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PART I

FEDERAL REGISTER

VOLUME 29 NUMBER 145

Washington, Saturday, July 25, 1964

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Announcing a New Statutory Citations Guide

HOW TO FIND U.S. STATUTES and U.S. CODE CITATIONS

This pamphlet contains typical legal reference situations which require further citing. Official published volumes in which the citations may be found are shown alongside each reference—with suggestions as to the logical sequence to follow in using them to make the search. Additional finding aids, some especially useful in citing current material, also have been included. Examples are furnished at pertinent points and a list of reference titles, with descriptions, is carried at the end.

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Presidential Documents

Title 3—THE PRESIDENT

Proclamation 3600

NATIONAL FARM-CITY WEEK, 1964

By the President of the United States of America

A Proclamation

WHEREAS American farmers are the most efficient producers of agricultural products the world has ever known; and

WHEREAS, never before in history, has so much food and fiber been produced by so few farmers for so many people throughout this world at so reasonable a cost; and

WHEREAS, because of the initiative and efficiency of our farmers, most of our people have no need to produce their own food, and, instead, are free to produce the many other goods and to provide the many services that account for our high standard of living; and

WHEREAS the consumer's stake in assuring the continuing vitality of our agricultural system becomes more apparent each day as the world's exploding population creates ever increasing demands upon us for food and fiber; and

WHEREAS the farmer, already a major consumer, depends more and more each day upon the products and services of science, labor, and industry to provide him with the modern tools and supplies needed for farm production today; and

WHEREAS farm and city families should recognize and better understand their interdependence:

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America, do hereby designate the week of November 20 through November 26, 1964, as National Farm-City Week; and I call upon people throughout the Nation to participate in the observance of that week.

I request that leaders of business groups, labor unions, women's clubs, and civic associations, and all consumers join, along with farm families and other rural people, in this observance, as evidence of the strong ties that bind urban and rural Americans.

I urge the Department of Agriculture, land-grant colleges and universities, the cooperative extension service, and all appropriate Government officials to cooperate with national, State, and local organizations in carrying out programs to observe National Farm-City Week, including public meetings and exhibits and press, radio, and television features. I urge that such programs place special emphasis on the increasing importance of protecting our Nation's soil, water, and timber so that our estimated 340 million citizens of the year 2000 may enjoy abundance then as we do now.

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

DONE at the City of Washington this 21st day of July in the year of our Lord nineteen hundred and sixty-four, and of [SEAL] the Independence of the United States of America the one hundred and eighty-ninth.

LYNDON B. JOHNSON

By the President:

DEAN RUSK,
Secretary of State.

[F.R. Doc. 64-7445; Filed, July 23, 1964; 2:02 p.m.]

Proclamation 3601

AMERICAN EDUCATION WEEK, 1964

By the President of the United States of America

A Proclamation

WHEREAS education is the keystone to human advancement because it promotes understanding among all men of good will, makes possible scientific, industrial, and agricultural achievements that exceed our fondest dreams, and gives promise of an ever better world tomorrow; and

WHEREAS education is basic to every facet of our individual lives and of the life of our Nation; and

WHEREAS our long-standing and determined support of education has rewarded our people with a fulfillment and prosperity unparalleled in the history of mankind; and

WHEREAS our educational framework must be responsive not only to the needs of individuals as they seek to solve the problems of today but must also anticipate the challenges of tomorrow; and

WHEREAS our goal for these momentous times must be the creation with utmost haste of a great society—a Nation without poverty or rancor and a world without fear; and

WHEREAS education is the single-most effective instrument by which we can make that goal a reality:

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America, do hereby designate the period from November 8 through November 14, 1964, as American Education Week.

I urge all Americans to take time during that week to consider the needs and the accomplishments of our schools and colleges and to acquaint themselves more fully with the activities and objectives of those institutions. I ask all our people to dedicate themselves to renewed and continuous efforts to improve the quality of education. We must avoid complacency and we must never be quite satisfied with our educational institutions, no matter how good they may be, and, instead, we must constantly strive to assure that each of our people has the opportunity to obtain the best education possible—for upon the accomplishment of that task depends the realization of our hopes and aspirations for a bright future for our Nation and for our children.

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

DONE at the City of Washington this 21st day of July in the year of our Lord nineteen hundred and sixty-four, and of [SEAL] the Independence of the United States of America the one hundred and eighty-ninth.

LYNDON B. JOHNSON

By the President:

DEAN RUSK,
Secretary of State.

[F.R. Doc. 64-7446; Filed, July 23, 1964; 2:02 p.m.]

Rules and Regulations

Rules and Regulations

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amend. 9]

PART 722—COTTON

Subpart—Acreage Allotment Regulations for the 1964 and Succeeding Crops of Upland Cotton

COTTON ACREAGE HISTORY

This amendment is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.), as amended by Title I of the Agricultural Act of 1964.

(a) The purpose of this amendment is to clarify the cotton acreage history provisions of § 722.214(d) in the case of farms planting for 1964 and 1965 within the farm domestic allotment established under section 350 of the Act.

(b) In order that county offices may properly establish farm bases and history acreages, it is essential that this amendment be made effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the notice, public procedure requirements and the thirty day effective date requirements of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) is impracticable and contrary to the public interest and this amendment shall be effective upon filing of this document with the Director, Office of the Federal Register.

Section 722.214(d) of the acreage allotment regulations for the 1964 and succeeding crops of upland cotton (28 F.R. 11041, 29 F.R. 2301, 5303, 5274, 5941, 6477, 6941, 7865, 7312) is amended to read as follows:

§ 722.214 Adjustment of allotment bases and determination of acreage history.

* * * * *

(d) Farms planting within the farm domestic allotment for 1964 and 1965. Farm domestic allotments for the 1964 and 1965 crops are required to be established for each farm under section 350 of the Act. If the acreage planted to cotton on the farm is within the farm domestic allotment so established and the farm has qualified for price support under section 103(b) of the Agricultural Act of 1949, as amended and the regulations implementing such statute (section 1427.1908; 29 F.R. 5742; 1964 cotton domestic allotment program), the provisions of paragraphs (a) and (b) of this section regarding planting of 75 percent of the farm allotment shall be satisfied if 75 percent of the smaller of the farm allotment or the farm domestic allotment is planted as specified in these respective paragraphs.

(Sec. 344(f)(8), 375, 377; 78 Stat. 173, 52 Stat. 66, as amended; 7 U.S.C. 1344, 1375, 1377)

Effective date: Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on July 22, 1964.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 64-7401; Filed, July 24, 1964; 8:47 a.m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Tree Nuts), Department of Agriculture

[Valencia Orange Reg. 94]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 908.394 Valencia Orange Regulation 94.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908; 27 F.R. 10089), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on July 23, 1964.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., July 26, 1964, and ending at 12:01 a.m., P.s.t., August 2, 1964, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 500,000 cartons;

(iii) District 3: Unlimited movement.

(2) As used in this section, "handled," "handler," "District 1," "District 2," and "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: July 24, 1964.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 64-7494; Filed, July 24, 1964; 11:22 a.m.]

[Lemon Regulation 121]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.421 Lemon Regulation 121.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 27 F.R. 8346), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available informa-

tion, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on July 21, 1964.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period beginning at 12:01 a.m., P.s.t., July 26, 1964, and ending at 12:01 a.m., P.s.t., August 2, 1964, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 348,750 cartons;

(iii) District 3: Unlimited movement.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: July 23, 1964.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 64–7435; Filed, July 24, 1964; 8:49 a.m.]

PART 929—CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

Expenses and Rate of Assessment for the 1963–64 Fiscal Period

Pursuant to the marketing agreement, as amended, and Order No. 929, as amended (7 CFR Part 929; 29 F.R. 6617), regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the proposals submitted by the Cranberry Marketing Committee, established pursuant to the aforesaid amended marketing agreement and order, it is hereby found that the expenses to be incurred by the Cranberry Marketing Committee will amount to $32,000.

It is, therefore, ordered, That paragraph (a) of § 929.203, as amended, Expenses and rate of assessment for the 1963–64 fiscal period (28 F.R. 10634, 12663) is hereby further amended by deleting therefrom the amount $29,000 and substituting in lieu thereof the amount $32,000. As amended, paragraph (a) of § 929.203 reads as follows:

§ 929.203 Expenses and rate of assessment for the 1963–64 fiscal period.

(a) *Expenses.* The reasonable expenses to be incurred by the Cranberry Marketing Committee, established pursuant to the provisions of the amended marketing agreement and order, for its maintenance and functioning during the fiscal period ending July 31, 1964, will amount to $32,000.

* * * * *

It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1001–1011) in that (1) the increase in the budget does not involve an increase in the rate of assessment heretofore established by the Secretary (28 F.R. 10634, 12663); (2) the said committee in the performance of its duties and functions has incurred expenses in excess of those previously thought likely to be incurred; and (3) it is, therefore, essential that this amendatory action be issued immediately so that said committee can meet its obligations.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: July 22, 1964.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 64–7403; Filed, July 24, 1964; 8:47 a.m.]

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

1964–65 Crop Year; Determination Relative to Estimated Season Average Price to Producers

Under the marketing agreement, as amended, and Order No. 993, as amended (7 CFR Part 993), regulating the handling of dried prunes produced in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), the more restrictive grade regulation (7 CFR 993.601), and pack specifications as to size (7 CFR 993.501–993.518), are effective, as applicable, whenever the estimated season average price to producers for prunes does not exceed or is below the parity level specified in section 2(1) of the aforesaid act.

Based on information submitted by the Prune Administrative Committee and other available supply and demand information, it is determined that the estimated season average price to producers for prunes for the 1964–65 crop year beginning August 1, 1964, will not be at or in excess of the estimated average parity price for prunes for such crop year.

Dated: July 22, 1964.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 64–7404; Filed, July 24, 1964; 8:48 a.m.]

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order 136]

PART 1136—MILK IN GREAT BASIN MARKETING AREA

Order Suspending Certain Provision

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Great Basin marketing area (7 CFR Part 1136), it is hereby found and determined that:

(a) The following provision of the order no longer tends to effectuate the declared policy of the Act for the months of July and August 1964: "fluid milk products equal to not less than 40 percent of the receipts during the month

at such plant of producer milk and receipts at the plant of fluid milk products from plants described pursuant to paragraph (b) of this section and there are disposed of on routes", appearing in § 1136.11(a).

(b) Thirty days notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(1) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date.

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) This suspension action will permit the major cooperative association in the market to maintain pool plant status for all of its existing pool plants during the months of July and August 1964. As a result of the merging of two cooperative associations and the changes being made in their operations, it would be extremely difficult, if not impossible, for such association to meet the present requirements necessary to maintain pool plant status for these months in view of the expected level of milk production during this period. Hence, the suspension action will permit member dairy farmers who have supplied the fluid milk requirements of the market to continue as producers under the order.

(4) Interested parties were afforded opportunity to file written data, views or arguments concerning this suspension (29 F.R. 9506). Based on the views, data, and arguments filed in response to this invitation, it is concluded that the suspension order should be issued.

Therefore, good cause exists for making this order effective upon publication in the FEDERAL REGISTER.

It is therefore ordered, That the aforesaid provision of the order is hereby suspended for the period July 1 through August 31, 1964.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: The date of publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on July 22, 1964.

CHARLES S. MURPHY,
Under Secretary.

[F.R. Doc. 64–7405; Filed, July 24, 1964; 8:48 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER C—EXPORT PROGRAMS

[Rev. II, Amdt. 3]

PART 1481—RICE

Subpart—Rice Export Program; Payment-in-Kind (GR–369)

The Terms and Conditions of the Rice Export Program—Payment-in-Kind (GR–369), Revision II (27 F.R. 10931), as amended (28 F.R. 543) and (28 F.R. 9420), are, with regard to any contract resulting from CCC's acceptance of an exporter's offer to export rice (milled, or brown, or both) which is submitted by such exporter on and after the date of publication of this Amendment 3 in the FEDERAL REGISTER, amended as follows:

§ 1481.111 [Amended]

Section 1481.111(c)(1) is amended by substituting the following for the second and third sentences of the subparagraph: "Exportation to an eligible country, and within the period of time specified in the exporter's contract with CCC or as approved by the Vice President, CCC, are of the essence of the contract and, except as otherwise provided in this paragraph (c)(1), are conditions precedent to any right to payment under this program. Exportation to other than an eligible country, or during a period of time other than that specified in the exporter's contract with CCC or approved in writing by the Vice President, CCC, as provided in paragraph (a) of this section, shall not entitle the exporter to any payment under this subpart, except that, if the rice is exported within 60 days after the end of the period of time specified in the exporter's contract with CCC or any extensions thereof under paragraph (a) of this section, the exporter shall be entitled to payment at the contract rate which would have been applied if the class and variety of rice exported had been exported on the last day of the contract export period, or any extensions thereof under paragraph (a) of this section, without regard to any extensions of rate periods with respect to registered sales under § 1481.113(b), less liquidated damages for delay in exportation as provided herein."

Section 1481.113(b) is amended by substituting the following for the last sentence of the paragraph:

§ 1481.113 Export payment rates.

* * * * *

(b) * * * As specified in the rate schedules, one rate established for each class or variety will apply to rice exported before the end of the period applicable to the class or variety of rice exported, or with respect to a registered sale, any extension of such period approved by the Vice President, CCC, and the second rate will apply to rice exported after the end of such period or, if such period is extended with respect to a registered sale by the Vice President, CCC, after the end of such extended period.

* * * * *

Section 1481.151 is amended to read as follows:

§ 1481.151 Export and Exportation.

"Export" and "exportation" means, except as hereinafter provided, a shipment from the United States or Puerto Rico destined to another area excluding the United States, Alaska, Hawaii, and Puerto Rico. The milled rice or brown rice so shipped shall be deemed to have been exported on the date which appears on the applicable on-board vessel export bill of lading or other document authorized by this subpart to be furnished in lieu of such bill of lading, or if shipment from the continental United States is by truck or rail, the date the shipment clears United States Customs. If milled rice or brown rice is lost, destroyed, or damaged after loading on board an export ship, exportation shall be deemed to have been made as of the date of the on-board ship ocean bill of lading or other document authorized by this subpart to be furnished in lieu of such bill of lading, or the latest date appearing on the loading tally sheet or similar documents if the loss, destruction, or damage occurs subsequent to loading aboard ship but prior to issuance of on-board ship ocean bill of lading or such other document: *Provided:* That if the "lost" or "damaged" rice remains in the United States or Puerto Rico, it shall be considered as reentered rice and shall be subject to the provisions of § 1481.111(d).

(Sec. 5, 62 Stat. 1072; 15 U.S.C. 714c. Interpret or apply sec. 407, 63 Stat. 1055, as amended; sec. 201(a), 70 Stat. 188; 7 U.S.C. 1427, 1851)

Effective date: On date of publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on July 21, 1964.

RAYMOND A. IOANES,
Vice President, Commodity Credit Corporation, Administrator, Foreign Agricultural Service.

[F.R. Doc. 64–7388; Filed, July 24, 1964; 8:46 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

Section 213.3116 is amended to authorize until June 30, 1969, the temporary exception of eight positions of psychodrama trainee at St. Elizabeth's Hospital, including interns and first and second-year residents paid stipends under section 3 of Public Law 80–330. Effective July 1, 1964, subparagraph (5) of paragraph (a) of § 213.3116 is amended as set out below.

§ 213.3116 Department of Health, Education, and Welfare.

(a) *St. Elizabeth's Hospital.* * * *

(5) Until June 30, 1969, eight psychodrama trainees, including interns and first and second-year residents. This authority shall be applied only to positions with compensation fixed in ac-

cordance with the provisions of section 3 of Public Law 80–330.

* * * * *

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954–1958 Comp., p. 218)

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

[F.R. Doc. 64–7379; Filed, July 24, 1964; 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Airspace Docket No. 63–SW–94]

PART 75—ESTABLISHMENT OF JET ROUTES [NEW]

Designation

On April 25, 1964, a notice of proposed rule making was published in the FEDERAL REGISTER (29 F.R. 5565) stating that the Federal Aviation Agency (FAA) proposed to designate a jet route from the El Paso, Texas, VORTAC via the Fort Stockton, Texas, VORTAC; the Austin, Texas, VORTAC; to the Houston, Texas, VORTAC.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. The Department of the Air Force objected to the proposal since the proposed segment between Fort Stockton and Austin would penetrate a small portion of a special military operating area (SOA) used by aircraft from Webb AFB, Texas. However, the Fort Worth ARTC Center controls the altitudes utilized by training activities conducted within the SOA and can integrate en route traffic with the aircraft operating out of Webb AFB; or, if necessary, can radar vector the en route traffic away from the special operating area. All other comments received were favorable.

In consideration of the foregoing, Part 75 [New] of the Federal Aviation Regulations is amended, effective 0001 e.s.t., September 17, 1964, as hereinafter set forth.

In § 75.100 (29 F.R. 1287), the following Jet Route is added:

Jet Route No. 86 (El Paso, Texas, to Houston, Texas). From El Paso, Texas, via Fort Stockton, Texas; Austin, Texas; to Houston, Texas.

(Sec. 307(a) of the Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on July 20, 1964.

DANIEL E. BARROW,
Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 64–7381; Filed, July 24, 1964; 8:45 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

DEPENDENCY AND INDEMNITY COMPENSATION

Section 3.5 is revised to read as follows:

§ 3.5 Dependency and indemnity compensation.

