for filing First Revised Sheet No. 16-A to its FPC Gas Tariff, Original Volume No. 1.[3] The Commission, by order issued herein on November 20, 1957, suspended the increased rate set forth in the proposed revised tariff sheet until February 5, 1958. Pursuant to appropriate motion filed by Pacific on February 4, 1958, the increased rates, except for Second Revised Sheets Nos. 9 and 11 but including Third Revised Sheets Nos. 9 and 11 referred to below, were made effective as of February 5, 1953, upon Pacific's filing of bond or equivalent assurance of refund of excess charges. Subsequently, by the Commission's order issued herein on February 25, 1959, Pacific was allowed to substitute an undertaking for its filed bond to assure refund of excess charges.

On January 7, 1958, Pacific tendered for filing Original Sheets Nos. 16-G, 16-H, 16-I (Rate Schedule MDS-1), First Revised Sheet No. 23 and Third Revised Sheets Nos. 9 and 11 to its FPC Gas Tariff, Original Volume No. 1, and requested that they be made effective on February 5, 1958. The Commission, by order issued herein on February 13, 1958, permitted Original Sheets Nos. 16-G, 16-H, 16-I, and First Revised Sheet No. 23 to Pacific's FPC Gas Tariff, Original Volume No. 1, to take effect as of February 5, 1958, subject to such reductions and refunds as may be ordered in Docket No. G-13202 for Rate Schedule DL-1, computed as set forth in said order of February 13, 1958. The Commission further permitted Third Revised Sheets Nos. 9 and 11 to Pacific's FPC Gas Tariff, Original Volume No. 1 to be filed and such sheets were allowed to supersede Second Revised Sheets Nos. 9 and 11; subject, however, to the current rate proceedings in said docket.

On November 8, 1957, Pacific filed Original Sheets Nos. 14-B, 14-C, 29-A, 29-B and 29-C to its FPC Gas Tariff, Original Volume No. 1. By order issued herein on December 6, 1957, the Commission permitted such tariff sheets to

[1] Paragraph (G) provides, "Within 30 days from the issuance of this order, El Paso shall reissue, in its own name and without other change, all FPC Gas Tariffs of Pacific now on file with the Commission, but excluding agreements between Pacific and El Paso."

[2] First Revised Sheet No. 15 and Second Revised Sheet No. 14 relate to sales of natural gas for resale for industrial use only.

[3] Pacific stated that through an inadvertence First Revised Sheet No. 16-A was not included with the general filing tendered on August 6, 1957.

become effective as of December 9, 1957, subject to Pacific's obligation to make refunds.

The new tariff sheets contained in El Paso's FPC Gas Tariff, Original Volume No. 3, accepted for filing and allowed to become effective by the Commission's order issued February 10, 1960, to replace the aforementioned tariff sheets, are as follows:

Tariff Sheets in El Paso's FPC Gas Tariff Original Volume No. 3	*Adopted Tariff Sheets in Pacific's FPC Gas Tariff Original Volume No. 1*
Original Sheet No. 4 to replace	First Revised Sheet No. 4.
Original Sheets Nos. 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16 to replace	Second Revised Sheet No. 6. First Revised Sheet No. 7. Second Revised Sheet No. 8. Third Revised Sheet No. 9. First Revised Sheet No. 10. Third Revised Sheet No. 11. Second Revised Sheet No. 12. Second Revised Sheet No. 13. First Revised Sheet No. 16–C. First Revised Sheet No. 16–E.
Original Sheets Nos. 19 and 20 to replace	Original Sheets Nos. 14–B and 14–C.
Original Sheet No. 23 to replace	First Revised Sheet No. 16–A.
Original Sheets Nos. 25, 26, and 27 to replace	Original Sheets Nos. 16–G, 16–H, and 16–I.
Original Sheets Nos. 31, 32, and 33 to replace	Second Revised Sheet No. 20. Original Sheet No. 20–A.
Original Sheets Nos. 35 and 36 to replace	First Revised Sheet No. 23.
Original Sheets Nos. 43, 44 and 45 to replace	Original Sheets Nos. 29–A, 29–B, and 29–C.

The Commission finds:

(1) The title of this proceeding should be changed from Pacific Northwest Pipeline Corporation to El Paso Natural Gas Company, and the latter should be required to file an undertaking to assure refund of excess charges of the increased rates and charges proposed and collected successively under the tariff sheets originally filed by Pacific in Docket No. G–13202, and resulting from the filings made subject to Pacific's refund obligation in said docket.

(2) El Paso's proposed new tariff sheets contained in its FPC Gas Tariff, Original Volume No. 3 (accepted for filing and made effective by the Commission's order issued February 10, 1960) should be permitted to replace Pacific's tariff sheets made effective subject to Pacific's undertaking in Docket No. G–13202, all as more specifically set forth in the tabulation above.

The Commission orders:

(A) The title of this proceeding is hereby changed from Pacific Northwest Pipeline Corporation to El Paso Natural Gas Company.

(B) El Paso's new tariff sheets contained in its FPC Gas Tariff, Original Volume No. 3, are hereby permitted to replace Pacific's tariff sheets made effective subject to Pacific's undertaking in Docket No. G–13202, designated in the above tabulation.

(C) As the successor to Pacific Northwest Pipeline Corporation, El Paso Natural Gas Company shall execute and file with the Secretary of the Commission its written agreement and undertaking to comply with this order and to take the place of the agreement and undertaking filed with the Commission by Pacific Northwest Pipeline Corporation on March 11, 1959.

(D) El Paso 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 portion of the increased rates found by the Commission in this proceeding not justified, together with interest thereon at the rate of six percent per annum from the date of payment to it, or to Pacific, its predecessor in interest, until refunded; 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 for each billing period, specifying by whom and in whose behalf such amounts were paid; and shall report (original and one copy), in writing and under oath, to the Commission monthly for each billing period, the billing determinants of natural gas sales to the purchaser and the revenues resulting therefrom as computed under the rates in effect immediately prior to February 5, 1958, together with the differences in the revenues so computed.

(E) Within 15 days after the issuance of this order, El Paso shall execute and file with the Secretary of the Commission its written agreement and undertaking to comply with the terms of this order, 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 El Paso Natural Gas Company To Comply With the Terms and Conditions of the Federal Power Commission's Order Changing Title of Case and Requiring Filing of Undertaking To Assure Refund of Excess Charges

In conformity with the requirements of the order issued _____, 1960, in Docket No. G–13202, El Paso Natural Gas Company hereby agrees and undertakes to comply with the terms and conditions of said order, and has caused this agreement and undertaking to be executed and sealed in its name and 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 _____, 1960.

EL PASO NATURAL GAS COMPANY

By _____

Attest:

_____

(Secretary)

(F) If El Paso shall, in conformity with the terms and conditions 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.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60–3629; Filed, Apr. 20, 1960; 8:48 a.m.]

[Docket No. G–9065 etc.]

HUNT OIL CO. ET AL.

Order Denying Motions To Terminate Suspension Proceedings and Further Consolidating Proceedings

APRIL 15, 1960.

Hunt Oil Company, Docket Nos. G–9065, G–9568, G–11124, G–11360, G–13157, G–13191, G–13468, G–13504, G–13530, G–14082, G–14408, G–16422, G–16479, G–16639, G–18464, G–18555, G–18668, G–19755, G–19869, G–20531; Hunt Oil Company, Docket No. G–10414; Hunt Oil Company (Operator), et al., Docket Nos. G–16644, G–19756, G–20532; Hunt Oil Company (Operator), et al., Docket No. G–16937; Hunt Oil Company, Docket No. RI 60–202; Hunt Oil Company, Docket No. G–16327.

By order issued February 18, 1960, in the consolidated proceedings in Docket No. G–9065, et al., the Commission granted Hunt's motion of January 27, 1960 to further consolidate certain outstanding suspension proceedings, including Docket No. G–16639, with those previously consolidated by Notice issued April 30, 1959,[1] including Docket No. G–14082, but denied said motion insofar as it pertained to Docket No. G–16327, a suspension proceeding relating solely to the Louisiana gas-gathering tax enacted in 1958. Those consolidated matters are currently in hearing. Cases-in-chief of Hunt, Intervenors and Staff have been tested by cross-examination and Hunt's rebuttal testimony will be so tested beginning April 25, 1960, as directed by the Examiner at pages 2169–2170 of the transcript.

On January 27, 1960, Hunt also filed two motions to terminate the proceedings in Docket Nos. G–16639 and G–16937. On October 26, 1959, Hunt had previously filed a similar motion as to the proceeding in Docket No. G–14082. The proceeding in Docket No. G–16639 pertains to the lawfulness of the rates set out in Hunt's FPC Gas Rate Schedules Nos. 32, 35 and 38; the proceeding in Docket No. G–16937 pertains to the lawfulness of the rates set out in Hunt's FPC Gas Rate Schedule No. 39; and the proceeding in Docket No. G–14082 pertains to the lawfulness of the rates set out in Hunt's FPC Gas Rate Schedule No. 33.

A review of the exhibits and the testimony of record in these consolidated proceedings reveals that the rate levels of the aforementioned FPC Gas Rate

[1] Proceeding in Docket No. G–13473 was severed therefrom by Notice issued May 4, 1959.

Schedules Nos. 32, 35, 38, 39 and 33 are among those being tested in said proceedings. Hunt's motions to terminate the proceedings in Docket Nos. G–16639, G–16937 and G–14802, therefore, should be denied.

Upon review of these matters, it is noted that Hunt did not include the proceeding in Docket No. G–16937 in its motion of consolidation as submitted on January 27, 1960. As hereinbefore stated, since the rate level of Hunt's FPC Gas Rate Schedule No. 39 is being tested in these consolidated proceedings, and since the proceeding in Docket No. G–16937 pertains to that rate schedule, it is appropriate that said docket should likewise be consolidated with those set out in the Commission order issued February 18, 1960, in the consolidated proceedings in Docket Nos. G–9065, et al.

It is further noted that the Commission by order issued March 23, 1960, in Docket No. RI60–202, suspended Supplement No. 8 to Hunt's FPC Gas Rate Schedule No. 36. The aforementioned record of the consolidated proceedings also contains substantial evidence relating to said Rate Schedule No. 36. It is proper therefore that the issues raised in Docket No. RI60–202 should, likewise, be resolved in these consolidated proceedings.

The Commission finds:

(1) Good cause has not been shown for terminating the proceedings in Docket Nos. G–16639, G–16937 and G–14082.

(2) Good cause exists for consolidating the proceedings in Docket Nos. G–16937 and RI60–202 with those heretofore consolidated by order issued February 18, 1960.

The Commission orders:

(A) The motion to terminate the proceedings in Docket Nos. G–16639, G–16937 and G–14082 are hereby denied.

(B) The proceedings in Docket Nos. G–16937 and RI60–202 are hereby consolidated with the proceedings in Docket No. G–9065, et al., which were previously consolidated by order issued February 18, 1960.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60–3630; Filed, Apr. 20, 1960; 8:48 a.m.]