(a) *Dependency and indemnity compensation.* This term means a monthly payment made by the Veterans Administration to a widow, child, or parent:

(1) Because of a service-connected death occurring after December 31, 1956, or

(2) Pursuant to the election of a widow, child, or parent, in the case of such a death occuring before January 1, 1957. (38 U.S.C. 101(14).)

(b) *Entitlement.* Basic entitlement for a widow, child or children, and parent or parents of a veteran, except those specified in § 3.4(c), exists,

(1) Death occurred on or after January 1, 1957; or

(2) Death occurred prior to January 1, 1957, and the claimant was receiving or eligible to receive death compensation on December 31, 1956 (or, as to a parent, would have been eligible except for his income), under laws in effect on that date or who subsequently becomes eligible by reason of a death which occurred prior to January 1, 1957. (38 U.S.C. 410, 416.)

(c) *Exclusiveness of remedy.* No person eligible for dependency and indemnity compensation by reason of a death occurring on or after January 1, 1957, shall be eligible by reason of such death for death pension or compensation under any other law administered by the Veterans Administration. (38 U.S.C. 417 (b).)

(d) *Group life insurance.* No dependency and indemnity compensation or death compensation shall be paid to any widow, child, or parent based on the death of a commissioned officer of the Public Health Service or Coast and Geodetic Survey whose death occurs on or after May 1, 1957, if any amounts are payable under the Federal Employees' Group Life Insurance Act of 1954 (Public Law 598, 83d Congress, as amended) based on the same death. (Sec. 501(c)(2), Public Law 881, 84th Congress, as amended by Sec. 13(u), Public Law 85–857; 5 U.S.C. 2091 note.)

(e) *Widow's rate.* (1) The monthly rate of dependency and indemnity compensation for a widow is $120 plus 12 percent of the basic pay of the veteran. (38 U.S.C. 411(a).) This rate is subject to increase as provided in subparagraph (3) of this paragraph.

(2) "Basic Pay" is the amount certified by the Secretary concerned. This amount is the basic pay prescribed for persons currently on active duty whose rank or grade and years of service are the same as those of the deceased veteran. The certification of the Secretary concerned is binding on the Veterans Administration. (38 U.S.C. 421.)

(3) If there is a widow and two or more children under the age of 18 (including a child not in the widow's actual or constructive custody and a child who is in active military, air, or naval service), the total amount payable shall be increased by not more than $28 monthly for each child under 18 in excess of one. The total of such increase shall not exceed the difference between the amounts certified by the Secretary of Health, Education, and Welfare or the Railroad Retirement Board as being payable under 38 U.S.C. 412(a) or the Social Security Act or the Railroad Retirement Act and the applicable ceiling under 38 U.S.C. 411(e) as certified by the Secretary of Health, Education, and Welfare. (38 U.S.C. 411(b), (d) and (e).)

(4) Where the amount determined to be payable under this paragraph involves a fraction of a dollar, the amount shall be increased to the next higher dollar. (38 U.S.C. 411(c).)

(72 Stat. 1114; 38 U.S.C. 10)

This VA Regulation is effective the date of approval.

Approved: July 21, 1964.

By direction of the Administrator.

[SEAL] W. J. DRIVER,
Deputy Administrator.

[F.R. Doc. 64–7392; Filed, July 24, 1964; 8:47 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 0—COMMISSION ORGANIZATION

Amateur and Commercial Operator Examination Points

Order. The Commission having under consideration § 0.445 of its rules and regulations, which, as now phrased, provides specific location points for conducting examinations for amateur radio operator licenses; and

It appearing, that these location points are similarly acceptable for conducting examinations for commercial radio operator licenses and that § 0.445 should be amended to so indicate; and

It further appearing, that the amendments adopted herein pertain to matters of procedure and that such amendments are of an editorial nature and that compliance with the public notice and procedural requirements of the Administrative Procedure Act is unnecessary; and

It further appearing, that the amendments adopted herein are issued pursuant to authority contained in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and Part

0 of the Commission's rules and regulations, § 0.261(a):

It is ordered, This 22d day of July 1964, That, effective July 29, 1964, the Commission's rules and regulations are amended as set forth below.

(Secs. 4, 5, 303, 48 Stat. 1066, 1068, 1082, as amended; 47 U.S.C. 154, 155, 303)

Released: July 22, 1964.

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

1. In § 0.445, the heading and paragraph (a) are amended to read as follows:

§ 0.445 Amateur and commercial operator examination points.

(a) Examinations for amateur and commercial radio operator licenses are conducted at each of the Field Engineering Bureau district offices listed in § 0.121 on the days designated by the Engineer in charge of the district office. Examination schedules may be obtained from the Engineer in Charge.

* * * * *

[F.R. Doc. 64-7410; Filed, July 24, 1964; 8:49 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 919]

[AO–102–A4]

PEACHES GROWN IN COUNTY OF MESA, COLORADO

Determination on Basis of Results of Referendum on Proposed Amendment

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674), and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Palisade, Colorado, January 23, 1964, pursuant to a notice thereof which was published in the FEDERAL REGISTER (28 F.R. 14334; 29 F.R. 50) upon a proposed amendment to the marketing agreement and Order No. 919, as amended (7 CFR Part 919), regulating the handling of peaches grown in the County of Mesa, Colorado. The recommended decision in this proceeding (29 F.R. 5683), and the decision and referendum order (29 F.R. 7096), of the Assistant Secretary of Agriculture setting forth the proposed amendment of the marketing agreement and order were published in the FEDERAL REGISTER on April 29, 1964, and May 29, 1964, respectively. Such decision and referendum order directed that a referendum be conducted among the producers of peaches grown in the County of Mesa, Colorado, to determine whether the requisite majority of such producers favors or approves issuance of the proposed amendment of the marketing order.

It is hereby determined on the basis of the results of the referendum conducted June 6–13, 1964, pursuant to the aforementioned referendum order, that the issuance of the proposed amendment to Order No. 919, as amended, regulating the handling of peaches grown in the County of Mesa, Colorado, is not approved or favored (1) by at least two-thirds of the producers who participated in such referendum and who, during the determined representative period (March 1, 1962, through February 28, 1963), were engaged in the production for market of peaches grown in Mesa County, Colorado; or (2) by producers of at least two-thirds of the volume of production of such peaches represented in the aforesaid referendum.

It is hereby determined that the proposed amendment to the order set forth in the Assistant Secretary's decision of May 29, 1964 (29 F.R. 7096), should not be made effective.

Dated: July 22, 1964.

CHARLES S. MURPHY,
Under Secretary.

[F.R. Doc. 64–7406; Filed, July 24, 1964; 8:48 a.m.]

[7 CFR Part 945]

IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

Proposed Expenses and Rate of Assessment

Consideration is being given to the approval of proposed expenses and a proposed rate of assessment as hereinafter set forth, which were recommended by the Idaho-Eastern Oregon Potato Committee, established pursuant to Marketing Agreement No. 98, as amended, and Order No. 945, as amended (7 CFR Part 945), herein referred to collectively as the "order."

This marketing order regulates the handling of Irish potatoes grown in Idaho and Malheur County, Oregon, and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

All persons who desire to submit written data, views, or arguments in connection with these proposals shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C., 20250, not later than the 15th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

§ 945.217 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period beginning June 1, 1964, and ending May 31, 1965, by the Idaho-Eastern Oregon Potato Committee, for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate, will amount to $30,000.00.

(b) The rate of assessment to be paid by each handler in accordance with the amended marketing agreement and this part, shall be seventy cents per carload or fraction thereof, or per truckload of 5,000 pounds or more, of potatoes handled by him as the first handler thereof during said fiscal period.

(c) Terms used in this section have the same meaning as when used in the said amended marketing agreement and this part.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601 et seq.)

Dated: July 21, 1964.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 64–7389; Filed, July 24, 1964; 8:46 a.m.]

[7 CFR Parts 1041, 1098, 1101]

MILK IN TOLEDO, OHIO; NASHVILLE, TENNESSEE; AND KNOXVILLE, TENNESSEE MARKETING AREAS

Proposed Termination of Certain Provisions of Orders

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the termination of certain provisions of the order regulating the handling of milk in the above designated marketing areas is being considered.

The classified pricing provisions of several Federal milk marketing orders use the average of the basic (or field) prices reported to have been paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the month at seven Midwestern plants or places. Throughout the fluid milk industry, this group of plants is commonly referred to as the "Midwestern condenseries".

Some orders which use this price series specify a final date by which the price information received shall be included in the class-price computations provided in the orders. Most orders which use this price series do not specify any final date for including the prices reported by the Midwestern condenseries in their classified pricing formulas. Thus, the additional price information which may be available from the Midwestern condenseries at a later date in one order as compared with another order results in different rather than identical average Midwestern condensery prices being used among orders.

Termination of the specific date provision in each of the above orders is being considered. This action would permit the use of an identical average price for orders which use the Midwestern condenseries in class-price formulas.

The specific provisions proposed to be terminated are:

Part 1041, regulating the handling of milk in the Toledo, Ohio, marketing area:

In § 1041.50(b)(1), the provision, "on or before the 5th day after the end of the month", relating to the final date on which prices paid or reported to be paid at specified Midwestern plants or

places may be averaged and used as an alternative price for Class II milk.

Part 1098, regulating the handling of milk in the Nashville, Tennessee, marketing area:

In § 1098.51(b)(2), the provision, "on or before the 5th day after the end of the month", relating to the final date on which prices paid or reported to be paid at specified Midwestern plants or places may be averaged and used as a factor in determining the upper limit of the minimum price for Class II milk.

Part 1101, regulating the handling of milk in the Knoxville, Tennessee, marketing area:

In § 1101.51(b)(2), the provision, "on or before the 6th day after the end of the month", relating to the final date on which prices paid or reported to be paid at specified Midwestern plants or places may be averaged and used as a factor in determining the upper limit of the minimum price for Class II milk.

All persons who desire to submit written data, views, or arguments in connection with the proposed termination should file the same with the Hearing Clerk, Room 112–A, Administration Building, United States Department of Agriculture, Washington, D.C., 20250, not later than 5 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in quadruplicate.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Signed at Washington, D.C., on July 22, 1964.

CLARENCE H. GIRARD,
Deputy Administrator,
Agricultural Marketing Service.

[F.R. Doc. 64–7407; Filed, July 24, 1964; 8:48 a.m.]

[7 CFR Part 1044]

[Docket No. AO 299–A7]

MILK IN MICHIGAN UPPER PENINSULA MARKETING AREA

Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held in the Conference Room of the State Office Building, Escanaba, Michigan, beginning at 10:00 a.m., local time, on August 20, 1964, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Michigan Upper Peninsula marketing area.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Michigan Milk Producers Association:

Proposal No. 1. Amend § 1044.50 to read as follows:

§ 1044.50 Class I milk price.

Subject to the provisions of § 1044.52 the price per hundredweight for Class I milk shall be as follows:

(a) The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month: *Provided,* That such reported price shall be adjusted to a 3.5 percent butterfat basis at the rate of the butter price times 0.120 and rounded to the nearest cent.

(b) The basic formula price for the preceding month plus $0.65 during the months March, April, May, and June in Zone 1(a), $0.75 in Zone 1, and $0.95 in Zone 2; plus $0.85 during January, February, July, and December in Zone 1(a), $0.95 in Zone 1, and $1.15 in Zone 2, and $1.05 during all other months in Zone 1(a), $1.15 in Zone 1, and $1.35 in Zone 2, plus or minus a supply-demand adjustment of not more than 24 cents. For plants located outside of the marketing area and west of Lake Michigan, the price (subject to § 1044.53) shall be that specified for Zone 1. For plants located outside the marketing area and east of Lake Michigan, the price (subject to § 1044.53) shall be Zone 2. The supply-demand adjustment shall be computed as follows:

(1) Calculate a "current utilization percentage" for each month by dividing the total pounds of Class I milk (excluding interhandler transfers) disposed of from pool plants under the terms of this order and the order regulating the handling of milk in the Northeastern Wisconsin marketing area (Part 1045 of this chapter) for the second and third preceding months into the total hundredweight of producer milk received at such plants during the same months, multiply by 100 and round to the nearest whole number;

(2) Calculate a "net deviation percentage" as follows:

(i) If the current utilization percentage is neither less than the minimum standard utilization percentage specified below nor in excess of the maximum standard utilization percentage specified below, the net deviation percentage is zero;

(ii) Any amount by which the current utilization percentage is less than the minimum standard utilization percentage specified below is a "minus net deviation percentage;" and

(iii) Any amount by which the current utilization percentage exceeds the maximum standard utilization percentage specified below is a "plus net deviation percentage."

Month for which price applies	Month for which utilization is computed	Standard utilization range	
		Minimum	Maximum
January	October–November	123	128
February	November–December	128	133
March	December–January	130	135
April	January–February	133	138
May	February–March	135	140
June	March–April	140	145
July	April–May	145	150
August	May–June	150	155
September	June–July	145	150
October	July–August	130	135
November	August–September	123	128
December	September–October	123	128

(3) For a minus net deviation percentage the Class I price shall be increased and for a plus net deviation percentage the Class I price shall be decreased by two cents for each percentage point of net deviation.

Proposal No. 2. Amend § 1044.51 to read as follows:

§ 1044.51 Class II milk price.

The price per hundredweight for Class II milk shall be the basic formula price for the month.

Proposed by the Milk Marketing Orders Division, Agricultural Marketing Service:

Proposal No. 3. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, Mr. Earl C. Gulland, P.O. Box 505, Escanaba, Michigan, 49829, or from the Hearing Clerk, Room 112–A, Administration Building, United States Department of Agriculture, Washington, D.C., 20250, or may be there inspected.

Signed at Washington, D.C., on July 22, 1964.

CLARENCE H. GIRARD,
Deputy Administrator,
Agricultural Marketing Service.

[F.R. Doc. 64–7408; Filed, July 24, 1964; 8:48 a.m.]

Agricultural Stabilization and Conservation Service

[7 CFR Parts 722, 724, 728, 730]

COTTON, TOBACCO, WHEAT AND RICE

Allotments

Pursuant to authority contained in applicable provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.), proposed amendments are being prepared to amend the (1) Acreage Allotment Regulations for the 1964 and Succeeding Crops of Upland Cotton (28 F.R. 11041, 29 F.R. 2301, 5303, 5274, 5941, 6477, 6941, 7865, 7312, 8375); (2) Acreage Allotment Regulations for the 1964 and Succeeding Crops of Extra Long Staple Cotton (28 F.R. 11034, 29 F.R. 2302); (3) Burley, Flue-Cured, Fire-Cured, Dark Air-Cured, Virginia Sun-Cured, Cigar-Binder (Types 51 and 52), Cigar-Filler and Binder

(Types 42, 43, 44, 53, 54 and 55), and Maryland Tobacco Allotment and Marketing Quota Regulations, 1963–64 and Subsequent Marketing Years (27 F.R. 8937, 9211, 10743, 28 F.R. 7757, 8018, 9144, 11049, 29 F.R. 1315, 6520, 7588); Wheat Regulations Pertaining to Farm Acreage Allotments, Small Farm Bases and Normal Yields for 1964 and Subsequent Crop Years (28 F.R. 3574, 10565, 29 F.R. 2925, 8393), and Rice Acreage Allotment Regulations for 1964 and Subsequent Crops of Rice (28 F.R. 13254, 29 F.R. 2909, 3612).

As presently contemplated the amendments would:

1. Amend §§ 722.212 and 722.312 of the cotton regulations to provide that a farm which includes land acquired by an agency having the right of eminent domain for which the entire cotton allotment was pooled pursuant to Part 719 of Chapter VII, which is subsequently returned to agricultural production, shall not be eligible for a new farm cotton allotment for a period equal to the base period used in determining old farm cotton allotments (i.e., 3 years) from the date the former owner was displaced.

2. Amend § 724.62 of the tobacco regulations to provide that a farm which includes land acquired by an agency having the right of eminent domain for which the entire tobacco allotment was pooled pursuant to Part 719 of Chapter VII, which is subsequently returned to agricultural production, shall not be eligible for a new farm tobacco allotment for a period equal to the base period used in determining old farm tobacco allotments (i.e., 5 years) from the date the former owner was displaced.

3. Amend § 728.19 of the wheat regulations to provide that a farm which includes land acquired by an agency having the right of eminent domain for which the entire wheat allotment was pooled pursuant to Part 719 of Chapter VII, which is subsequently returned to agricultural production, shall not be eligible for a new farm wheat allotment for a period equal to the base period used in determining old farm wheat allotments (i.e., 3 years) from the date the former owner was displaced.

4. Amend § 730.1529 of the rice regulations to provide that a farm which includes land acquired by an agency having the right of eminent domain for which the entire rice allotment was pooled pursuant to Part 719 of Chapter VII, which is subsequently returned to agricultural production, shall not be eligible for a new farm rice allotment for a period equal to the base period used in determining old farm rice allotments (i.e., 5 years) from the date the former owner was displaced.

Prior to the amendments being issued, consideration will be given to any data, views and recommendations which are submitted in writing to the Director, Farmer Programs Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, Washington, D.C., 20250. To be considered any such submission must be postmarked not later than 15 days after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Signed at Washington, D.C., on July 22, 1964.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 64–7402; Filed, July 24, 1964; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Parts 32, 33]

HUNTING AND SPORT FISHING

Additions to List of Open Areas

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Migratory Bird Conservation Act of February 18, 1929, as amended (45 Stat. 1222; 16 U.S.C. 715), it is proposed to amend 50 CFR 32.11, 32.21, and 33.4 by the addition of Noxubee National Wildlife Refuge, Mississippi, and Savannah National Wildlife Refuge, Georgia and South Carolina, to the list of areas open to the hunting of migratory game birds; Wapanocca National Wildlife Refuge, Arkansas, to the list of areas open to upland game hunting; and Choctaw National Wildlife Refuge, Alabama, to the list of areas open to sport fishing.