[Docket No. G–20580]

SINCLAIR OIL & GAS CO.

Amendment to Order

APRIL 13, 1960.

In the order for hearing, suspending change in rate, allowing increased rate to become effective, and denying permission to withdraw rate schedule, issued December 31, 1959, and published in the FEDERAL REGISTER January 7, 1960 (25 F.R. 135), in Paragraph 4, delete lines 9 through 16, and insert therein, the following: "If withdrawal of Sinclair's rate schedule is permitted, Sinclair's rate will immediately increase to 7.469 cents per Mcf and Sinclair's future rate will be 9.482 cents per Mcf, if Barnhart's proposed increased rate of 17.2295 cents per Mcf becomes effective in Docket No. G–20418."

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60–3631; Filed, Apr. 20, 1960; 8:48 a.m.]

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

Joint Tolls Advisory Board

[Notice 5]

CARBORUNDUM CO.

Application for Reclassification of Silicon Carbide

Notice is hereby given pursuant to the Act of May 13, 1954, as amended (33 U.S.C. 981 et seq.), and the agreement executed by the Saint Lawrence Seaway Development Corporation and the St. Lawrence Seaway Authority of Canada, dated January 29, 1959, and approved by the Governments of the United States and Canada on March 9, 1959, that the Joint Tolls Advisory Board, The St. Lawrence Seaway, has received an application from The Carborundum Company, P.O. Box 337, Niagara Falls, New York, U.S.A., requesting the reclassification of "Silicon Carbide" from general to bulk cargo.

In accordance with the rules of procedure, interested parties have thirty days from the date of publication of this notice in which to submit representations to the Joint Tolls Advisory Board, The St. Lawrence Seaway, 294 Hunter Building, Ottawa, Ontario, Canada.

By order of the Board.

E. REECE HARRILL,
Vice Chairman.

[F.R. Doc. 60–3615; Filed, Apr. 20, 1960; 8:46 a.m.]

OFFICE OF CIVIL AND DEFENSE MOBILIZATION

FLORIDA

Notice of Major Disaster

Pursuant to the authority vested in me by the President under Executive Order 10427 of January 16, 1953, Executive Order 10737 of October 29, 1957, Executive Order 10773 of July 1, 1958, and Executive Order 10782 of September 6, 1958 (18 F.R. 407, 22 F.R. 8799, 23 F.R. 5061, and 23 F.R. 6971); by virtue of the Act of September 30, 1950, entitled "An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes" (42 U.S.C. 1855–1855g), as amended; and in furtherance of a declaration by the President in his letter to me dated March 23, 1960, reading in part as follows:

I hereby determine the damage in the various areas of the State of Florida, adversely affected by severe weather conditions beginning on or about March 15, 1960, to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement State and local efforts.

I do hereby determine the following areas in the State of Florida to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 23, 1960: Brevard, Hernando, Hillsborough, Indian River, Lake, Marion, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter.

Dated: April 12, 1960.

LEO A. HOEGH,
Director.

[F.R. Doc. 60–3604; Filed, Apr. 20, 1960; 8:45 a.m.]

HAROLD M. BOTKIN

Appointee's Statement of Changes in Business Interests

The following statement lists the names of concerns required by subsection 710(b)(6) of the Defense Production Act of 1950, as amended.

No change since last submission, published November 11, 1959 (24 F.R. 9230).

Dated: April 24, 1960.

HAROLD M. BOTKIN.

[F.R. Doc. 60–3605; Filed, Apr. 20, 1960; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812–1231]

INVESTORS DIVERSIFIED SERVICES, INC., ET AL.

Order Denying Application for Exemption

APRIL 15, 1960.

In the matter of Investors Diversified Services, Inc., Investors Mutual, Inc., Investors Selective Fund, Inc., Investors Stock Fund, Inc., Investors Variable Payment Fund, Inc., Investors Group Canadian Fund, Ltd., File No. 812–1231.

Investors Mutual, Inc., Investors Selective Fund, Inc., Investors Stock Fund, Inc., Investors Variable Payment Fund, Inc., and Investors Group Canadian Fund, Ltd., registered open-end investment companies, and Investors Diversified Services, Inc., a registered face-amount certificate investment company and principal underwriter and distributor for the named open-end companies, having filed an application pursuant to section 6(c) of the Investment Company Act of 1940 for a permanent exemption from the provisions of section 22(d) of the Act and Rule 22d–1 thereunder of sales of the shares of the named open-end companies to Los Angeles Physicians Retirement Association, Los Angeles Dentists Retirement Association, and University (of Minnesota) Retirement Investment Association for the account of the individual members of said associations on the basis of a reduced sales load applicable to quantity purchases;

A public hearing having been held after appropriate notice, a recommended decision by the hearing examiner having been waived, and statements of views and briefs having been filed;

The Commission having this day issued its Findings and Opinion herein; on the basis of such Findings and Opinion;

It is ordered, That the aforesaid application for a permanent exemption from the provisions of section 22(d) of the Investment Company Act of 1940 and Rule 22d–1 thereunder be, and it hereby is, denied.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 60–3616; Filed, Apr. 20, 1960; 8:46 a.m.]

[File No. 1–3865]

SKIATRON ELECTRONICS AND TELEVISION CORP.

Order Summarily Suspending Trading

APRIL 15, 1960.

In the matter of trading on the American Stock Exchange in the common stock, par value 10 cents per share of Skiatron Electronics and Television Corporation, File No. 1–3865.

The common stock, par value 10 cents per share of Skiatron Electronics and Television Corporation, being listed and registered on the American Stock Exchange, a national securities exchange; and

The Commission being of the opinion that the public interest requires the summary suspension of trading in such security on such Exchange and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion further 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 15c 2–2 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 security on the American Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive or manipulative acts or practices, this order to be effective for a period of ten (10) days, April 16, 1960, to April 25, 1960, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 60–3617; Filed, Apr. 20, 1960; 8:46 a.m.]

SMALL BUSINESS ADMINISTRATION

PRODUCTION RESEARCH ENGINEERING POOL CORPORATION

Notice of Additional Company Accepting Request To Participate in Small Business Defense Production Pool

Pursuant to section 11 of the Small Business Act (P.L. 85–536), notice is hereby given that Tyce Engineering Corporation, Chula Vista, California, has accepted the request to participate in the operations of the Production Research Engineering Pool Corporation. The original list of participating members in the Pool was published in the FEDERAL REGISTER (24 F.R. 9251, November 13, 1959).

Dated: April 14, 1960.

PHILIP MCCALLUM, *Administrator.*

[F.R. Doc. 60–3621; Filed, Apr. 20, 1960; 8:47 a.m.]

[Declaration of Disaster Area 260; Amdt. 1]

FLORIDA

Declaration of Disaster Area; Amendment

Declaration of Disaster Area 260, dated March 22, 1960, for the State of Florida, is hereby amended as follows:

By including in paragraph 1 thereof Marion County: "(Rain and flood occurring on or about March 16, 17, 18, 19 and 20, 1960)."

Dated: April 12, 1960.

PHILIP MCCALLUM, *Administrator.*

[F.R. Doc. 60–3618; Filed, Apr. 20, 1960; 8:47 a.m.]

[Declaration of Disaster Area 262]

ILLINOIS

Declaration of Disaster Area

Whereas it has been reported that during the month of April 1960, because of the effects of certain disasters, damage resulted to residences and business property located in certain areas in the State of Illinois;

Whereas the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act.

Now therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b) of the Small Business Act may be received and considered by the Office below indicated from persons or firms whose property situated in the following Counties (including any areas adjacent to said Counties) suffered damage or destruction as a result of the catastrophe hereinafter referred to:

Counties: Lake and McHenry (Floods occurring on or about April 1, 2, 3, 4, 5, 6, and 7).

Office: Small Business Administration Regional Office, Bankers Building, Room 430, 105 West Adams Street, Chicago, Ill.

2. A temporary field office will be established at Fox Lake, Illinois, address to be announced locally.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to October 31, 1960.

Dated: April 8, 1960.

PHILIP MCCALLUM, *Administrator.*

[F.R. Doc. 60–3619; Filed, Apr. 20, 1960; 8:47 a.m.]

[Declaration of Disaster Area 263]

NEBRASKA

Declaration of Disaster Area

Whereas, it has been reported that during the months of March and April 1960, because of the effects of certain disasters, damage resulted to residences and business property located in certain areas in the State of Nebraska;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b) of the Small Business Act may be received and considered by the Offices below indicated from persons or firms whose property situated in the following County (including any areas adjacent to said County) suffered damage or destruction as a result of the catastrophe hereinafter referred to:

County: Platte (Flood occurring on or about March 30 through April 2, 1960).

Offices: Small Business Administration Regional Office, Home Savings Building, Fifth Floor, 1006 Grand Avenue, Kansas City 6, Mo. Small Business Administration Branch Office, Farm Credit Building, Room 207, 206 South 19th Street, Omaha 2, Nebr.

2. No special field offices will be established at this time.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to October 30, 1960.

Dated: April 12, 1960.

PHILIP MCCALLUM, *Administrator.*

[F.R. Doc. 60–3620; Filed, Apr. 20, 1960; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Bureau of Foreign Commerce

LIBERTY ELECTRONICS, INC., ET AL.

Order Revoking Export Licenses and Denying Export Privileges

In the matter of Liberty Electronics Inc., Mendel Aviv, Arie Abramovich, 580 Broadway, New York, New York, respondents; Case No. 268.

The respondents, Liberty Electronics, Inc., Mendel Aviv, and Arie Abramovich, were charged by the Director, Investigation Staff, Bureau of Foreign Commerce, Department of Commerce, with violations of the Export Control Act of 1949, as amended, and regulations promulgated thereunder, and they were duly served with the charging letter. They appeared herein by their attorney, answered the charges and demanded an oral hearing. This case was referred to the Compliance Commissioner, who held the hearing at which proof in support of and in opposition to the charges was received. Following the conclusion of the hearing, the respondents executed the following agreement to which the Director of the Investigation Staff has agreed.

In connection with the above-captioned matter, please be advised that the parties submit the case to the absolute discretion of the Compliance Commissioner without admitting or denying any of the charges therein for him to make whatever recommendation he believes is fair for the disposition of the case against all Respondents and, in the event that such recommendation is accepted by the Director and an order signed by him in the form submitted by the Compliance Commissioner, the parties agree to be bound thereby and waive all rights to appeal; if, however, the Director should take any action which results in a disposition more onerous to the Respondents than that recommended by the Compliance Commissioner, the Respondents reserve all right to appeal from each and every part of the order of the Director and such rights of appeal are not limited to any differential between the action recommended by the Commissioner and the action taken by the Director; such right of appeal is preserved as to the entire case.