It has been determined that sport fishing and the regulated hunting of upland game and migratory game birds may be permitted as designated on Noxubee, Savannah, Wapanocca, and Choctaw National Wildlife Refuges without detriment to the objectives for which the areas were established.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections, with respect to this proposed amendment, to the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C., 20240, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

1. Section 32.11 is amended by the addition of the following areas to those where hunting of migratory game birds is authorized:

§ 32.11 List of open areas; migratory game birds.

* * * * *

GEORGIA

Savannah National Wildlife Refuge.

* * * * *

MISSISSIPPI

Noxubee National Wildlife Refuge.

* * * * *

SOUTH CAROLINA

Savannah National Wildlife Refuge.

* * * * *

2. Section 32.21 is amended by the addition of the following area as one where hunting of upland game is authorized:

§ 32.21 List of open areas; upland game.

* * * * *

ARKANSAS

Wapanocca National Wildlife Refuge.

* * * * *

3. Section 33.4 is amended by the addition of the following area as one where sport fishing is authorized:

§ 33.4 List of open areas; sport fishing.

* * * * *

ALABAMA

Choctaw National Wildlife Refuge.

* * * * *

STEWART L. UDALL,
Secretary of the Interior.

JULY 21, 1964.

[F.R. Doc. 64–7387; Filed, July 24, 1964; 8:46 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circ. 570, 1964 Rev. Supp. No. 3]

HIGHLANDS INSURANCE CO.

Surety Company Acceptable on Federal Bonds

JULY 22, 1964.

A Certificate of Authority as an acceptable surety on Federal bonds has been issued by the Secretary of the Treasury to the following company under the Act of Congress approved July 30, 1947, 6 U.S.C. 6–13.

An underwriting limitation of $138,000.00 has been established for the company. Further details as to the extent and localities with respect to which the company is acceptable as surety on Federal bonds will appear in the next revision of Department Circular 570, to be issued as of June 1, 1965. Copies of the Circular, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Surety Bonds Branch, Washington, D.C., 20226.

State in Which Incorporated, Name of Company, and Location of Principal Executive Office

TEXAS

Highlands Insurance Company, Houston, Texas.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[F.R. Doc. 64–7394; Filed, July 24, 1964; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

GREAT LAKES AREA

Determination of Fishery Failure Due to Resource Disaster

Whereas, many firms are engaged in catching, processing and marketing fish from the Great Lakes area; and

Whereas, the Food and Drug Administration on October 25, 1963, issued a statement warning the public of botulism in smoked fish from the Great Lakes area; and this warning was followed by a drastic reduction in consumption resulting in substantial economic injury to the Great Lakes fishing industry and to processors and distributors of smoked fish from the Great Lakes area; and

Whereas, the cause of the botulism was not known; and

Whereas, Great Lakes chubs on hand at the time of this incident were either destroyed or preserved in freezers, with approximately 2 million pounds still in storage; and these fish, even though frozen, have deteriorated to the point where they cannot even be used for pet food; and the only use to which they can now be put is for reduction, that is, to produce fishmeal; and the value of the fishmeal will not pay for the processing and raw material transport costs;

Now, therefore, as Secretary of the Interior, I hereby determine that the foregoing circumstances constitute a commercial fishery failure due to a resource disaster within the meaning of section 4(b) of Public Law 88–309. Pursuant to this determination, I hereby authorize the use of funds appropriated under the above legislation as diversion payments to cause removal from the usual markets the stocks of chubs which are preventing normal trade operations and for such other measures as may be necessary to mitigate the damage.

STEWART L. UDALL,
Secretary of the Interior.

JULY 21, 1964.

[F.R. Doc. 64–7386; Filed, July 24, 1964; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

NEW JERSEY, NORTH CAROLINA, SOUTH DAKOTA AND TEXAS

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the States of New Jersey, North Carolina, South Dakota, and Texas natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

NEW JERSEY

Burlington.	Monmouth.
Gloucester.	Salem.
Mercer.	Somerset.

NORTH CAROLINA

Clay.

SOUTH DAKOTA

Codington.	Hamlin.
Day.	Sanborn.

TEXAS

Reeves.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1965, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 22d day of July 1964.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 64–7409; Filed, July 24, 1964; 8:49 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50–213]

CONNECTICUT YANKEE ATOMIC POWER CO.

Amendment of Provisional Construction Permit

Please take notice that pursuant to a Memorandum and Order of the Atomic Energy Commission dated June 11, 1964, the Director of Regulation has issued Amendment No. 1 to Construction Permit No. CPPR–14 amending paragraph 2(D) to read as follows:

D. This construction permit is conditioned upon the submission by the applicant of its complete stock, power and transmission agreements with its sponsoring companies on or before July 24, 1964, or within such additional time as may be authorized by the atomic safety and licensing board on motion for good cause shown; and the submission on or before May 25, 1965, of sufficient information relating to the financial resources of Connecticut Yankee Atomic Power Company to enable the Commission to make a finding that the Company is financially qualified to design and construct the proposed facility. The time within which such information shall be submitted may be extended from time to time for periods not to exceed twelve months each by order of the atomic safety and licensing board on motion for good cause shown, including evidence of the applicant's current financial condition.

A copy of the Commission's Memorandum and Order is on file in the Public Document Room at 1717 H Street NW., Washington, D.C., where it may be inspected by interested persons.

Dated at Bethesda, Md., this 17th day of July 1964.

For the Atomic Energy Commission.

HAROLD L. PRICE,
Director of Regulation.

[F.R. Doc. 64–7395; Filed, July 24, 1964; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

CENTRAL GULF STEAMSHIP CORP.

Notice of Application

Notice is hereby given that Central Gulf Steamship Corporation has applied for Operating-Differential Subsidy under Title VI of the Merchant Marine Act, 1936, as amended, covering the freight service described as follows:

A minimum of 24 and a maximum of 28 sailings per year from United States Gulf and Atlantic Coast ports extending from Brownsville, Texas, to Portland, Maine, from and to foreign ports on Trade Route 18, with privilege calls at Beirut, Port Said and Alexandria.

Any person, firm, or corporation having any interest in such application and

desiring a hearing under section 605(c) of the Merchant Marine Act, 1936, as amended, 46 U.S.C. 1175, should by the close of business on August 17, 1964, notify the Secretary, Maritime Subsidy Board in writing in triplicate, and file petition for leave to intervene in accordance with the rules of practice and procedure of the Maritime Subsidy Board.

In the event that a hearing is ordered to be held on the application under section 605(c), the purpose thereof will be to receive evidence relevant to the following: (1) Whether the application is one with respect to vessels to be operated on a service, route or line, served by citizens of the United States which would be in addition to the existing service or services, and, if so, whether the service already provided by vessels of United State registry in such service, route or line is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may otherwise be deemed appropriate.

By order of the Maritime Subsidy Board.

Dated: July 21, 1964.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 64-7396; Filed, July 24, 1964; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 13777; Order E-21094]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of July 1964.

Agreement adopted by Traffic Conference 1 of the International Air Transport Association relating to specific commodity rates; Docket No. 13777, Agreement C.A.B. 17666, R-44 and R-45.

There has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, an agreement between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 1 of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 (Commodity Rates Board).

The agreement, adopted pursuant to unprotested notices to the carriers and promulgated in IATA memoranda, names additional rates as set forth in the attachment hereto.[1]

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, does not find the subject agreement to be adverse to the public interest or in violation of the Act, provided that approval thereof is conditioned as hereinafter ordered.

Accordingly, it is ordered, That Agreement C.A.B. 17666, R-44 and R-45, be and hereby is approved, provided that such approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication.

Any air carrier party to the agreement, or any interested person, may, within 15 days from the date of service of this order, submit statements in writing containing reasons deemed appropriate, together with supporting data, in support of or in opposition to the Board's action herein. An original and nineteen copies of the statements should be filed with the Board's Docket Section. The Board may, upon consideration of any such statements filed, modify or rescind its action herein by subsequent order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 64-7399; Filed, July 24, 1964; 8:47 a.m.]

[Docket No. 14274]

INCREASED EXCESS BAGGAGE CHARGES

Notice of Postponement of Prehearing Conference

Pursuant to a request of the Bureau of Economic Regulation, dated July 21, 1964, the prehearing conference in the above proceeding presently assigned to be held July 28, 1964, is hereby postponed until 10:00 a.m., e.d.s.t., September 10, 1964, in Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the undersigned examiner.

Dated at Washington, D.C., July 21, 1964.

[SEAL] MILTON H. SHAPIRO,
Hearing Examiner.

[F.R. Doc. 64-7400; Filed, July 24, 1964; 8:47 a.m.]

CIVIL SERVICE COMMISSION

GEOLOGY SERIES

Decision To Prescribe Minimum Educational Requirements

In accordance with section 5 of the Veterans' Preference Act of 1944, as amended, the Civil Service Commission has decided that previously-approved minimum educational requirements for positions in the Geology Series, GS-1350-0, should be superseded by revised requirements. Identification of the superseded requirements, the revised requirements, the duties of the positions, and the reasons for the Commission's decision that these requirements are necessary are set forth below.

GEOLOGY SERIES, GS-1350-0

(ALL GRADE LEVELS AND SPECIALIZATIONS)

Superseded requirements. The following material supersedes that previously appearing in 5 CFR 24.97 (published originally in 20 F.R. 9380, December 15, 1955).

Minimum educational requirements. For Geologist positions, all grade levels and specializations, applicants must meet the requirements in A or B below.

A. A full 4-year or longer curriculum in an accredited college or university leading to a bachelor's degree. The courses must have included 30 semester hours in geology, including geomorphology, structural geology, mineralogy, petrology, paleontology, and stratigraphy; and 20 semester hours in any combination of mathematics, physics, chemistry, biological science, engineering, and pertinent related sciences such as geophysics, meteorology, hydrology, and oceanography.

B. Courses in geology totaling 30 semester hours, and courses in related sciences totaling 20 semester hours, as specified in A above, in an accredited college or university, plus additional appropriate work experience or education which will total 4 years of combined education and experience comparable in type, scope, and thoroughness to that acquired through successful completion of a 4-year college curriculum. The work experience acceptable in combination with education must have been such as to demonstrate that the applicant can perform professional geological work at the initial entrance level in this occupation.

Duties. Typical duties include geologic mapping of surficial deposits, bedrock, subsurface phenomena, and mineral deposits; making and recording geological field observations and collecting samples for laboratory analyses; devising field and laboratory techniques and methods, both observational and experimental, for use in the study of geologic phenomena, processes, and changes; making special studies of the characteristics, occurrence and distribution of mineral deposits, glaciers, and other geologic phenomena; preparing, identifying, and studying samples of minerals, sediments, rocks, fossils, ores, and natural liquids and gases; compiling and interpreting field, laboratory, and published data for use by others or for publication; investigating the influences and interrelationships of climate, topography, plants and animals, and water bodies on specific geologic processes and environments; and preparing professional scientific and economic reports for publication; or for use in planning, design and construction activities. The difficulty of the work and the degree of responsibility will vary and be commensurate with the grade of the position.

[1] Filed as part of the original document.

Reasons for the requirements. Most of the positions in this occupation are research positions. All geologist positions in the Federal Service are concerned with making studies which require the knowledge and application of geological principles, hypotheses and theories which can only be acquired through education. Formal academic training provides systematic and progressive acquisition of necessary knowledge in geology and related sciences, and critical evaluation of such knowledges. At this stage it is highly unlikely that such knowledges can be acquired through other means.

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

[F.R. Doc. 64-7380; Filed, July 24, 1964; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 15566; FCC 64M-694]

ATLAS BROADCASTING CO. (WMAX)

Order Scheduling Hearing

In re application of Atlas Broadcasting Company (WMAX), Grand Rapids, Michigan, Docket No. 15566, File No. BP-15370; for construction permit.

It is ordered, This 20th day of July 1964, that H. Gifford Irion shall serve as the presiding officer in the above-entitled proceeding; that the hearings therein shall commence at 10:00 a.m. on October 12, 1964; and that a prehearing conference shall be convened at 9:00 a.m. on September 18, 1964: *And it is further ordered,* That all proceedings shall be held in the Offices of the Commission, Washington, D.C.

Released: July 22, 1964.

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

[F.R. Doc. 64-7411; Filed, July 24, 1964; 8:49 a.m.]

[Docket Nos. 15562, 15563; FCC 64M-692]

COLLEGE RADIO AND PIONEER VALLEY BROADCASTING CO.

Order Scheduling Hearing

In regards to applications of Augustine L. Cavallaro, Jr., tr/as College Radio, Amherst, Massachusetts, Docket No. 15562, File No. BPH-4323; Pioneer Valley Broadcasting Company, Northampton, Massachusetts, Docket No. 15563, File No. BPH-4393; for construction permits.

It is ordered, This 20th day of July 1964, that Elizabeth C. Smith shall serve as the presiding officer in the above-entitled proceeding; that the hearings therein shall commence at 10:00 a.m. on October 14, 1964; and that a prehearing conference shall be convened at 9:00 a.m. on September 18, 1964: *And it is further ordered,* That all proceedings shall be held in the Offices of the Commission, Washington, D.C.

Released: July 22, 1964.

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

[F.R. Doc. 64-7412; Filed, July 24, 1964; 8:49 a.m.]

[Docket Nos. 15569, 15570; FCC 64M-696]

CUMBERLAND PUBLISHING CO. AND EAST KENTUCKY BROADCASTING CORP.

Order Scheduling Hearing

In re applications of Cumberland Publishing Company, Pikeville, Kentucky, Docket No. 15569, File No. BPH-4140; East Kentucky Broadcasting Corporation, Pikeville, Kentucky, Docket No. 15570, File No. BPH-4205; for construction permits.

It is ordered, This 20th day of July 1964, that Isadore A. Honig shall serve as the presiding officer in the above-entitled proceeding; that the hearings therein shall commence at 10:00 a.m. on October 13, 1964; and that a prehearing conference shall be convened at 9:00 a.m. on September 17, 1964: *And it is further ordered,* That all proceedings shall be held in the Offices of the Commission, Washington, D.C.

Released: July 22, 1964.

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

[F.R. Doc. 64-7413; Filed, July 24, 1964; 8:49 a.m.]

[Docket Nos. 15279—15281; FCC 64M-675]

PAUL DEAN FORD ET AL.

Order Continuing Hearing

In re applications of Paul Dean Ford and J. T. Winchester, London, Ohio, Docket No. 15279, File No. BPH-3936; Charles H. Chamberlain, Urbana, Ohio, Docket No. 15280, File No. BPH-3993; The Brown Publishing Company, Urbana, Ohio, Docket No. 15281, File No. BPH-4138; for construction permits.

The Hearing Examiner having under consideration a joint motion filed on July 15, 1964, by applicants Paul Dean Ford and J. T. Winchester and The Brown Publishing Company, requesting that certain changes be made in procedural dates heretofore specified in the above-entitled proceeding, pending action by the Review Board on certain pertinent pleadings[1] now pending before the Review Board and other procedural steps; and

It appearing, that a rule-making petition was recently granted (Report and Order dated July 1, 1964) assigning FM Channel 292A to London, Ohio, and as a consequence the London, Ohio applicant now proposes to file at the earliest possible date a petition for leave to amend[2] its application to specify FM Channel 292A, London, Ohio, instead of Channel 269, which is at issue in the instant proceeding; and

It further appearing, that in view of the pendency of the aforementioned interlocutory matters, the request by the petitioners for a change in the schedule of procedural steps in the instant case would serve the public interest, since a resolution of such interlocutory matters may obviate the necessity for an evidentiary hearing in this proceeding; and

It further appearing, that all the parties to the proceeding, including the Broadcast Bureau, have consented to the requested changes in the schedule of the procedural steps in the hearing and have waived the provisions of § 1.298 of the Commission's rules;

It is, therefore, ordered, This 15th day of July 1964, that the request for change in the schedule of procedural steps in the instant proceeding is granted, as follows:

	Extended from	To
Exchange of engineering exhibits and direct engineering case in final form.	July 16, 1964	Sept. 1, 1964
Exchange of exhibits involving nontechnical comparative matters, and furnishing of names of witnesses to be called in direct case.	July 23, 1964	Sept. 9, 1964
Requests for witnesses of opposing applicants for cross-examination (both engineering and non-engineering).	July 27, 1964	Sept. 11, 1964
Commencement of hearing.	July 31, 1964	Sept. 15, 1964

Released: July 16, 1964.

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

[F.R. Doc. 64-7414; Filed, July 24, 1964; 8:49 a.m.]

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[1] Among the pleadings pending before the Review Board are (1) a joint petition filed Apr. 16, 1964, by Charles H. Chamberlain and The Brown Publishing Company, seeking approval of an agreement looking toward the dismissal of the Chamberlain application for a new FM station at Urbana, Ohio, and associated pleadings; and (2) a petition to enlarge issues, filed by the Broadcast Bureau on Apr. 29, 1964, and associated pleadings. By Memorandum Opinion and Order released June 17, 1964, the Review Board determined that petitioners Chamberlain and Brown had adequately demonstrated the public interest considerations in their dismissal agreement under § 1.525(a)(4) of the Commission's rules, but held in abeyance further consideration of such joint petition pending receipt of certain additional affidavits as to consideration with respect to the dismissal agreement. Such affidavits were filed on July 2, 1964.