The Compliance Commissioner, having heard and considered all the evidence submitted in support of the charges and all the evidence and arguments submitted by respondents in opposition thereto or in connection therewith, has transmitted to the undersigned Director, Office of Export Supply, Bureau of Foreign Commerce, Department of Commerce, the entire record with his written report, including findings of fact and findings that violations have occurred, and his recommendation that remedial action, as hereinafter provided, be taken against the respondents.

After reviewing and considering the entire record of this case and the Compliance Commissioner's Report and Recommendation, I hereby make the following findings of fact:

1. At all times hereinafter mentioned, the respondent Liberty Electronics, Inc., was and now is engaged in the business of selling electronic materials for export and in domestic trade, respondent Mendel Aviv was and is its president, and respondent Arie Abramovich was and is its vice-president.

2. In May 1956, May 1957, and in July 1957, the corporate respondent and Mendel Aviv exported to Belgium from the United States electronic tubes valued in the aggregate at approximately $7,500, and the said tubes were exported upon representations made in shipper's export declarations submitted by them to and authenticated by the Collector of Customs to the effect that, with the exception of one type of tubes said to be exportable under General License GLV, all the tubes to be exported were to be exported under General License GRO.

3. The said respondents did not disclose in the export declarations that quantities of tubes actually shipped were to be shipped and that among the tubes to be shipped were quantities of tubes of a type and value for which a validated license was a prerequisite for their exportation to Belgium.

4. The aggregate value of the tubes shipped without validated licenses so required but not obtained was approximately $4,250.

5. In April 1956, the corporate respondent, by Arie Abramovich, applied to and received from the Bureau of Foreign Commerce a validated export license authorizing the exportation of electronic tubes valued at about $400 to a consignee in Belgium but, although the said respondents knew that the tubes to be exported to that consignee were for the ultimate account of a purchaser other than the consignee and known to them, they failed and omitted to disclose in the application for said license the interest of said purchaser in the transaction and thereafter exported the said tubes under the validated license so issued.

6. Such failure to disclose the interest of said purchaser was a material factor in connection with the issuance of the export license because such purchaser had a financial interest in a firm which was at that time subject to an export denial order.

And, from the foregoing, I have concluded that respondents Liberty Electronics, Inc., and Mendel Aviv:

A. Knowingly made false representations to, and concealed material facts from, the Collector of Customs and the Bureau of Foreign Commerce, in connection with the preparation, submission and use of export control documents, and for the purpose of and in connection with effecting exportations from the United States, in violation of §§ 381.2 and 381.5 of the Export Regulations;

B. Without authorization, used exportation control documents, namely, shipper's exportation declaration, for the purpose of and in connection with facilitating and effecting exportations other than those set forth in said documents, in violation of §§ 381.2 and 381.8 of the Export Regulations;

C. Exported Positive List commodities from the United States without validated licenses authorizing the exportations, in violation of §§ 370.2, 372.3, 381.2 and 399.1 of the Export Regulations.

And that respondents Liberty Electronics, Inc., and Arie Abramovich:

A. Omitted from an export license application the name of a party in interest in the proposed export transaction, in violation of § 372.4(c) of the Export Regulations;

B. Concealed a material fact from the Bureau of Foreign Commerce in connection with the preparation, submission and use of export control documents, and for the purpose of and in connection with effecting an exportation from the United States, in violation of § 381.5 of the Export Regulations.

In his report, the Compliance Commissioner said:

The respondents have agreed that they will not appeal from any order entered herein if the order is consistent with the recommendation made by me. This does not vest in me an unbridled discretion but, on the contrary, imposes on me a responsibility to exercise the greatest care in arriving at a recommendation for the just disposition of this case. We have had other cases where the violations involved were substantially similar to the violations found herein. No one case can be determined in precisely the same manner as another case, because in every case there are variations having to do with motives, the people involved, the nature of the goods involved, the quantities involved, the volume of export business which may be lost over a given period of denial, the approvability of the exportations involved, the ultimate disposition of the goods exported, ad infinitum. In this case, had export licenses been requested, they would have been granted for all the exportations with respect to which violations have been found. * * * Respondents have submitted communications testifying both to their character and technical knowledge. The business conducted by them is about 30% export and 70% domestic * * *. The export sales are mainly to Israel and France, considerably smaller quantities going to England, Latin America, and Canada, and insubstantial quantities going to Belgium, Norway, Denmark, Italy, Australia, Iran, India, and Japan. Compared to determinations made in other cases involving similar violations and giving particular consideration to respondents' volume of export business and the fact that more than two-thirds of their business is domestic, an immediately effective denial of two months, coupled with a concurrent one-year probation period with possible extension of the effective denial in the event of breach of probation to a total or aggregate of six months, may seem quite moderate, but, after giving careful consideration to all the factors involved in this case, it is my conclusion and recommendation that a disposition such as that just related will be adequate and sufficient to achieve effective enforcement of the law. This disposition is recommended for all the respondents, even though a very limited finding of violation by Arie Abramovich is made. My reason for this is that the relationship of the parties is such that effective enforcement of the law would, in my opinion, not be achieved unless all the parties were equally subject to the same remedial action.

Now, after careful consideration of the entire record and being of the opinion that the recommendation of the Compliance Commissioner is fair and just and that this order is necessary to achieve effective enforcement of the law, I hereby accept said recommendation as made and in accordance with respondents' submission, and it is hereby ordered:

I. All outstanding validated export licenses in which Liberty Electronics, Inc.,

Mendel Aviv, or Arie Abramovich appears or participates as purchaser, intermediate or ultimate consignee, or otherwise, are hereby revoked and shall be returned forthwith to the Bureau of Foreign Commerce for cancellation.