[2] The Commission noted that allocation of Channel 292A to London might obviate the necessity of a comparative hearing in the instant proceeding. This clearly contemplated that a request would be made by Ford and Winchester for the new channel at London in lieu of the one involved herein. The assignment of Channel 292A to London becomes effective Aug. 10, 1964.

[Docket No. 15571; FCC 64M–693]

INDIAN RIVER BROADCASTING CO. (WIRA)

Order Scheduling Hearing

In re application of Indian River Broadcasting Company (WIRA), Fort Pierce, Florida, Docket No. 15571, File No. BP–15740; for construction permit.

It is ordered, This 20th day of July 1964, that Jay A. Kyle shall serve as the presiding officer in the above-entitled proceeding; that the hearings therein shall commence at 10:00 a.m. on October 14, 1964; and that a prehearing conference shall be convened at 9:00 a.m. on September 18, 1964; *And, it is further ordered,* That all proceedings shall be held in the Offices of the Commission, Washington, D.C.

Released: July 22, 1964.

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

[F.R. Doc. 64–7415; Filed, July 24, 1964; 8:49 a.m.]

[Docket No. 15567, 15568; FCC 64M–695]

MIDDLE TENNESSEE ENTERPRISES, INC. AND MIDDLE TENNESSEE BROADCASTING CO.

Order Scheduling Hearing

In re applications of Middle Tennessee Enterprises, Inc., Columbia, Tennessee, Docket No. 15567, File No. BPH–3776; The Middle Tennessee Broadcasting Company, Columbia, Tennessee, Docket No. 15568, File No. BPH–3777; for construction permits.

It is ordered, This 20th day of July 1964, that David I. Kraushaar shall serve as the presiding officer in the above-entitled proceeding; that the hearings therein shall commence at 10:00 a.m. on October 13, 1964; and that a prehearing conference shall be convened at 9:00 a.m. on September 16, 1964; *And it is further ordered,* That all proceedings shall be held in the Offices of the Commission, Washington, D.C.

Released: July 22, 1964.

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

[F.R. Doc. 64–7416; Filed, July 24, 1964; 8:49 a.m.]

GENERAL SERVICES ADMINISTRATION

SISAL HELD IN NATIONAL STOCKPILE

Proposed Disposition

Pursuant to the provisions of section 3(e) of the Strategic and Critical Materials Stock Piling Act, 50 U.S.C. 98b(e), notice is hereby given of a proposed disposition of approximately 9,500,000 pounds of sisal now held in the national stockpile.

The Office of Emergency Planning has made a revised determination pursuant to section 2(a) of the Strategic and Critical Materials Stock Piling Act, 50 U.S.C. 98a(a), of the quantity of sisal to be stockpiled. As a result of that revised determination, said quantity of sisal is no longer needed for the stockpile.

Since the revised determination is not by reason of obsolescence of the sisal for use in time of war, this proposed disposition is being referred to the Congress for its express approval, as required by section 3(e) of the Strategic and Critical Materials Stock Piling Act.

General Services Administration proposes to make said sisal available for transfer to other Government agencies, to offer the material for sale on a competitive basis, or otherwise to dispose of it in the best interest of the Government, upon the express approval by the Congress of this proposed disposition, but not prior to the expiration of six months after the date of publication of this notice in the FEDERAL REGISTER unless earlier disposal may be authorized by law.

The initial quantity to be offered for sale will be approximately 3,000,000 pounds. The quantities and timing of subsequent offerings will depend upon the seasonal nature of the sisal market and the demand then existing. The sisal will be made available in quantities of interest to any potential buyer, including those who qualify as small business.

The plan and dates of disposition have been fixed with due regard to the protection of producers, processors, and consumers against avoidable disruption of their usual markets, as well as the protection of the United States against avoidable loss.

Dated: July 21, 1964.

LAWSON B. KNOTT, Jr.
Acting Administrator of General Services.

[F.R. Doc. 64–7398; Filed, July 24, 1964; 8:47 a.m.]

FEDERAL MARITIME COMMISSION

[Fact Finding Investigation No. 4]

TERMINAL PRACTICES AT NORTH ATLANTIC PORTS (HAMPTON ROADS, VA. TO SEARSPORT, ME.)

Location of Hearing Room

JULY 20, 1964.

The hearing scheduled in this proceeding before the undersigned on July 29, 1964, beginning at 10:00 a.m., will be held in Conference Room No. 1, McCowley Building, 37 Commerce Street, Baltimore, Maryland.

JAMES A. KEMPKER,
Investigative Officer.

[F.R. Doc. 64–7397; Filed, July 24, 1964; 8:47 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP62–154]

EL PASO NATURAL GAS CO.

Notice of Application To Amend

JULY 20, 1964.

Take notice that on June 2, 1964, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas, 79999, filed in Docket No. CP62–154 an application to amend an order of the Commission issued October 17, 1962, in Docket No. CP62–154, authorizing Applicant to sell and deliver on an interruptible, best efforts basis, under its Rate Schedule G–X–2, FPC Gas Tariff, Original Volume No. 1, during the calendar year 1962, up to 25,700,000 Mcf of natural gas (at 14.9 psia) to Southern California Gas Company and Southern Counties Gas Company of California (jointly "Southern") for resale by Southern in its southern California market area. The application to amend seek authorization to extend its authorization to permit resumption of sales of best efforts excess gas to its California customers, namely "Southern", all as more fully set forth in the application to amend on file with the Commission, and open to public inspection.

The application states "Southern" will use the subject gas to increase the reserves in its storage reservoirs which were depleted due to subnormal spring temperatures and to provide additional service that arose from an extension of the Los Angeles County Air Pollution Control Board Rule 62.1. Service will be under El Paso's Rate Schedule G–X–2 at a rate of 22.48 cents per Mcf for a limited period ending December 31, 1965.

Protests, petitions to intervene or request for hearing in this proceeding may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before August 12, 1964.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 64–7382; Filed, July 24, 1964; 8:45 a.m.]

[Docket No. RI65–8 etc.]

ATLANTIC REFINING CO. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

JULY 16, 1964.

The Atlantic Refining Company and other Respondents listed herein, Docket Nos. RI65–8, et al.

The above-named Respondents have tendered for filing proposed changes in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are designated as follows:

[1] Does not consolidate for hearing or dispose of the several matters herein.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf[2]		Rate in effect subject to refund in docket Nos.
									Rate in effect	Proposed increased rate	
RI65-8	The Atlantic Refining Co., P.O. Box 2819, Dallas 21, Tex.	275	2	El Paso Natural Gas Co. (West Jal Field, Lea County, N. Mex.) (Permian Basin).	$86	6-17-64	[3] 8-1-64	1-1-65	15.8563	[4] 16.8793	RI64-272.
	do	245	5	El Paso Natural Gas Co. (East Drinkard Field, Lea County, N. Mex.) (Permian Basin).	552	6-17-64	[3] 8-1-64	1-1-65	[4] 15.8563	[4] [5] 16.8793	RI64-272.
	do	243	9	El Paso Natural Gas Co. (Jalmat Field, Lea County, N. Mex.) (Permian Basin).	135	6-17-64	[3] 8-1-64	1-1-65	[5] 15.8563	[4] [5] 16.8793	RI64-272.
	do	139	6	El Paso Natural Gas Co. (Crosby Devonian Field, Lea County, N. Mex.) (Permian Basin).	626	6-17-64	[3] 8-1-64	1-1-65	[5] 15.8563	[4] [6] 16.8793	RI64-272.
	do	28	25	El Paso Natural Gas Co. (Spraberry Field, Midland, Glasscock, Reagan, and Upton Counties, Tex.) (R.R. Dist. Nos. 7C and 8) (Permian Basin).	4,378	6-17-64	[3] 8-1-64	1-1-65	17.2295	[7] 18.2430	RI61-389.
	do	20	17	El Paso Natural Gas Co. (Various Fields, Lea County, N. Mex.) (Permian Basin).	42,340	6-17-64	[3] 8-1-64	1-1-65	15.8563	[3] [7] 16.8793	RI64-272.
	do	20	18	El Paso Natural Gas Co. (Various Fields, Lea County, N. Mex.).	28,701	6-17-64	[3] 8-1-64	1-1-65	13.8103	[7] [8] 15.3448	RI64-191.
	do	11	7	El Paso Natural Gas Co. (Langlie-Mattix Field, Lea County, N. Mex.) (Permian Basin).	1,534	6-17-64	[3] 8-1-64	1-1-64	[6] 15.8563	[6] [7] 16.8793	RI64-272.
	do	15	9	do	295	6-17-64	[3] 8-1-64	1-1-65	[6] 15.8563	[6] [7] 16.8793	RI64-272.
	do	17	8	do	417	6-17-64	[3] 8-1-64	1-1-65	[6] 15.8563	[6] [7] 16.8793	RI64-272.
	do	18	10	do	61	6-17-64	[3] 8-1-64	1-1-65	[6] 15.8563	[6] [7] 16.8793	RI64-272.
	do	19	8	do	663	6-17-64	[3] 8-1-64	1-1-65	[6] 15.8563	[6] [7] 16.8793	RI64-272.
	do	140	8	El Paso Natural Gas Co. (Block 9 Field, Andrews County, Tex.) (R.R. District No. 8) (Permian Basin).	3,375	6-17-64	[3] 8-1-64	1-1-65	13.6823	[7] 15.2025	RI61-389.
	do	29	11	El Paso Natural Gas Co. (Payton Field, Ward and Pecos Counties, Tex.) (R.R. District No. 8) (Permian Basin).	1,642	6-17-64	[3] 8-1-64	1-1-65	15.7092	[7] 16.7228	RI61-389.
	do	208	5	El Paso Natural Gas Co. (Headlee Gas Plant, Ector County, Tex.) (R.R. District No. 8) (Permian Basin).	24	6-17-64	[3] 8-1-64	1-1-65	17.1148	[7] 18.1215	RI61-389.
	do	26	8	El Paso Natural Gas Co. (Slaughter Field, Cochran, Hockley, and Terry Counties, Tex.) (R.R. District No. 8) (Permian Basin).	6,197	6-17-64	[3] 8-1-64	1-1-65	17.0979	[7] 18.1046	RI61-389.
RI65-9	The Atlantic Refining Co. (Operator), et al., P.O. Box 2819, Dallas 21, Tex.	10	6	El Paso Natural Gas Co. (Denton Field, Lea County, N. Mex.) (Permian Basin).	4,763	6-17-64	[3] 8-1-64	1-1-65	17.3908	[4] 18.4138	RI64-271.
RI65-10	Humble Oil and Refining Co., P.O. Box 2180, Houston 1, Tex.	116	12	El Paso Natural Gas Co. (South Andrews Field, Andrews County, Tex.) (R.R. Dist. No. 8) (Permian Basin).	12,420	6-15-64	38-1-64	1-1-65	13.6823	715.2025	RI61-379.
	do	159	2	El Paso Natural Gas Co. (South Pecos Valley Field, Pecos County, Tex.) (R.R. Dist. No. 8) (Permian Basin).	386	6-15-64	[3] 8-1-64	1-1-65	15.7093	[7] [9] 16.7228	RI61-376.
	do	290	5	El Paso Natural Gas Co. (Spraberry Field, Reagen County, Tex.) (R.R. Dist. No. 7C) (Permian Basin).	259	6-15-64	[3] 8-1-64	1-1-64	17.2295	[7] 18.2430	RI60-467.
	do	160	4	El Paso Natural Gas Co. (Roberts Field, Sutton County, Tex.) (R.R. Dist. No. 7C) (Permian Basin).	874	6-15-64	[3] 8-1-64	1-1-65	15.7093	[7] 16.7228	RI61-379.
	do	259	4	El Paso Natural Gas Co. (Pecos Valley Field, Pecos County, Tex.) (R.R. District No. 8) (Permian Basin).	2,282	6-15-64	[3] 8-1-64	1-1-65	15.7092	[7] 16.7228	RI60-42.
	do	288	6	El Paso Natural Gas Co. (Spraberry Field, Reagen County, Tex.) (R.R. Dist. No. 7C) (Permian Basin).	35	6-15-64	[3] 8-1-64	1-1-65	17.2295	[7] 18.2430	RI60-467.
	do	289	6	do	115	6-15-64	[3] 8-1-64	1-1-65	17.2295	[7] 18.2430	RI60-467.
	do	291	16	do	495	6-15-64	[3] 8-1-64	1-1-65	17.2295	[7] 18.2430	RI61-54.
	do	292	15	do	219	6-15-64	[3] 8-1-64	1-1-65	17.2295	[7] 18.2430	RI61-54.
	do	293	16	do	111	6-15-64	[3] 8-1-64	1-1-65	17.2295	[7] 18.2430	RI61-54.
	do	308	3	El Paso Natural Gas Co. (Yucco Butte and Cobblestone areas, Pecos and Terrell Counties, Tex.) (R.R. District Nos. 7C and 8) (Permian Basin).	10,253	6-15-64	[3] 8-1-64	1-1-65	15.7093	[7] 16.7228	
	do	320	7	El Paso Natural Gas Co. (Spraberry Field, Reagan County, Tex.) (R.R. District No. 7C) (Permian Basin).	6	6-19-64	[3] 8-1-64	1-1-65	17.2295	[7] 18.2430	RI63-403.
	do	330	2	El Paso Natural Gas Co. (Clara Couch Field, Crochetts County, Tex.) (R.R. District No. 7C) (Permian Basin).	1,248	6-19-64	[3] 8-1-64	1-1-65	15.7093	[7] 16.7228	

See footnotes at end of table.

Docket No.	Respondent	Rate Schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf/14.65 psia: Rate in effect	Cents per Mcf/14.65 psia: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI65-11	Humble Oil and Refining Co. (Operator), et al., P.O. Box 2180, Houston 1, Tex.	118	10	El Paso Natural Gas Co. and Hunt Oil Co. (Amacher, Tippett and King Mountain, Fields, Upton County, Tex.) (R.R. District No. 7C) (Permian Basin).	$1,160	6-15-64	[3] 8-1-64	1-1-65	13.6823	[7] 15.2025	RI61-380.
	do	142	6	El Paso Natural Gas Co. (South Four Lakes Fields, Lea County, N. Mex.) (Permian Basin).	6,480	6-15-64	[3] 8-1-64	1-1-65	17.1369	[4] 18.1449	RI64-56.
	do	144	4	El Paso Natural Gas Co. (Amacher Tippett Field, Upton County, Tex.) (R.R. District No. 7C) (Permian Basin).	125	6-15-64	[3] 8-1-64	1-1-65	13.6823	[7] 15.2025	RI61-380.
	do	260	8	El Paso Natural Gas Co. (Snyder Plant, Scurry County, Tex.) (R.R. District No. 8) (Permian Basin).	24,006	6-15-64	[3] 8-1-64	1-1-65	16.1046	[7] 17.1114	RI60-28.
	do	262	5	El Paso Natural Gas Co. and Hunt Oil Co. (Wilshire Field, Upton County, Tex.) (R.R. District No. 7C) (Permian Basin).	2,243	6-15-64	[3] 8-1-64	1-1-65	13.6822	[7] 15.2025	RI60-80.
	do	344	1	El Paso Natural Gas Co. (Jack Herbert Field, Upton County, Tex.) (R.R. District No. 7C) (Permian Basin).	1,186	6-15-64	[3] 8-1-64	1-1-65	13.7093	[7] 16.7228	
	do	5	47	El Paso Natural Gas Co. (Spraberry Field, Glascock, Reagen, Midland, and Upton Counties, Tex.) (R.R. District Nos. 7C and 8) (Permian Basin).	14,590	6-19-64	[3] 8-1-64	1-1-65	17.2295	18.2430	RI61-380 and RI63-414.
RI65-12	C. Michael Paul, 1223 Petroleum Life Build ng, Midland, Tex., 19704.	1	3	Northern Natural Gas Co. (North Spearman Morrow Field, Hansford County, Tex.) (R.R. District No. 10).	3,311	6-18-64	[10] 7-19-64	12-19-64	[11] 16.5	[7 11] 17.5	
RI65-13	Mull Drilling Co. (Operator), et al., Wichita Plaza Building, Wichita, Kans.	5	2	Panhandle Eastern Pipeline Co. (South Hopewell Field, et al., Pratt and Edwards Counties, Kans.).	1,500	6-17-64	[10] 7-18-64	12-18-64	15.0	[7] 16.0	
RI65-14	Sinclair Oil and Gas Co., P.O. Box 521, Tulsa, Okla., 74102.	256	4	Lone Star Gas Co. (Carter Knox Field, Stephens Company, Okla.) (Carter Knox Area).	1,150	6-18-64	[10] 7-19-64	12-19-64	16.8	[7] 17.9	
RI65-15	Tidewater Oil Co., P.O. Box 1404, Houston, Tex., 77001.	56	10	Tennessee Gas Transmission Co. (West Delta Area, Offshore, La.) (South Louisiana).	31,000	6-19-64	[10] 7-20-64	12-20-64	[11 12] 19.5	[11 12] 20.0	
	do	72	17	Tennessee Gas Transmission Co. (East and West Cameron Areas, Offshore La.) (South Louisiana).	55,000	6-19-64	7-20-64	12-20-64	[11] 18.5	[11] 19.0	

[3] The pressure base is 14.65 psia for all filings, except that submitted by Tidewater at 15.025 psia.
[4] The stated effective date is the date proposed by respondent.
[4] Periodic increase. Includes partial reimbursement for full 2.55 percent New Mexico Emergency School Tax.
[5] Subject to deduction of 0.4467 cent per Mcf compression charge for low pressure gas (below 600 psig).
[6] Subject to deduction of 0.4467 cent per Mcf compression charge for low pressure gas (below 850 psig).
[7] Periodic increase.
[8] Inclusive of 0.5 cent per Mcf compression charge.
[9] Subject to reduction of 0.5 cent per Mcf for compression of low pressure gas (below 650 psig).
[10] The stated effective date is the first day after expiration of the required 30 days notice.
[11] Subject to downward Btu adjustment.
[12] Rate inclusive of reimbursement for Louisiana State Tax and for 1.0 cent per Mcf escrow payment by buyer for other properties on which such taxes are not paid, pending determination of the State's jurisdiction.