II. For a period of six months from the date hereof, except as qualified in Part IV hereof, the respondents and each of them hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in an exportation of any commodity or technical data from the United States to any foreign destination, including Canada, whether such exportation has heretofore or hereafter been completed. Without limitation of the generality of the foregoing denial of export privileges, participation in an exportation is deemed to include and prohibit participation by any of the respondents, directly or indirectly, in any manner or capacity, (a) as a party or as a representative of a party to any validated export license application, (b) in the preparation or filing of any export license application or document to be submitted therewith, (c) in the obtaining or using of any validated or general export license or other export control documents, (d) in the receiving, ordering, buying, selling, delivering, using, or disposing in any foreign country of any commodities in whole or in part exported or to be exported from the United States, and (e) in financing, forwarding, transporting, or other servicing of such exports from the United States.

III. Such denial shall extend not only to each of the respondents, but also to any person, firm, corporation, or business organization with which any of them may be now or hereafter related by ownership, control, position of responsibility, or other connection in the conduct of trade in which may be involved exports from the United States or services connected therewith.

IV. Without further order of the Bureau of Foreign Commerce, two months after the date hereof, the respondents shall have their export privileges restored to them conditionally, the condition for such restoration being that, for one year from the date hereof, said respondents shall comply in all respects with this order and with all other requirements of the Export Control Act of 1949, as amended, and all regulations, licenses, and orders issued thereunder.

V. The privileges so conditionally restored to any of the respondents may be revoked summarily and without notice upon a finding by the Director of the Office of Export Supply, or such other official as may at that time be exercising the duties now exercised by him, that such respondent during the period of one year from the date hereof has knowingly failed to comply with the conditions set forth in Part IV hereof, in which event a supplemental order shall be entered against such respondent so found to have violated this order or any export control law or regulation, which order shall deny all export privileges to such respondent for four months thereafter or six months from the date hereof, whichever shall be the later. The entry of such supplemental order shall not prevent the Bureau of Foreign Commerce from taking such other and further action based on such violation as it shall deem warranted. In the event that such supplemental order is issued, any respondent affected thereby shall have the right to appeal therefrom, as provided in the export regulations.

VI. No person, firm, corporation, or other business organization, whether in the United States or elsewhere, during any time when any respondent or related party is prohibited under the terms hereof from engaging in any activity within the scope of Part II hereof, on behalf of or in any association with such respondent or related party, shall, without prior disclosure to, and specific authorization from the Bureau of Foreign Commerce, directly or indirectly, in any manner or capacity, (a) apply for, obtain, or use any export license, shipper's export declaration, bill of lading, or other export control document relating to any such prohibited activity, (b) order, receive, buy, sell, deliver, use, dispose of, finance, transport, forward, or otherwise service or participate in, any exportation from the United States. Nor shall anyone do any of the foregoing acts with respect to any exportation in which such respondent or related party may have any interest or obtain any benefit of any kind or nature, direct or indirect.

Dated: April 18, 1960.

JOHN C. BORTON,
Director, Office of Export Supply.

[F.R. Doc. 60-3646; Filed, Apr. 20, 1960; 8:49 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

APRIL 18, 1960.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 36155: *Substituted service—RF&P and ACL for Alterman Transport Lines, Inc.* Filed by Southern Motor Carriers Rate Conference, Agent (No. 28), for interested carriers. Rates on property loaded in highway trailers and transported on railroad flat cars between Alexandria, Va., on the one hand, and Lakeland, Orlando, Sanford and Tampa, Fla., on the other, on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 6 to Southern Motor Carrier Rate Conference tariff I.C.C. 33, MF-I.C.C. 1071.

FSA No. 36156: *Magnesium—Freeport, Tex., to southern territory.* Filed by Southwestern Freight Bureau, Agent (No. B-7774), for interested rail carriers. Rates on magnesium metal or magnesium metal alloy, in carloads from Freeport, Tex., to points in southern territory, also Mississippi River crossings.

Grounds for relief: Short-line distance formula, grouping, and market competition.

Tariff: Supplement 16 to Southwestern Freight Bureau tariff I.C.C. 4303.

FSA No. 36157: *T.O.F.C. service—between points in official and southwestern territories.* Filed by Southwestern Freight Bureau, Agent (No. B-7775), for interested rail carriers. Rates on property of various kinds moving on class or commodity rates, loaded in trailers and transported on railroad flat cars between points in trunk-line and New England territories, on the one hand, and points in southwestern territory, on the other.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 37 to Southwestern Freight Bureau tariff I.C.C. 4335.

FSA No. 36158: *Class rates—Seatrain Lines, Inc.* Filed by Seatrain Lines, Inc., (No. 11), for itself and other interested carriers. Rates on various commodities moving on class rates loaded in trailers and transported over joint motor-water, water-motor, and motor-water-motor routes of the applicant motor-carrier and the Seatrain Lines, Inc., between specified points in New Jersey and Pennsylvania, on the one hand, and specified points in Louisiana and Texas, on the other.

Grounds for relief: Rail-water, water-rail, and rail-water-rail competition.

Tariff: Supplement 20 to Seatrain Lines, Inc., tariff I.C.C. 175.

FSA No. 36159: *Liquid caustic soda—Charleston, W. Va., to Rome, Ga.* Filed by O. W. South, Jr., Agent (SFA No. A3932), for interested rail carriers. Rates on liquid caustic soda, in tank-car loads from Charleston, Dock, Elk, Owens, South Charleston, and South Ruffner, W. Va., to Rome, Ga.