C. Michael Paul (Paul) requests an effective date of December 1, 1963, for his proposed rate increase. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit an earlier effective date for Paul's rate filing and such request is denied.

The Atlantic Refining Company's (Atlantic) proposed rate increases contained in Supplements Nos. 2, 5, 9 and 6 to Atlantic's FPC Gas Rate Schedules Nos. 275, 245, 243 and 139, respectively, reflect periodic increases plus partial reimbursement for the full 2.55 percent New Mexico Emergency School Tax which was increased from 2.0 percent to 2.55 percent on April 1, 1963. The periodic increases, exclusive of tax reimbursement, result in increased rates which exceed the area ceiling. The buyer, El Paso Natural Gas Company, (El Paso) has protested the rate increases filed by Atlantic. El Paso questions the right of Atlantic under the tax reimbursement clause to file a rate increase reflecting tax reimbursement computed on the basis of an increase in tax rate by the New Mexico Legislature in excess of 0.55 percent. While El Paso concedes that the New Mexico tax legislation effected a higher tax rate of at least 0.55 percent, they claim there is controversy as to whether or not the new legislation effected an increased tax rate in excess of 0.55 percent. Under the circumstances, we shall provide that the hearing provided for herein for Atlantic shall concern itself with the contractual basis for the rate filings which El Paso has protested.

Tidewater Oil Company requests an effective date of November 1, 1964, for its proposed rate filings. Such action is the result of an offer of settlement approved by the Commission in their order issued December 21, 1962, in Docket Nos. G-11024, et al., wherein Tidewater was permitted to file for 0.5 cent per Mcf increases sufficiently in advance of November 1, 1964, assuming such changes would be suspended for the maximum period permitted by law. However, Tidewater did not file the proposed changes sufficiently in advance to allow them to become effective November 1, 1964, after a full five-month suspension period, as contemplated in the settlement. Under the circumstances, Tidewater's proposed rate increases are suspended for five months from July 20, 1964, the date of expiration of the statutory notice.

All of the proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR Ch. I, Part 2, § 2.56).

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the contractual basis for Atlantic's proposed rate filings which El Paso has protested, as well as hearings concerning the statutory lawfulness of the increased rates and charges contained in all of the rate filings of the producers' listed herein, and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings shall be held

upon dates to be fixed by notices from the Secretary concerning the contractural basis for Atlantic's proposed rate filings which El Paso has protested, and the statutory lawfulness of the rates and charges contained in all of the rate filings of the producers' listed herein.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until the date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f) on or before September 2, 1964.

By the Commission. Commissioner O'Connor not participating in the suspension of the filing in Docket No. RI65–9, The Atlantic Refining Company (Operator).

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

[F.R. Doc. 64–7313; Filed, July 24, 1964; 8:45 a.m.]

[Docket No. RI65–16 etc.]

FOREST OIL CORP. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

JULY 17, 1964.

Forest Oil Corporation and other Respondents listed herein, Docket Nos. RI65–16, et al.

The above-named Respondents have tendered for filing proposed changes in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are designated as follows:

Docket No.	Respondent	Rate Schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf/14.65 psia		Rate in effect subject to refund in docket Nos
									Rate in effect	Proposed increased rate	
RI65–16	Forest Oil Corp., 1300 National Bank of Commerce Building, San Antonio, Tex., 78205, Attn. Mr. Richard G. Weil.	5	4	El Paso Natural Gas Co. (Denton Plant, Lea County, N. Mex.) (Permian Basin Area).	$176	6–19–64	[2] 8–1–64	1–1–65	[3] 17.3908	[3] 18.4138	RI64–357.
RI65–17	The Pure Oil Co., 200 East Golf Road, Palatine, Ill., 60067, Attn. Mr. J. R. McChesney.	60	5	El Paso Natural Gas Co., (South Andrews Field, Andrews County, Tex.) (R.R. Dist. 8) (Permian Basin Area).	3,561	6–18–64	[2] 8–1–64	1–1–65	13.6823	15.2025	RI60–91.
	do	[4] 59	6	El Paso Natural Gas Co. (Crosby-Devonian Field, Lea County, N. Mex.) (Permian Basin Area).	3,270	6–18–64	[2] 8–1–64	1–1–65	[5] [6] 15.8563	[5] [6] 16.8793	RI64–28.
	do	31	9	El Paso Natural Gas Co. (Amacker-Tippett Field, Upton County, Tex.) (R.R. Dist. 7–C) (Permian Basin Area).	942	6–18–64	[2] 8–1–64	1–1–65	13.6823	15.2025	RI61–471.
	do	[4] 28	5	El Paso Natural Gas Co. (Cooper-Jal Field, Lea County, N. Mex.) (Permian Basin Area).	2,332	6–18–64	[2] 8–1–64	1–1–65	[5] [6] 15.8563	[5] [6] 16.8793	RI64–28.
	do	26	11	El Paso Natural Gas Co. (Dollarhide Field, Andrews County, Tex.) (R.R. Dist. 8) (Permian Basin Area).	14,934	6–18–64	[2] 8–1–64	1–1–65	17.1148	18.1215	RI61–471.
	do	[4] 3	10	El Paso Natural Gas Co. (Clara Couch Field, Crockett County, Tex.) (R.R. Dist. 7–C) (Permian Basin Area).	1,716	6–18–64	[2] 8–1–64	1–1–65	15.7093	16.7228	RI61–471.
	do	[4] 1	10	El Paso Natural Gas Co. (Jack Herbert Field, Upton Company, Tex.) (R.R. District 7–C) (Permian Basin Area).	2,109	6–18–64	[2] 8–1–64	1–1–65	15.7093	16.7228	RI61–471.
	do	[4] 61	2	El Paso Natural Gas Co (Levelland Field, Cochran County, Tex.) (R.R. District 8) (Permian Basin Area).	810	6–18–64	[2] 8–1–64	1–1–65	[4] 15.7093	[4] 16.7228	RI60–91.
RI65–18	The Pure Oil Co. (Operator), et al.	62	3	El Paso Natural Gas Co. (Andrews Field, Andrews County, Tex.) (R.R. District 8) (Permian Basin Area).	685	6–18–64	[2] 8–1–64	1–1–65	13.6823	15.2025	G–20005.
RI65–19	Amerada Petroleum Corp. (Operator) et al., P.O. Box 2040, Tulsa 2, Okla., Attention: Mr. W. H. Bourne.	[4] 57	9	El Paso Natural Gas Co. (Jalmat Field, Lea County, N. Mex.) (Permian Basin Area).	3,688	6–22–64	[2] 8–1–64	1–1–65	[7] 15.8563	[7] 16.8793	RI64–31.
					1,960	6–22–64	[2] 8–1–64	1–1–65	[8] 15.3993	[8] 16.4223	
RI65–20	Amerada Petroleum Corp.	62	9	El Paso Natural Gas Co. (Bagley Field, Lea County, N. Mex.) (Permian Basin Area).	5,592	6–22–64	[2] 8–1–64	1–1–65	[3] 15.8563	[3] 16.8793	RI64–31.
	do	72	6	do	[9]	6–22–64	[2] 8–1–64	1–1–65	[3] 15.8563	[3] 16.8793	RI64–31.
	do	[4] 1	25	El Paso Natural Gas Co. (Eumont, Jalmat, and various other fields, Lea County, N. Mex.) (Permian Basin Area).	3,623	6–22–64	[2] 8–1–64	1–1–65	[7] 15.8563	[7] 16.8793	RI64–31.
					4,710	6–22–64	[2] 8–1–64	1–1–65	[8] 15.3993	[8] 16.4223	
	do	4	11	El Paso Natural Gas Co. (Spraberry Field, Reagan and Upton Counties, Tex.) (R.R. District 7–C) (Permian Basin Area).	2,712	6–22–64	[2] 8–1–64	1–1–65	17.1632	18.1728	G–20390.
	do	27	7	El Paso Natural Gas Co. (Bagley Field, Lea County, N.Mex.) (Permian Basin Area).	57	6–22–64	[2] 8–1–64	1–1–65	[3] 15.8563	[3] 16.8793	RI64–31.
	do	[4] 31	10	El Paso Natural Gas Co. (Jalman Field, Lea County, N.Mex.) (Permian Basin Area).	69	6–22–64	[2] 8–1–64	1–1–65	[8] 15.3993	[8] 16.4223	RI64–31.
	do	[4] 55	7	El Paso Natural Gas Co. (Eumont Field, Lea County, N.Mex.) (Permian Basin Area).	422	6–22–64	[2] 8–1–64	1–1–65	[4] 15.8563	[4] 16.8793	RI64–31.
	do	[4] 56	12	do	422	6–22–64	[2] 8–1–64	1–1–65	[4] 15.8563	[4] 16.8793	RI64–31.
RI65–21	Sun Oil Co., 1608 Walnut Street, Philadelphia, Pa., Attn: Mr. C. E. Webber.	1	10	El Paso Natural Gas Co. (Levelland Field, Hockley County, Tex.) (R.R. District 8) (Permian Basin Area).	674	6–23–64	[2] 8–1–64	1–1–65	17.1001	18.1215	RI62–382.

See footnotes at end of table.

[1] Does not consolidate for hearing or dispose of the several matters herein.

Docket No.	Respondent	Rate Schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf/14.65 psia: Rate in effect	Cents per Mcf/14.65 psia: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI65-22	Sun Oil Co. (Operator) et al.	80	11	El Paso Natural Gas Co. (Jameson Field, Coke County, Tex.) (R.R. District 7-C) (Permian Basin Area).	$30,102	6-23-64	[2] 8-1-64	1-1-65	17.1046	18.1080	RI62-383.
RI65-21	Sun Oil Co	[4] 30	12	El Paso Natural Gas Co. (Payton-Devonian Field, Pecos County, Tex.) (R.R. District 8) (Permian Basin Area).	365	6-23-64	[2] 8-1-64	1-1-65	[10] 15.7093	[10] 16.7228	RI62-382.
	do	65	8	El Paso Natural Gas Co. (Northeast Noelke Field, Crockett County, Tex.) (R.R. District 7-C) (Permian Basin Area).	[11]	6-23-64	[2] 8-1-64	1-1-65	14.6958	15.7093	RI62-382.
	do	61	11	El Paso Natural Gas Co. (Jalmat Field, Lea County, N. Mex.) (Permian Basin Area).	2,023	6-23-64	[2] 8-1-64	1-1-65	[6] [12] 15.1735	[12] 16.1851	RI64-15.
RI65-23	Monsanto Chemical Co., 1401 South Coast Building, Houston, Tex., 77002, Attn.: Mr. B. L. Allen.	5	8	El Paso Natural Gas Co. (Dollarhide Field, Andrews County, Tex.) (R. R. District 8) (Permian Basin Area).	1,058	6-24-64	[2] 8-1-64	1-1-65	[13] 17.1148	[13] 18.1215	RI60-122.
	do	[4] 12	5	El Paso Natural Gas Co. (Wyatt Ellenberger Field, Crockett County, Tex.) (R.R. District 7-C) (Permian Basin Area).	1,520	6-24-64	[2] 8-1-64	1-1-65	[10] 15.7093	[10] 16.7228	RI60-122.
RI65-24	Humble Oil & Refining Co., P.O. Box 2180, Houston, Tex., 77001, Attn.: Mr. Jesse Foster.	[4] 9	10	El Paso Natural Gas Co. (Clara Couch Field, Crockett County, Tex.) (R.R. District 7-C) (Permian Basin Area).	244	6-18-64	[2] 8-1-64	1-1-65	15.7093	16.7228	RI61-379.
	do	16	12	El Paso Natural Gas Co. (Dollarhide Field, Andrews County, Tex.) (R.R. District 8) (Permian Basin Area).	7,315	6-18-64	[2] 8-1-64	1-1-65	[13] 17.2295	[13] 18.2430	RI61-379.
	do	[4] 28	10	El Paso Natural Gas Co. (Cooper Jal Field, Lea County, N. Mex.) (Permian Basin Area).	7,293	6-18-64	[2] 8-1-64	1-1-65	[3] [4] [14] 15.8647	[3] [4] [14] 16.8882	RI64-49.
RI65-25	Humble Oil & Refining Co. (Operator), et al.	[4] 31	13	do	49,119	6-18-64	[2] 8-1-64	1-1-65	[3] [14] [4] 15.8647	[3] [4] [14] 16.8882	RI64-50.
RI65-24	Humble Oil & Refining Co.	[4] 33	8	do	51	6-18-64	[2] 8-1-64	1-1-65	[3] [4] [14] 15.8647	[3] [4] [14] 16.8882	RI64-49.
	do	[4] 45	9	do	255	6-18-64	[2] 8-1-64	1-1-65	[3] [4] [14] 15.8647	[3] [4] [14] 16.8882	RI64-49.
RI65-26	Cities Service Oil Co. (Operator), et al., Cities Service Building, Bartlesville, Okla.	[15] 166	12	Northern Natural Gas Co. (Shallow Zone, Hugoton Field, Finney, Grant, Kearny, Haskell, Seward, and Morton Counties, Kans.).	210,000	6-18-64	[16] 7-19-64	12-19-64	[17] 11.0	[17] [18] 12.0	N.A.
	do	[15] 167	12	Northern Natural Gas Company (intermediate zone, Hugoton Field, Finney, Grant, Kearny, Haskell, Seward and Morton Counties, Kans.).	46,500	6-18-64	[16] 7-19-64	12-19-64	[17] 11.0	[17] [18] 12.0	N.A.
	do	[15] 168	12	Northern Natural Gas Co. (deep zone, Hugoton Field, Finney, Grant, Kearny, Haskell, Seward, and Morton Counties, Kans.).	6,200	6-18-64	[16] 7-19-64	12-19-64	[17] 11.0	[17] [18] 12.0	N.A.
	do	169	10	Northern Natural Gas Co. (Shallow Zone, Hugoton Field, Texas County, Okla.) (Panhandle Area).	95,000	6-18-64	[16] 7-19-64	12-19-64	[17] 11.0	[17] [18] 12.0	N.A.
	do	170	11	Northern Natural Gas Co. (intermediate zone, Hugoton Field, Texas County, Okla.) (Panhandle Area)	1,350	6-18-64	[16] 7-19-64	12-19-64	[17] 11.0	[17] [18] 12.0	N.A.
	do	171	11	Northern Natural Gas Co. (deep zone, Hugoton Filed, Texas County, Okla.) (Panhandle Area).	11,000	6-18-64	[16] 7-19-64	12-19-64	[17] 11.0	[17] [18] 12.0	N.A.
RI65-27	National Cooperative Refinery Association, McPherson, Kans.	10	4	Panhandle Eastern Pipe Line Co. (Richfield Field, Morton County, Kans.).	1,000	6-25-64	7-26-64	12-26-64	16.0	17.0	N.A.
RI65-28	Sinclair Oil & Gas Co. (Operator), et al., P.O. Box 521, Tulsa, Okla.	249	2	Lone Star Gas Co. (Healdton Gas Products Plant No. 31, Carter County, Okla.) Oklahoma other area).	14,370	6-23-64	7-24-64	12-24-64	15.0	17.9	N.A.

[2] Contractually provided effective date.
[3] Includes partial reimbursement for full 2.55 New Mexico Emergency School Tax.
[4] Subject to reduction of 0.4467 cent per Mcf for compression of low pressure gas (below 600 psia).
[5] Contract provides for maximum of 1,000 grains of sulphur per 100 cubic feet of gas.
[6] Contract provides for maximum of 50 grains of sulphur per 100 cubic feet of gas.
[7] High pressure gas (600 psia).
[8] Low pressure gas (includes 0.4467 cent per Mcf compression charge by buyer).
[9] No current production.
[10] Subject to reduction of 0.5 cent per Mcf for compression of low pressure gas (below 650 psia).
[11] No deliveries are currently being made under this contract.
[12] Includes partial reimbursement for 0.55 percent increase in New Mexico Emergency School Tax.
[13] Subject to compression charge (not to exceed 0.5 cent per Mcf) for gas injected into the Rhodes Reservoir.
[14] Tax computed on basis of the rate base plus tax reimbursement added progressively.
[15] Filing pertains only to acreage formerly covered by Respondent's Rate Schedule No. 70 (which was superseded by R.S. Nos. 166 through 171) in accordance with the Commission's order issued December 26, 1962 in Docket Nos. G-9510, et al., as per Respondent's letter dated June 29, 1964.
[16] Respondent was permitted (by the Commission's Order issued December 26, 1962 in Docket Nos. G-9510, et al., accepting settlement offer) to file in advance so that the effective date would be October 1, 1964, assuming that the filing would be suspended for five months. Adequate notice was not given.
[17] Subject to downward Btu adjustment.
[18] Rate filing permitted pursuant to the Commission's Order issued Dec. 26, 1962 in Docket Nos. G-9510, et al.