Grounds for relief: Market competition.

Tariff: Supplement 12 to Trunk-Line Central Territory Railroad tariff I.C.C. C-102.

FSA No. 36160: *Magnesite—Mobile, Ala., and New Orleans, La., to Tuscumbia, Ala.* Filed by O. W. South, Jr., Agent (FSA No. A3933), for interested rail carriers. Rates on magnesite, calcined, in carloads from Mobile, Ala., and New Orleans, La. (import traffic only), to Tuscumbia, Ala.

Grounds for relief: Private truck competition.

Tariff: Supplement 25 to Southern Freight Association Tariff Bureau, Agent, tariff I.C.C. S-87.

FSA No. 36161: *T.O.F.C. service—Machines between points in southwestern territory.* Filed by Southwestern Freight Bureau, Agent (No. B-7770), for interested rail carriers. Rates on air coolers (other than water evaporative type), heaters, humidifiers and washers and blowers or fans combined, noibn, loaded in or on trailers and transported on railroad flat cars between points in Kansas and Missouri, and between points in Kansas and Missouri, on the one hand, and points in Arkansas, Louisiana, New

Mexico, Oklahoma, Texas, also Memphis, Tenn., and Natchez, Miss., on the other.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 19 to Southwestern Freight Bureau tariff I.C.C. 4324.

FSA No. 36162: *T.O.F.C. service—Iron and steel articles from Birmingham, Ala., to points in southwestern territory.* Filed by Southwestern Freight Bureau, Agent (No. B–7773), for interested rail carriers. Rates on iron and steel articles, as described in the application, loaded in or on trailers and transported on railroad flat cars from Birmingham, Ala., and group points to points in southwestern territory.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 10 to Southwestern Freight Bureau tariff I.C.C. 4329.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 60–3624; Filed, Apr. 20, 1960; 8:47 a.m.]

[Notice No. 299]

MOTOR CARRIER TRANSFER PROCEEDINGS

APRIL 18, 1960.

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 62407. By order of April 14, 1960, the Transfer Board approved the transfer to Edgar Russel Mason, doing business as Mason's Transfer, Inwood, W. Va., of Certificates Nos. MC 60437 and MC 60437 Sub 3, issued October 18, 1949 and July 9, 1953, respectively, to Mary Elizabeth Mason and Edgar Russel Mason, doing business as Mason's Transfer, Inwood, W. Va., authorizing the transportation of: Processed fruit products, from Inwood, W. Va., to points in the New York, N.Y., commercial zone, points in Delaware except Dover, those in Maryland, New Jersey, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia, and from Biglerville, Pa., and Winchester, Va., to Inwood, W. Va.; fresh fruits, from points in Berkeley, Jefferson and Morgan Counties, W. Va., and Frederick County, Va., to points in New York, New Jersey, Pennsylvania, Maryland, Delaware and the District of Columbia; acid and excelsior, from Philadelphia, Pa., to Inwood, W. Va.; empty carboys, from Inwood, W. Va., to Baltimore, Md., and Philadelphia, Pa.; machinery and supplies for use in fruit processing plants, between Inwood, W. Va., on the one hand, and, on the other, Baltimore and Westminster, Md.; malt beverages, from New York, N.Y., and Pittsburgh, Pa., to Winchester, Va., and from Pittsburgh, Pa., to Martinsburg, W. Va.; empty malt beverage containers, from Martinsburg, W. Va., and Winchester, Va., to New York, N.Y., and Pittsburgh, Pa.; canned fruit, canned fruit products, and canned tomato juice and puree, from Inwood, W. Va., to points in Delaware, Indiana, Kentucky, Maryland, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia; machinery used in fruit and vegetable processing plants, from Geneva, Niagara Falls, and Rochester, N.Y., to Inwood, W. Va., supplies used in fruit and vegetable processing plants, from Dunellen, Grasselli, Camden and Millville, N.J., Rochester, N.Y., and Philadelphia, Pa., to Inwood, W. Va., and sugar, from Baltimore, Md., Philadelphia, Pa., and Yonkers, N.Y., to Inwood, W. Va. Eston N. Alt, P.O. Box 81, Winchester, Va., practitioner for applicants.

No. MC–FC 62599. By order of April 15, 1960, the Transfer Board approved the transfer to J. Richard Melendez, doing business as Cibola Freight Lines, Phoenix, Ariz., of Certificate No. MC 99142 Sub 1 issued January 4, 1956, to W. Earl Hudgel, doing business as Cibola Freight Line, Yuma, Ariz., authorizing the transportation of general commodities, excluding household goods, commodities in bulk, and various specified commodities, over irregular routes, between Cibola, Ariz., and points in Arizona within 25 miles of Cibola, on the one hand, and, on the other, Ripley and Blythe, Calif., and Yuma, Ariz. J. Richard Melendez, 10 West Ocotillo Road, Phoenix, Ariz., for applicants.

No. MC–FC 62600. By order of April 15, 1960, the Transfer Board approved the transfer to J. Richard Melendez, doing business as Cibola Freight Lines, Phoenix, Ariz., of Certificate No. MC 57912 Sub 2, issued August 3, 1955, to Robert D. Boone, Kingman, Ariz., authorizing the transportation of general commodities, with no exclusions, over irregular routes, between points in Arizona and Nevada within 40 miles of Kingman, Ariz., including Kingman. J. Richard Melendez, 10 West Ocotillo Road, Phoenix, Ariz. for applicants.