Forest Oil Corporation (Forest), The Pure Oil Company (Pure) and Amerada Petroleum Corporation (Amerada), as noted in footnote [3] supra, have filed proposed increased rates reflecting partial reimbursement for the full 2.55 percent New Mexico Oil and Gas Emergency School Tax which was increased from 2.0 percent to 2.55 percent on April 1, 1963. The buyer, El Paso Natural Gas Company (El Paso), has protested the filings, with the exception of those by Amerada to which it is expected a similar protest will be filed. El Paso questions the rights of the sellers under the tax reimbursement clauses to file rate increases reflecting tax reimbursement computed on the basis of an increase in tax rate by the New Mexico Legislature in excess of 0.55 percent. While El Paso concedes that the New Mexico tax legislation effected a higher tax rate of at least 0.55 percent, it claims there is controversy as to whether or not the new legislation effected an increased tax rate in excess of 0.55 percent. Under the circumstances, we shall provide that the hearing provided for herein for Forest, Pure and Amerada shall concern itself with the contractual basis for the producer's rate filings which El Paso has or will protest, as well as the statutory law-

fulness of the increased rates contained in the proposed supplements.

Cities Service Oil Company (Operator), et al. (Cities Service) proposes an effective date of October 1, 1964. These filings are permitted pursuant to an offer of settlement approved by the Commission in its order issued December 21, 1962, in Docket Nos. G–9510, et al., whereby Cities Service was permitted to file for 1.0¢ per Mcf increases sufficiently in advance of October 1, 1964, so that such rate changes would become effective on that date, assuming the increased rates would be suspended for the maximum period permitted by law. The proposed changes were not filed sufficiently in advance to allow them to become effective October 1, 1964, after a full five month suspension period, as contemplated in the settlement. Under the circumstances, we believe such changes should be suspended until December 19, 1964.

All of the proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of General Policy No. 61–1, as amended (18 CFR, Ch. I, Part 2, § 2.56).

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the contractual basis for Forest, Pure and Ameradas' proposed rate filings which El Paso has protested, as well as hearings as to the statutory lawfulness of the increased rates and charges contained in all of the producers' rate filings, and that the above-designated rate supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. 1), public hearings shall be held upon dates to be fixed by notices from the Secretary concerning the contractual basis for Forest, Pure and Ameradas' proposed rate filings which El Paso has protested, and the statutory lawfulness of the rates and charges contained in all of the producers' proposed rate supplements.

(B) Pending hearings and decisions thereon, the above-designated rate supplements are hereby suspended and the use thereof deferred until the date indicated in the above "Date Suspended Until" column, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

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

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before August 31, 1964.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 64–7314; Filed, July 24, 1964; 8:45 a.m.]

[Docket No. CP64–298]

EL PASO NATURAL GAS CO.

Notice of Application

JULY 20, 1964.

Take notice that on June 11, 1964, El Paso Natural Gas Company (El Paso), a Delaware corporation, P.O. Box 1492, El Paso, Texas, 79999, filed in Docket No. CP64–298 an application for a certificate of public convenience and necessity under section 7(c) of the Natural Gas Act, as amended, authorizing the construction and operation of certain facilities and the sale and delivery of natural gas to EMW Gas Association (EMW) for transportation to and resale and general distribution in the Villages of Willard and Moriarty and the Town of Estancia, New Mexico, their respective environs and intervening and adjacent areas, all within Torrance County, New Mexico, as more fully set forth in the application on file with the Commission and open to public inspection.

El Paso proposes to construct, at an estimated cost of $6,050, and operate a measuring and regulating station, and necessary appurtenances, at a point adjacent to its 30-inch O.D. Permian-San Juan Crossover Pipeline in Torrance County, New Mexico. Deliveries of natural gas to EMW will be made at the outlet of such measuring and regulating station.

EMW proposes to construct a 4½-inch O.D. transmission pipeline extending from El Paso's proposed measuring and regulating station in a northerly direction a distance of approximately 50 miles to a point of termination in the immediate vicinity of Moriarty, New Mexico, together with distribution facilities necessary to provide natural gas service to consumers in the Villages of Willard and Moriarty and the Town of Estancia, New Mexico. EMW also proposes to construct approximately 4 miles of 2⅜-inch O.D. lateral pipeline extending from the foregoing transmission line to Willard and approximately 10 miles of 2⅜-inch O.D. laterals where required to provide service along the route of the transmission line. The total estimated cost of the facilities to be constructed by EMW is $793,000. Such cost will be financed in part by a grant of $363,000 made available by the federal Housing and Home Finance Agency under the accelerated works program and the balance of the funds will be obtained through the sale of revenue bonds.

The application states that during the third full year of operation of the proposed facilities, annual and maximum daily natural gas requirements for the proposed project will aggregate 148,206 Mcf and 1,324 Mcf, respectively.

The sales and deliveries which are the subject of the application are proposed to be made in accordance with and at rates contained in El Paso's Rate Schedules A–2, B–3 and D–3, FPC Gas Tariff, Original Volume No. 1.

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

Take further notice that preliminary staff analysis has indicated that there are no problems which would warrant a recommendation that the Commission designate this application for formal hearing before an examiner and that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing may be held without further notice before the Commission on this application provided no protest or petition to intervene is filed within the time required herein. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before August 7, 1964.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 64–7383; Filed, July 24, 1964; 8:45 a.m.]

[Docket Nos. CP64–308 etc.]

MIDWESTERN GAS TRANSMISSION CO.

Notice of Applications

JULY 20, 1964.

Take notice that on June 24, 1964, Midwestern Gas Transmission Company (Applicant), 231 South LaSalle Street, Chicago, Illinois, filed in Docket No. CP64–308[1] an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to increase total peak day firm sales of natural gas to five existing customers on Applicant's northern system. An increase in peak day sales of 75 Mcf per day is proposed to commence on November 1, 1964, with subsequent peak day increases of 1,174 Mcf per day on November 1, 1965; 2,361 Mcf per day on November 1, 1966; and 810 Mcf per day on November 1, 1967, amounting to a fourth year total peak day increase of 4,420 Mcf. No additional facilities will be necessary to render the increased natural gas service, and the additional volumes of gas will be sold under the

[1] This application is, in fact, a request for amendment of the certificate authorization originally issued in Docket No. G–18313.

terms of Midwestern's presently effective FPC Gas Tariff.

Take further notice that on June 24, 1964, Applicant filed, pursuant to section 3 of the Natural Gas Act, an application for amendment of the authorization to import natural gas from Canada previously granted in Docket No. G–18314 and, pursuant to Executive Order No. 10485, Applicant filed an application for amendment of the Presidential Permit authorizing the construction, operation and maintenance of facilites at the International Boundary for the importation of natural gas from Canada previously granted in Docket No. G–18315.

In each of these applications, Applicant seeks amendments authorizing it to import a peak-day volume of 222,360 Mcf of natural gas per day (at 14.73 psia) through Applicant's connection with Trans-Canada Pipe Lines, Ltd. near Emerson, Manitoba. Applicant does not propose any increase in the annual volumes of gas to be imported.

Applicant states that the requested authorization in Docket Nos. G–18314 and G–18315 will provide a gas supply adequate to meet the increased requirements of existing customers proposed to be served under the application in Docket No. CP64–308. Additionally, Applicant states that it would then have an adequate gas supply to its northern system to meet requirements arising from presently pending or expected applications of five prospective customers seeking service from Applicant under section 7(a) of the Natural Gas Act. The total third year request of these section 7(a) applicants is indicated to be 13,606 Mcf per day.

Protests or petitions to intervene in the matters of the subject applications may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) on or before August 14, 1964.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 64–7384; Filed, July 24, 1964; 8:45 a.m.]

[Project No. 2464]

VILLAGE OF GRESHAM

Order Fixing Hearing

JULY 20, 1964.

The Village of Gresham, Wisconsin, filed an application for license on April 20, 1964, for project No. 2464, to be known as the Weed Dam and to be located on the Red River and Mill Creek in Shawano County, Wisconsin.

There is considerable local interest. Numerous informal protests and three formal petitions for intervention in opposition to the proposed project have been received by the Commission.

It is desirable and in the public interest to hold a public hearing respecting the matters involved and the issues presented by the application for license.

The Commission orders: Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act, particularly sections 4(e), 10(a) and 308 thereof, and the Commission's rules of practice and procedure, a public hearing shall be held in Shawano, Wisconsin, at 10 a.m. (c.d.t.) on August 18, 1964, respecting matters involved in and the issues presented by the application for license for Project No. 2464. The place of the hearing is to be fixed by further notice by the Secretary.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 64–7385; Filed July 24, 1964; 8:46 a.m.]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS UNDER LONG TERM ARRANGEMENT REGARDING INTERNATIONAL TRADE IN COTTON TEXTILES

Announcement of ITAC Actions and Restraint Levels

JULY 20, 1964

The purpose of this notice is to announce certain actions taken by the U.S. Government in furtherance of the objectives of, and under the terms of, the Long Term Arrangement Regarding International Trade in Cotton Textiles, done at Geneva on February 9, 1962.

1. *Bilateral agreements.* Consultations are continuing with the Governments of Pakistan, Korea, Yugoslavia, Greece, and Turkey.

2. *Completed restraint actions.* Discussions have been completed with the Governments of Argentina and Korea relating to the following categories which will be restrained for a period of twelve months in the amounts indicated:

Country	Category	Restraint level	Date effective
Argentina	9	500,000 sq. yds	July 1, 1964
Korea	18/19	750,000 sq. yds	Apr. 30, 1964

3. *Renewal of restraint actions.* In view of the continuing disruption of the domestic cotton textile market, the U.S. Government has renewed the following restraints for an additional twelve-month period:

Country	Category	Restraint level	Effective date of restraint renewal
Turkey	9	200,000 sq. yds	June 20, 1964
Korea	22	100,000 sq. yds	June 26, 1964
	42	10,500 dozen	June 26, 1964
	52	5,000 dozen	June 26, 1964

4. *Pending restraints.* Consultations are in progress with several foreign governments concerning United States requests for restraints in certain categories. Under Article 3 of the Long Term Arrangement, if no agreement is reached at the end of a sixty-day period of consultation, the importing country may decline to accept cotton textiles in the particular categories excess of the requested level of restraint.

The particular countries and categories involved are as follows:

Country	Category
Yugoslavia	1, 2, 18,* 19.*
Pakistan	18, 19, 26 (printcloth only), 41, and 42.
Poland	46 and 47.

*Import controls were established on June 23, 1964, pending conclusion of consultations with Yugoslavia.

THOMAS JEFF DAVIS,
Acting Chairman, Interagency Textile Administrative Committee, and Acting Deputy to the Secretary of Commerce for Textile Programs.

[F.R. Doc. 64–7431; Filed, July 24, 1964; 8:49 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

JULY 22, 1964.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 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. 39155: *Woodpulp to Kalamazoo, Mich.* Filed by Canadian Pacific Railway Company (No. 7–64), for interested rail carriers. Rates on woodpulp, in carloads, from Espanola, Ontario, Canada, to Kalamazoo, Mich.

Grounds for relief: Truck and water competition.

FSA No. 39156: *Starch and related articles to points in South Carolina.* Filed by Illinois Freight Association, agent (No. 258), for interested rail carriers. Rates on starch and related articles, in carloads, from specified points in Illinois, Iowa, and Missouri, to Chester, Elliott (Chester County), and Lancaster, S.C.

Grounds for relief: Market competition.

Tariffs: Supplement 93 to Illinois Freight Association, agent, tariff I.C.C. 979 and supplement 143 to Western Trunk Line Committee, agent, tariff I.C.C. A–4396.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 64–7390; Filed, July 24, 1964; 8:46 a.m.]

[Notice 1018]

MOTOR CARRIER TRANSFER PROCEEDINGS

JULY 22, 1964.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations pre-

scribed 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 66806. By order of July 17, 1964, the Transfer Board approved the transfer to Arthur E. Rollins, doing business as Keeley's Overland Express, 44 Gerri Drive, Attleboro, Mass., of the certificate of Registration in No. MC 97748 Sub-1, issued December 11, 1963, to Federick H. Murphy, doing business as Keeley's Overland Express, Post Office Box 242, Mansfield, Mass., authorizing the transportation of: Property, between a point in Norton and a point in Somerville, Mass., passing through certain named points in Massachusetts.

No. MC–FC 66857. By order of July 20, 1964, the Transfer Board approved the transfer to Iroquois Transportation Co., Inc., Buffalo, N.Y., of the Certificate of Registration in No. MC 120104 (Sub-No. 1) issued January 3, 1964, to Border Express Lines, Inc, Buffalo, N.Y., authorizing the transportation of general commodities as defined by the Commission, between all points in Erie County; from all points in Erie County to all points in Cattaraugus and Wyoming Counties, N.Y.; from all points in Cattaraugus and Niagara Counties, N.Y., to all points in Erie County. John R. Kirschner, care of Saperston, McNaughtan & Saperston, Liberty Bank Building, Buffalo, N.Y., 14202, attorney for applicant.

No. MC–FC 66860. By order of July 17, 1964, the Transfer Board approved the transfer to George R. Hook, doing business as G. R. Hook, Grayville, Ill., of Certificate in No. MC 112811, issued September 18, 1962, to Ross Nunnallee, Nowata, Okla., authorizing the transportation of: Machinery, materials, supplies, and equipment incidental to, or used in, the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, between points in Missouri, and a specified part of Kansas, on the one hand, and, on the other, points in Oklahoma. Rufus H. Lawson, 106 Bixler Building, 2400 Northwest 23d Street, Oklahoma City 7, Okla., attorney for applicants.

No. MC–FC 67031. By order of July 17, 1964, the Transfer Board approved the transfer to Fort Dodge Transportation Company, a corporation, Fort Dodge, Iowa, of Certificate No. MC 121466 Sub-1 issued February 19, 1963, to Eldon H. Collins, doing business as Humboldt Bus Association, Humboldt, Iowa, authorizing the transportation of passengers and their baggage, and express, mail, and newspapers in the same vehicle with passengers, between Algona, Iowa, and Fort Dodge, Iowa, serving all intermediate points and between Fort Dodge, Iowa, and Spirit Lake, Iowa, serving all intermediate points. Homer E. Bradshaw, 510 Central National Building, Des Moines, Iowa, 50309, attorney for applicants.

No. MC–FC 67042. By order of July 17, 1964, the Transfer Board approved the transfer to Pauls Trucking Corporation, South Plainfield, N.J., of Permit No. MC 59640, issued June 23, 1943 to Bush Haulage Co., Inc., Newark, N.J., authorizing the transportation of such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and, in conection therewith, equipment, materials, and supplies used in the conduct of such business, between points within the territory bounded by a line beginning at Barnegat Inlet, N.J., and extending in a northwesterly direction across Barnegat Bay and through Forked River, N.J., to Lakehurst, N.J., thence north through Englishtown and Spotswood to New Brunswick, N.J., thence in a northwesterly direction through Raritan and Clinton to Washington, N.J., thence east to Stirling, N.J., thence in a northeasterly direction along the west boundary lines of Union and Essex Counties, N.J., to the Essex-Morris-Passaic, N.J., county lines at a point 2 miles north of Fairfield, N.J., thence in a southeasterly direction through Lyndhurst to Hoboken, N.J., and thence south along all east bay and river shores of New Jersey and along the Atlantic coast to Barnegat Inlet including the points named and points on Staten Island, N.Y.; between points in the above-specified territory, on the one hand, and, on the other, Philadelphia and Scranton, Pa., Paterson, Hawthorne, and Edgewater, N.J., and points in New York, Bronx, Kings, Queens, and Nassau Counties, N.Y.; and fruits, vegetables, farm products, poultry, and seafood, in the respective seasons of their production, from points within the territory bounded by a line beginning at Freehold, N.J., and extending in a northwesterly direction to Spotswood, N.J., thence west to Monmouth Junction, N.J., thence in a southwesterly direction through Plainsboro to Princeton Junction, N.J., thence south to Allentown, N.J., and thence in a northeasterly direction to Freehold, including the points named, to points in the above-specified territory. W. A. Schilling, 744 Broad Street, Newark, N.J., attorney for transferor. Charles J. Williams, 1060 Broad Street, Newark, N.J., attorney for transferee.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 64–7391; Filed, July 24, 1964; 8:47 a.m.]

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PART II

THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
OF THE UNITED STATES
1934

FEDERAL REGISTER

VOLUME 29 NUMBER 145

Washington, Saturday, July 25, 1964

Federal Communications Commission

Public Notice of July 1, 1964

Applicability of the Fairness Doctrine in the Handling of Controversial Issues of Public Importance

FEDERAL COMMUNICATIONS COMMISSION

[FCC 64-611]

APPLICABILITY OF THE FAIRNESS DOCTRINE IN THE HANDLING OF CONTROVERSIAL ISSUES OF PUBLIC IMPORTANCE

PART I—INTRODUCTION

It is the purpose of this Public Notice to advise broadcast licensees and members of the public of the rights, obligations, and responsibilites of such licensees under the Commission's "fairness doctrine", which is applicable in any case in which broadcast facilities are used for the discussion of a controversial issue of public importance. For this purpose, we have set out a digest of the Commission's interpretative rulings on the fairness doctrine. This Notice will be revised at appropriate intervals to reflect new rulings in this area. In this way, we hope to keep the broadcaster and the public informed of pertinent Commission determinations on the fairness doctrine, and thus reduce the number of these cases required to be referred to the Commission for resolution. Before turning to the digest of the rulings, we believe some brief introductory discussion of the fairness doctrine is desirable.