No. MC–FC 62982. By order of April 15, 1960, the Transfer Board approved the transfer to First National Hauling Co., Inc., Brooklyn, New York, of Permits in Nos. MC 113950, and MC 113950 Sub 2, issued April 15, 1954, and April 14, 1955, respectively, to Samuel Cohen and Herbert Peetz, a partnership, doing business as National Trucking Co., Brooklyn, New York, authorizing the transportation of household appliances, television sets, radios, phonographs, and household kitchen equipment, from New York, N.Y., to points in Connecticut, New Jersey, and New York, within 75 miles of Columbus Circle, New York, N.Y., and damaged, defective, and return and traded-in shipments of the above-described commodities, on the return movement. Morris Honig, 150 Broadway, New York 38, N.Y., for applicants.

No. MC–FC 63075. By order of April 15, 1960, the Transfer Board approved the transfer to Benjamin S. Warfel, Quarryville, Pa., of Certificate No. MC 44616, issued March 24, 1941, to Lawrence E. Moore, Peach Bottom, Pa., authorizing the transportation, over irregular routes, of agricultural commodities, from Peach Bottom, Pa., and points within 10 miles of Peach Bottom, to Baltimore, Md., and fertilizer, fertilizer materials, ground oyster shells, feeds, and such merchandise as is dealt in by retail grocery and hardware stores, from Baltimore, Md., to Greene, Peach Bottom, Pen Hill, Hensel, and Texas, Pa. Bernard N. Gingerich, Quarryville, Pa., for applicants.

No. MC–FC 63109. By order of April 14, 1960, the Transfer Board approved the transfer to Dawson Bus Service, Inc., Camden, Delaware, of Certificate in No. MC 8842, issued May 28, 1942, to W. O. Dawson, Camden, Delaware, authorizing the transportation of: Passengers and their baggage, restricted to traffic originating in the territory indicated, in charter operations, over irregular routes, from points in Kent County, Del., to points in New Jersey, Virginia, Maryland, Pennsylvania, and the District of Columbia, and return.

No. MC–FC 63120. By order of April 15, 1960, the Transfer Board approved the transfer to Halverson Transportation, a corporation, Los Angeles, Calif., of Certificate No. MC 6286, issued June 10, 1949, to H. H. Halverson and Maryann Halverson, doing business as Halverson Transportation, Los Angeles, Calif., authorizing the transportation of: General commodities, excluding household goods, and other specified commodities, between points in the Los Angeles, Calif., commercial zone, in collection and delivery service, and between points in the said Commercial Zone on the one hand, and, on the other, steamship docks and piers at Los Angeles and Long Beach Harbors, Calif., in line haul service. Ivan McWhinney, 639 South Spring Street, Los Angeles 14, Calif., for applicants.

No. MC–FC 63122. By order of April 14, 1960, the Transfer Board approved the transfer to Nevada Truck Lines, Inc., Reno, Nevada, of Certificate No. MC 2388, issued April 4, 1949, to Wendell S. Lambert, Elwin A. Robison, and Newal J. Robison, a partnership, doing business as Nevada Truck Lines, Reno, Nevada, authorizing the transportation of: Household goods and general commodities, except commodities requiring special equipment, between Reno, Nev., and McGill, Nev., and general commodities, excluding household goods, commodities in bulk and other specified commodities, between Austin, Nev., and Battle Mountain, Nev. Leslie B. Gray, Gray & Young, Attorneys, P.O. Box 2897, Reno, Nev., for applicants.

No. MC–FC 63127. By order of April 14, 1960, the Transfer Board approved the transfer to Frank L. Castine, Inc., doing business as Castine Motor Service, Athol, Mass., of a portion of Certificate in No. MC 60924 issued October 31, 1949,

to Edward James Broderick and Lillian Gregory, a partnership, doing business as James Broderick Trucking Company, North Adams, Mass., authorizing the transportation of: Household goods, as defined by the Commission, between North Adams, Mass., and points in Massachusetts within 20 miles of North Adams, on the one hand, and, on the other, points in Rhode Island, Connecticut, New Hampshire, Vermont, New York, New Jersey, and Pennsylvania; between North Adams, Mass., and points in Maine; and theatrical equipment between North Adams, Mass., on the one hand, and, on the other, points in Connecticut, New York, and Vermont. Arthur A. Wentzell, P.O. Box 720, Worcester 1, Mass., for applicants.

No. MC–FC 63132. By order of April 14, 1960, the Transfer Board approved the transfer to Ivo Kathol, Hartington, Nebraska, of a Corrected Certificate in No. MC 93134 issued June 17, 1949, to Glen L. Evans, Hartington, Nebraska, authorizing the transportation over irregular routes, of specified commodities, from, to, and between specified points in Nebraska, Iowa and South Dakota.

No. MC–FC 63138. By order of April 14, 1960, the Transfer Board approved the transfer to Keith Lackas, Magnet, Nebr., of Certificate No. MC 49792, issued August 26, 1955, to Ellis G. Tilton, Magnet, Nebr., authorizing the transportation, over regular routes, of general commodities, excluding household goods, commodities in bulk, and other specified commodities, between Magnet, Nebr., and Sioux City, Iowa, and over irregular routes, livestock, feed, grain, agricultural implements, binding twine, coal, and seeds, emigrant movables, groceries, fencing, hardware, salt, lumber, building materials, coal, and twine, from, to, and between specified points in Nebraska, Iowa, and South Dakota.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 60–3625; Filed, Apr. 20, 1960; 8:47 a.m.]

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