The basic administrative action with respect to the fairness doctrine was taken in the Commission's 1949 Report, Editorializing by Broadcast Licensees, 13 FCC 1246; Vol. 1, Part 3, R.R. 91-201.[1] This report is attached hereto because it still constitutes the Commission's basic policy in this field.[2]

Congress recognized this policy in 1959. In amending Section 315 so as to exempt appearances by legally qualified candidates on certain news-type programs from the "equal opportunities" provision, it was stated in the statute that such action should not be construed as relieving broadcasters "* * * from the obligation imposed upon them under this Act to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance" (Public Law 86-274, approved September 14, 1959, 73 Stat. 557).[3] The legislative history[4] establishes that this provision "is a restatement of the basic policy of the 'standard of fairness' which is imposed on broadcasters under the Communications Act of 1934" (H. Rept. No. 1069, 86th Cong., 1st Sess., p. 5).

While Section 315 thus embodies both the "equal opportunities" requirement and the fairness doctrine, they apply to different situations and in different ways. The "equal opportunities" requirement relates solely to use of broadcast facilities by candidates for public office. With certain exceptions involving specified news-type programs, the law provides that if a licensee permits a person who is a legally qualified candidate for public office to use a broadcast station, he shall afford equal opportunities to all other such candidates for that office in the use of the station. The Commission's Public Notice on Use of Broadcast Facilities by Candidates for Public Office, 27 Fed. Reg. 10063 (October 12, 1962), should be consulted with respect to "equal opportunities" questions involving political candidates.

The fairness doctrine deals with the broader question of affording reasonable opportunity for the presentation of contrasting viewpoints on controversial issues of public importance. Generally speaking, it does not apply with the precision of the "equal opportunities" requirement. Rather, the licensee, in applying the fairness doctrine, is called upon to make reasonable judgments in good faith on the facts of each situation—as to whether a controversial issue of public importance is involved, as to what viewpoints have been or should be presented, as to the format and spokesmen to present the viewpoints, and all the other facets of such programming. See par. 9, Editorializing Report. In passing on any complaint in this area, the Commission's role is not to substitute its judgment for that of the licensee as to any of the above programming decisions, but rather to determine whether the licensee can be said to have acted reasonably and in good faith. There is thus room for considerably more discretion on the part of the licensee under the fairness doctrine than under the "equal opportunities" requirement.

INTERPRETATIVE RULINGS—COMMISSION PROCEDURE

We set forth below a digest of the Commission's rulings on the fairness doctrine. References, with citations, to the Commission's decisions or rulings are made so that the researcher may, if he desires, review the complete text of the Commission's ruling. Copies of rulings may be found in a "Fairness Doctrine" folder kept in the Commission's Reference Room.

In an area such as the fairness doctrine, the Commission's rulings are necessarily based upon the facts of the particular case presented, and thus a variation in facts might call for a different or revised ruling. We therefore urge that interested persons, in studying the rulings for guidance, look not only to the language of the ruling but the specific factual context in which it was made.

It is our hope, as stated, that this Notice will reduce significantly the number of fairness complaints made to the Commission. Where complaint is made to the Commission, the Commission expects a complainant to submit specific information indicating (1) the particular station involved; (2) the particular issue of a controversial nature discussed over the air; (3) the date and time when the program was carried; (4) the basis for the claim that the station has presented only one side of the question; and (5) whether the station had afforded, or has plans to afford, an opportunity for the presentation of contrasting viewpoints.[5] (Lar Daly, 19 R.R. 1104, March 24, 1960; cf. Cullman Bctg. Co., FCC 63-849, Sept. 18, 1963.)

If the Commission determines that the complaint sets forth sufficient facts to warrant further consideration, it will promptly advise the licensee of the complaint and request the licensee's comments on the matter. Full opportunity is given to the licensee to set out all programs which he has presented, or plans to present, with respect to the issue in question during an appropriate time period. Unless additional information is sought from either the complainant or the licensee, the matter is then usually disposed of by Commission action. (Letter of September 18, 1963 to Honorable Oren Harris, FCC 63-851.)

Finally, we repeat what we stated in our 1949 Report:

> * * * It is this right of the public to be informed, rather than any right on the part of the Government, any broadcast licensee or any individual member of the public to broadcast his own particular views on any matter, which is the foundation stone of the American system of broadcasting.

PART II—COMMISSION RULINGS

A. *Controversial Issue of Public Importance.*

1. *Civil rights as controversial issue.* In response to a Commission inquiry, a station advised the Commission, in a letter dated March 6, 1950, that it had broadcast editorial programs in support of a National Fair Employment Practices Commission on January 15-17, 1950, and that it had taken no affirmative steps to encourage and implement the presentation of points of view with respect to these matters which differed from the point of view expressed by the station.

Ruling. The establishment of a National Fair Employment Practices Commission constitutes a controversial question of public importance so as to impose upon the licensee the affirmative duty to aid and encourage the broadcast of opposing views. It is a matter of common knowledge that the establishment of a National Fair Employment Practices Commission is a subject that has been actively controverted by members of the public and by members of the Congress of the United States and that in the course of that controversy numerous differing views have been espoused. The broadcast by the station of a relatively large number of programs relating to this matter over a period of three days indicates an awareness of its

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[1] Citations in "R.R." refer to Pike & Fischer, Radio Regulations. The above report thus deals not only with the question of editorializing but also the requirements of the fairness doctrine.

[2] The report (par. 6) also points up the responsibility of broadcast licensees to devote a reasonable amount of their broadcast time to the presentation of programs dealing with the discussion of controversial issues of public importance. See Appendix A.

[3] The full statement in Section 315(a) reads as follows: "Nothing in the foregoing sentence [i.e., exemption from equal time requirements for news-type programs] shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from the obligation imposed upon them under this chapter to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance."

[4] See Appendix B.

[5] The complainant can usually obtain this information by communicating with the station.

importance and raises the assumption that at least one of the purposes of the broadcasts was to influence public opinion. In our report In the Matter of Editorializing by Broadcast Licensees, we stated that:

> * * * In appraising the record of a station in presenting programs concerning a controversial bill pending before the Congress of the United States, if the record disclosed that the licensee had permitted only advocates of the bill's enactment to utilize its facilities to the exclusion of its opponents, it is clear that no independent appraisal of the bill's merits by the Commission would be required to reach a determination that the licensee had misconstrued its duties and obligations as a person licensed to serve the public interest.

In light of the foregoing the conduct of the licensee was not in accord with the principles set forth in the report. (New Broadcasting Co. (WLIB), 6 R.R. 258, April 12, 1950.)

2. *Political spot announcements.* In an election an attempt was made to promote campaign contributions to the candidates of the two major parties through the use of spot announcements on broadcast stations. Certain broadcast stations raised the question whether the airing of such announcements imposed an obligation under Section 315 of the Act and/or the fairness doctrine to broadcast such special announcements for all candidates running for a particular office in a given election.

Ruling. The "equal opportunities" provision of Section 315 applies only to uses by candidates and not to those speaking in behalf of or against candidates. Since the above announcements did not contemplate the appearance of a candidate, the "equal opportunities" provision of Section 315 would not be applicable. The fairness doctrine is, however, applicable. (Letter to Lawrence M. C. Smith, FCC 63–358, 25 R.R. 291, April 17, 1963.) See Ruling No. 13.

3. *"Reports to the People".* The complaint of the Chairman of the Democratic State Committee of New York alleged that an address by Governor Dewey over the facilities of the stations affiliated with the CBS network on May 2, 1949, entitled "A Report to the People of New York State," was political in nature and contained statements of a controversial nature. The CBS reply stated, in substance, that it was necessary to distinguish between the reports made by holders of office to the people whom they represented and the partisan political activities of the individuals holding office.

Ruling. The Commission recognizes that public officials may be permitted to utilize radio facilities to report on their stewardship to the people and that "the mere claim that the subject is political does not automatically require that the opposite political party be given equal facilities for a reply." On the other hand, it is apparent that so-called reports to the people may constitute attacks on the opposite political party or may be a discussion of a public controversial issue. Consistent with the views expressed by the Commission in the Editorializing Report, it is clear that the characterization of a particular program as a report to the people does not necessarily establish such a program as noncontroversial in nature so as to avoid the requirement of affording time for the expression of opposing views. In that Report, we stated "* * * that there can be no one all embracing formula which licensees can hope to apply to insure the fair and balanced presentation of all public issues * * *. The licensee will in each instance be called upon to exercise his best judgment and good sense in determining what subjects should be considered, the particular format of the programs to be devoted to each subject, the different shades of opinion to be presented, and the spokesmen for each point of view." The duty of the licensee to make time available for the expression of differing views is invoked where the facts and circumstances in each case indicate an area of controversy and differences of opinion where the subject matter is of public importance. In the light of the foregoing, the Commission concludes that "it does not appear that there has been the abuse of judgment on the part of [CBS] such as to warrant holding a hearing on its applications for renewal of license." (Paul E. Fitzpatrick, 6 R.R. 543, July 21, 1949; (see also, California Democratic State Central Committee, Public Notice 95873, 20 R.R. 867.869, October 31, 1960.))

4. *Controversial issue within service area.* A station broadcast a statement by the President of CBS opposing pay TV; two newcasts containing the views of a Senator opposed to pay TV; one newscast reporting the introduction by a Congressman of an anti-pay TV bill; a half-hour network program on pay TV in which both sides were represented, followed by a ten-minute film clip of a Senator opposing pay TV; a half-hour program in which a known opponent of pay TV was interviewed by interrogators whose questions in some instances indicated an opinion by the questioner favorable to pay TV. In a hearing upon the station's application for modification of its construction permit, an issue was raised whether the station had complied with the requirements of the fairness doctrine. The licensee stated that while nationally pay TV was "certainly" a controversial issue, it regarded pay TV as a local controversial issue only to a very limited extent in its service area, and therefore it was under no obligation to take the initiative to present the views of advocates of pay TV.

Ruling. The station's handling of the pay TV question was improper. It could be inferred that the station's sympathies with the opposition to pay TV made it less than a vigorous searcher for advocates of subscription television. The station evidently thought the subject of sufficient general interest (beyond its own concern in the matter) to devote broadcast time to it, and even to preempt part of a local program to present the views of the Senator in opposition to pay TV immediately after the balanced network discussion program, with the apparent design of neutralizing any possible public sympathy for pay TV which might have arisen from the preceding network forum. The anti-pay TV side was represented to a greater extent on the station than the other, though it cannot be said that the station choked off the expression of all views inimical to its interest. A licensee cannot excuse a one-sided presentation on the basis that the subject matter was not controversial in its service area, for it is only through a fair presentation of all facts and arguments on a particular question that public opinion can properly develop. (In re The Spartan Radiocasting Co., 33 F.C.C., 765, 771, 794–795, 802–803, November 21, 1962.)

5. *Substance of broadcast.* A number of stations broadcast a program entitled "Living Should Be Fun", featuring a nutritionist giving comment and advice on diet and health. Complaint was made that the program presented only one side of controversial issues of public importance. Several licensees contended that a program dealing with the desirability of good health and nutritious diet should not be placed in the category of discussion of controversial issues.

Ruling. The Commission cannot agree that the program consisted merely of the discussion of the desirability of good health and nutritious diet. Anyone who listened to the program regularly—and station licensees have the obligation to know what is being broadcast over their facilities—should have been aware that at times controversial issues of public importance were discussed. In discussing such subjects as the fluoridation of water, the value of krebiozen in the treatment of cancer, the nutritive qualities of white bread, and the use of high potency vitamins without medical advice, the nutritionist emphasized the fact that his views were opposed to many authorities in these fields, and on occasions on the air, he invited those with opposing viewpoints to present such viewpoints on his program. A licensee who did not recognize the applicability of the fairness doctrine failed in the performance of his obligations to the public. (Report on "Living Should be Fun" Inquiry, 33 F.C.C. 101, 107, 23 R.R. 1599, 1606, July 18, 1962.)

6. *Substance of broadcast.* A station broadcast a program entitled "Communist Encirclement" in which the following matters, among others, were discussed: socialist forms of government were viewed as a transitory form of government leading eventually to communism; it was asserted that this country's continuing foreign policy in the Far East and Latin America, the alleged infiltration of our government by communists, and the alleged moral weakening in our homes, schools and churches have all contributed to the advance of international communism. In response to complaints alleging one-sided presentation of these issues, the licensee stated that since it did not know of the existence of any communist organizations or communists in its community, it was unable to afford opportunity to those who might wish to present opposing views.

Ruling. In situations of this kind, it was not and is not the Commission's in-

tention to require licensees to make time available to communists or the communist viewpoint. But the matters listed above raise controversial issues of public importance on which persons other than communists hold contrasting views. There are responsible contrasting viewpoints on the most effective methods of combatting communism and communist infiltration. Broadcast of proposals supporting only one method raises the question whether reasonable opportunity has been afforded for the expression of contrasting viewpoints. (Letter to Tri-State Broadcasting Company, Inc., April 26, 1962 (staff letter).)

7. *Substance of broadcast.* In 1957, a station broadcast a panel discussion entitled "The Little Rock Crisis" in which several public officials appeared, and whose purpose, a complainant stated, was to stress the maintenance of segregation and to express an opinion as to what the Negro wants or does not want. A request for time to present contrasting viewpoints was refused by the licensee who stated that the program was most helpful in preventing trouble by urging people to keep calm and look to their elected representatives for leadership, that it was a report by elected officials to the people, and that therefore no reply was necessary or advisable.

Ruling. If the matters discussed involved no more than urging people to remain calm, it can be urged that no question exists as to fair presentation. However, if the station permitted the use of its facilities for the presentation of one side of the controversial issue of racial integration, the station incurred an obligation to afford a reasonable opportunity for the expression of contrasting views. The fact that the proponents of one particular position were elected officials did not in any way alter the nature of the program or remove the applicability of the fairness doctrine. See Ruling No. 3. (Lamar Life Insurance Co., FCC 59–651, 18 R.R. 683, July 1, 1959.)

8. *National controversial issues.* Stations broadcast a daily commentary program six days a week, in three of which views were expressed critical of the proposed nuclear weapons test ban treaty. On one of the stations the program was sponsored six days a week and on the other one day a week. A national committee in favor of the proposed treaty requested that the stations afford free time to present a tape of a program containing viewpoints opposed to those in the sponsored commentary program. The stations indicated, among other things, that it was their opinion that the fairness doctrine is applicable only to local issues.

Ruling. The keystone of the fairness doctrine and of the public interest is the right of the public to be informed—to have presented to it the "conflicting views of issues of public importance." Where a licensee permits the use of its facilities for the expression of views on controversial local or national issues of public importance such as the nuclear weapons test ban treaty, he must afford reasonable opportunities for the presentation of contrasting views by spokesmen for other responsible groups. (Letter to Cullman Broadcasting Co., Inc., FCC 63–849, September 18, 1963.) See Rulings No. 16 and 17 for other aspects of the Cullman decision.

B. *Licensee's obligation to afford reasonable opportunity for the presentation of contrasting viewpoints.*

9. *Affirmative duty to encourage.* In response to various complaints alleging that a station had been "one-sided" in its presentations on controversial issues of public importance, the licensee concerned rested upon its policy of making time available, upon request, for "the other side."

Ruling. The licensee's obligations to serve the public interest cannot be met merely through the adoption of a general policy of not refusing to broadcast opposing views where a demand is made of the station for broadcast time. As the Commission pointed out in the Editorializing Report (par. 9):

> * * * If, as we believe to be the case, the public interest is best served in a democracy through the ability of the people to hear expositions of the various positions taken by responsible groups and individuals on particular topics and to choose between them, it is evident that broadcast licensees have an affirmative duty generally to encourage and implement the broadcast of all sides of controversial public issues over their facilities, over and beyond their obligation to make available on demand opportunities for the expression of opposing views. It is clear that any approximation of fairness in the presentation of any controversy will be difficult if not impossible of achievement unless the licensee plays a conscious and positive role in bringing about balanced presentation of the opposing viewpoints.

(John J. Dempsey, 6 R.R. 615, August 16, 1950; Editorializing Report, par. 9.) (See also Metropolitan Bctg. Corp., Public Notice 82386, 19 R.R. 602, 604, December 29, 1959.)

10. *Non-delegable duty.* Approximately 50 radio stations broadcast a program entitled "Living Should Be Fun", featuring a nutritionist giving comment and advice on diet and health. The program was syndicated and taped for presentation, twenty-five minutes a day, five days a week. Many of the programs discussed controversial issues of public importance. In response to complaints that the stations failed to observe the requirements of the fairness doctrine, some of the licensees relied upon (i) the nutritionist's own invitation to those with opposing viewpoints to appear on his program or (ii) upon the assurances of the nutritionist or the sponsor that the program fairly represented all responsible contrasting viewpoints on the issues with which it dealt, as an adequate discharge of their obligations under the fairness doctrine.

Ruling. Those licensees who relied solely upon the assumed built-in fairness of the program itself, or upon the nutritionist's invitation to those with opposing viewpoints, cannot be said to have properly discharged their responsibilities. Neither alternative is likely to produce the fairness which the public interest demands. There could be many valid reasons why the advocate of an opposing viewpoint would be unwilling to appear upon such a program. In short, the licensee may not delegate his responsibilities to others, and particularly to an advocate of one particular viewpoint. As the Commission said in our Report in the Matter of Editorializing by Broadcast Licensees, "It is clear that any approximation of fairness in the presentation of any controversy will be difficult if not impossible of achievement unless the licensee plays a conscious and positive role in bringing about balanced presentation of the opposing viewpoints." (Report on "Living Should Be Fun" Inquiry, 33 FCC 101, 107, 23 R.R. 1599, 1606, July 18, 1962.)

11. *Reliance upon other media.* In January 1958, the issue of subscription television was a matter of public controversy, and it was generally known that the matter was the subject of Congressional hearings being conducted by the House and Senate Interstate and Foreign Commerce Committees. On Monday, January 27, 1958, between 9:30 and 10:00 p.m., WSOC–TV broadcast the program "Now It Can Be Tolled" (simultaneously with the other Charlotte television station, WBTV), a program consisting of a skit followed by a discussion in which the president of WSOC–TV and the vice president and general manager of Station WBTV were interviewed by employees of the two stations. The skit and interview were clearly weighted against subscription TV, and in the program the station made clear its preference for the present TV system. On Saturday, February 1, 1958, WSOC–TV presented for 15 minutes, beginning at 3:35 p.m., a film clip in which a United States Representative discussed subscription television and expressed his opposition thereto. From January 24 to January 30, 1958, inclusive, WSOC–TV presented a total of 43 spot announcements, all of them against subscription television, and urged viewers, if they opposed it, to write their Congressmen without delay to express their opposition. WSOC–TV did not broadcast any programs or announcements presenting a viewpoint favorable to subscription television although on February 28, 1958, the station did (together with the management of Station WBTV) send a telegram to the three chief subscription television groups, offering them joint use of the two Charlotte stations, without charge, at a time mutually agreeable to all parties concerned, for the purpose of putting on a program by the proponents of pay TV. This offer was refused by Skiatron, one of the three groups. In its reply to the Commission's inquiry, the station referred to "the large amount of publicity already given by the Pay-TV proponents in newspapers, magazines and by direct mail," and asserted that its decision in this matter was taken "in an effort to furnish the public with the opposing viewpoints on the subject * * *"

Ruling. The station's broadcast presentation of the subscription TV issue was essentially one-sided, and, taking into account the circumstances of the situation existing at the time, the station did not make any timely effort to secure the presentation of the other side of the issue by responsible representatives. It is the Commission's view that

the requirement of fairness, as set forth in the Editorializing Report, applies to a broadcast licensee irrespective of the position which may be taken by other media on the issue involved; and that the licensee's own performance in this respect, in and of itself, must demonstrate compliance with the fairness doctrine. (Letter to WSOC Broadcasting Co., FCC 58–686, 17 R.R. 548, 550, July 16, 1958.)

C. *Reasonable opportunity for the presentation of contrasting viewpoints.*

12. *"Equal time" not required.* Licensee broadcast over its several facilities on October 28, 1960, a 30-minute documentary concerning a North Dakota hospital. The last five minutes of the program consisted of an interview of the Superintendent of the hospital and the Chairman of the Board of Administration for State Institutions who responded to charges that the complainant, a candidate for the office of Attorney General of North Dakota, had publicly leveled against the Superintendent and Chairman concerning the administration of the hospital. On November 4, 1960 and at about the same viewing time as the preceding documentary, complainant's 30-minute broadcast was aired over the Stations in which complainant presented his allegations about the professional, administrative, and disciplinary conditions at the hospital and a state training school. The following day (November 5) licensee presented a 30-minute documentary on the state training school, the last five minutes of which consisted of a discussion of the charges made by complainant on his November 4 program by a spokesman for the opposing political party, and by the interviewees of the October 28 program. Licensee refused complainant's request for "equal time" to reply to the November 5 broadcast.

Ruling. In view of the fact that the "equal opportunities" requirement of Section 315 becomes applicable only when an opposing candidate for the same office has been afforded broadcast time, and that the complainant's political opponent did not appear on any of the programs in question (and, in fact, was never mentioned during the broadcast of these programs), the Commission reviewed the matter in light of the fairness doctrine. Unlike the "equal opportunities" requirement of Section 315, the fairness doctrine requires that where a licensee affords time over his facilities for an expression of one opinion on a controversial issue of public importance, he is under obligation to insure that proponents of opposing viewpoints are afforded a reasonable opportunity for the presentation of such views. The Commission concludes that on the facts before it, the licensee's actions were not inconsistent with the principles enunciated in the Editorializing Report. (Hon. Charles L. Murphy, FCC 62–737, 23 R.R. 953, July 13, 1962.)

13. *"Equal time" not required.* During a state-wide election an attempt was made to promote bipartisan campaign contributions, particularly for the candidates of the two major parties running for Governor and Senator, through the use of spot announcements on broadcast stations. Several stations raised the question whether the broadcast of these announcements would impose upon them the obligation, under the fairness doctrine, to broadcast such special announcements for all candidates running for a particular office in a given election.

Ruling. If there were only the two candidates of the major parties for the office in question, fairness would obviously require that these two be treated roughly the same with respect to the announcements. But it does not follow that if there were, in addition, so-called minority party candidates for the office of Senator, these candidates also would have to be afforded a roughly equivalent number of similar announcements. In such an event, the licensee would be called upon to make a good faith judgment as to whether there can reasonably be said to be a need or interest in the community calling for some provision of announcement time to these other parties or candidates and, if so, to determine the extent of that interest or need and the appropriate way to meet it. In short, the licensee's obligation under the fairness doctrine is to afford a reasonable opportunity for the presentation of opposing views in the light of circumstances—an obligation calling for the same kind of judgment as in the case where party spokesmen (rather than candidates) appear. (Letter to Mr. Lawrence M. C. Smith, FCC 63–658, April 18, 1963.)

14. *No necessity for presentation on same program.* In the proceedings leading to the Editorializing Report, it was urged, in effect, that contrasting viewpoints with respect to a controversial issue of public importance should be presented on the same program.

Ruling. The Commission concluded that any rigid requirement in this respect would seriously limit the ability of the licensees to serve the public interest. "Forums and roundtable discussions, while often excellent techniques of presenting a fair cross section of differing viewpoints on a given issue, are not the only appropriate devices for radio discussion, and in some circumstances may not be particularly appropriate or advantageous." (Par. 8, Editorializing Report.)

15. *Overall performance on the issue.* A licensee presented a program in which views were expressed critical of the proposed nuclear weapons test ban treaty. The licensee rejected a request of an organization seeking to present views favorable to the treaty, on the ground, among others, that the contrasting viewpoint on this issue had already been presented over the station's facilities in other programming.

Ruling. The licensee's overall performance is considered in determining whether fairness has been achieved on a specific issue. Thus, where compliant is made, the licensee is afforded the opportunity to set out all the programs, irrespective of the programming format, which he has devoted to the particular controversial issue during the appropriate time period. In this case, the Commission files contained no complaints to the contrary, and therefore, if it was the licensee's good faith judgment that the public had had the opportunity fairly to hear contrasting views on the issue involved in his other programming, it appeared that the licensee's obligation pursuant to the fairness doctrine had been met. (Letter to Cullman Bctg. Co., FCC 63–849, September 18, 1963; Letter of September 20, 1963, FCC 63–851, to Honorable Oren Harris.)

D. *Limitations which may reasonably be imposed by the licensee.*

16. *Licensee discretion to choose spokesman.* See Ruling 8 for facts.

Ruling. Where a licensee permits the use of its facilities for the expression of views on controversial local or national issues of public importance such as the nuclear weapons test ban treaty, he must afford reasonable opportunities for the presentation of contrasting views by spokesmen for other responsible groups. There is, of course, no single method by which this obligation is to be met. As the Editorializing Report makes clear, the licensee has considerable discretion as to the techniques or formats to be employed and the spokesmen for each point of view. In the good faith exercise of his best judgment, he may, in a particular case, decide upon a local rather than regional or national spokesmen—or upon a spokesman for a group which also is willing to pay for the broadcast time. Thus, with the exception of the broadcast of personal attacks (see Part E), there is no single group or person entitled as a matter of right to present a viewpoint differing from that previously expressed on the station. (Letter to Cullman Broadcasting Co., Inc., FCC 63–849, September 18, 1963.)

17. *Non-local spokesman; paid sponsorship.* See Ruling 8 for facts. The stations contended that their obligation under the fairness doctrine extended only to a local group or its spokesman, and also inquired whether they were required to give free time to a group wishing to present viewpoints opposed to those aired on a sponsored program.

Ruling. Where the licensee has achieved a balanced presentation of contrasting views, either by affording time to a particular group or person of its own choice or through its own programming, the licensee's obligations under the fairness doctrine—to inform the public—will have been met. But, it is clear that the public's paramount right to hear opposing views on controversial issues of public importance cannot be nullified by either the inability of the licensee to obtain paid sponsorship of the broadcast time or the licensee's refusal to consider requests for time to present a conflicting viewpoint from an organization on the sole ground that the organization has no local chapter. In short, where the licensee has chosen to broadcast a sponsored program which for the first time presents one side of a constroversial issue, has not presented (or does not plan to present) contrasting viewpoints in other programming, and has been unable to obtain paid sponsorship for the appropriate presentation of the opposing viewpoint or viewpoints, he cannot reject a presentation otherwise suitable to the li-

censee—and thus leave the public uninformed—on the ground that he cannot obtain paid sponsorship for that presentation. (Letter to Cullman Broadcasting Co., Inc., FCC 63–849, September 18, 1963.)

18. *Unreasonable limitation; refusal to permit appeal not to vote.* A station refused to sell broadcast time to the complainant who, as a spokesman for a community group, was seeking to present his point of view concerning a bond election to be held in the community; the station had sold time to an organization in favor of the bond issue. The complainant alleged that the station had broadcast editorials urging people to vote in the election and that his group's position was that because of the peculiarities in the bond election law (more than 50 percent of the electorate had to vote in the election for it to be valid), the best way to defeat the proposed measure was for people not to vote in the election. The complainant alleged, and the station admitted, that the station refused to sell him broadcast time because the licensee felt that to urge people not to vote was improper.

Ruling. Because of the peculiarities of the state election law, the sale of broadcast time to an organization favoring the bond issue, and the urging of listeners to vote, the question of whether to vote became an issue. Accordingly, by failing to broadcast views urging listeners not to vote, the licensee failed to discharge the obligations imposed upon him by the Commission's Report on Editorializing. (Letter to Radio Station WMOP, January 21, 1962 (staff ruling).)

19. *Unreasonable limitation; insistence upon request from both parties to dispute.* During the period of a labor strike which involved a matter of paramount importance to the community and to the nation at large, a union requested broadcast time to discuss the issues involved. The request was denied by the station solely because of its policy to refuse time for such discussion unless both the union and the management agreed, in advance, that they would jointly request and use the station, and the management of the company involved in the strike had refused to do so.

Ruling. In view of the licensee's statement that the issue was "of paramount importance to the commounity * * *," the licensee's actions were not in accordance with the principles enunciated in the Editorializing Report, specifically that portion of par. 8, which states that:

> * * * where the licensee has determined that the subject is of sufficient import to receive broadcast attention, it would obviously not be in the public interest for spokesmen for one of the opposing points of view to be able to exercise a veto power over the entire presentation by refusing to broadcast its position. Fairness in such circumstances might require no more than that the licensee make a reasonable representation of the particular position and if it fails in this effort, to continue to make available its facilities to the spokesmen for such position in the event that, after the original programs are broadcast, they then decide to avail themselves of a right to present their contrary opinion.

(Par. 8, Report on Editorializing by Broadcast Licensees; The Evening News Ass'n (WWJ), 6 R.R. 283, April 21, 1950.)

E. *Personal Attack Principle.*

20. *Personal attack.* A newscaster on a station, in a series of broadcasts, attacked certain county and state officials, charging them with nefarious schemes and the use of their offices for personal gain, attaching derisive epithets to their names, and analogizing their local administration with the political methods of foreign dictators. At the time of renewal of the station's license, the persons attacked urged that the station had been used for the licensee's selfish purposes and to vent his personal spite. The licensee denied the charge, and asserted that the broadcasts had a factual basis. On several occasions, the persons attacked were invited to use the station to discuss the matters in the broadcasts.

Ruling. Where a licensee expresses an opinion concerning controversial issues of public importance, he is under obligation to see that those holding opposing viewpoints are afforded a reasonable opportunity for the presentation of their views. He is under a further obligation not to present biased or one-sided news programming (viewing such programming on an overall basis) and not to use his station for his purely personal and private interests. Investigation established that the licensee did not subordinate his public interest obligations to his private interests, and that there was "a body of opinion" in the community "that such broadcasts had a factual basis."

As to the attacks, the *Editorializing Report* states that "* * * elementary considerations of fairness may dictate that time be allocated to a person or group which has been specifically attacked over the station, where otherwise no such obligation would exist * * *" In this case, the attacks were of a highly personal nature, impugning the character and honesty of named individuals. In such circumstances, the licensee has an affirmative duty to take all appropriate steps to see to it that the persons attacked are afforded the fullest opportunity to respond. Here, the persons attacked knew of the attacks, were generally apprised of their nature, and were aware of the opportunities afforded them to respond. Accordingly, the license was renewed. (Clayton W. Mapoles, FCC 62–501, 23 R.R. 586, May 9, 1962.)

21. *Personal attack.* For a period of five days, September 18–22, a station broadcast a series of daily editorials attacking the general manager of a national rural electric cooperative association in connection with a pending controversial issue of public importance. The manager arrived in town on September 21 for a two-day stay and, upon being informed of the editorials, on the morning of September 22d sought to obtain copies of them. About noon of the same day, the station approached the manager with an offer of an interview to respond to the statements made in the editorials. The manager stated, however, that he would not have had time to prepare adequately a reply which would require a series of broadcasts. He complained to the Commission that the station had acted unfairly.

Ruling. Where, as here, a station's editorials contain a personal attack upon an individual by name, the fairness doctrine requires that a copy of the specific editorial or editorials shall be communicated to the person attacked either prior to or at the time of the broadcast of such editorials so that a reasonable opportunity is afforded that person to reply. This duty on the part of the station is greater where, as here, interest in the editorials was consciously built up by the station over a period of days and the time within which the person attacked would have an opportunity to reply was known to be so limited. The Commission concludes that in failing to supply copies of the editorials promptly to the manager and delaying in affording him the opportunity to reply to them, the station had not fully met the requirements of the Commission's fairness doctrine. (Billings Bctg. Co., FCC 62–736. 23 R.R. 951, July 13, 1962.)

22. *No personal attack merely because individual is named.* A network program discussed the applicability of Section 315 to appearances by candidates for public office on TV newscasts and the Commission's decision holding that the mayoralty candidate, Lar Daly, was entitled to equal time when the Mayor of Chicago appeared on a newscast. The program contained the editorial views of the President of CBS opposing the interpretation of the Commission and urging that Section 315 not apply to newscasts. Three other persons on the program expressed contrasting points of view. Lar Daly's request that he be afforded time to reply to the President of CBS, because he was "directly involved" in the Commission's decision which was discussed over the air and because he was the most qualified spokesman to present opposing views, was denied by the station. Did the fairness doctrine require that his request be granted?

Ruling. It was the newscast question involved in the Commission's decision, rather than Lar Daly, which was the controversial issue which was presented. Since the network presented several spokesmen, all of whom appeared qualified to state views contrasting with those expressed by the network President, the network fulfilled its obligation to provide a "fair and balanced presentation of an important public issue of a controversial nature." (Lar Daly, 19 R.R. 1103, at 1104, Mar. 24, 1960.)*

23. *Licensee involvement in personal attack.* It was urged that in Mapoles, Billings, and Times-Mirror (see Rulings

* As seen from the above rulings, the personal attack principle is applicable where there are statements, in connection with a controversial issue of public importance, attacking an individual's or group's integrity, character, or honesty or like personal qualities, and not when an individual or group is simply named or referred to. Thus, while a definitive Commission ruling must await a complaint involving specific facts—see introduction, p. 3, the personal attack principle has not been applied where there is simply stated disagreement with the views of an individual or group concerning a controversial issue of public importance. Nor is it necessary to send a transcript or summary of the attack, with an offer of time for response, in the case of a personal attack upon a foreign leader, even assuming such an attack occurred in connection with a controversial issue of public importance.

20, 21, 25), the station was, in effect, "personally involved"; that the personal attack principle should be applied only when the licensee is personally involved in the attack upon a person or group (i.e., through editorials or through station commentator programming), and not where the attack is made by a party unconnected with the station.

Ruling. Under fundamental communications policy, the licensee, with the exception of appearances of political candidates subject to the equal opportunities requirement of Section 315, is fully responsible for all matter which is broadcast over his station. It follows that when a program contains a personal attack, the licensee must be fully aware of the contents of the program, whatever its source or his actual involvement in the broadcast. The crucial consideration, as the Commission stated in Mapoles, is that "his broadcast facilities [have been] used to attack a person or group." (Letter of September 18, 1963 to Douglas A. Anello, FCC 63–850.)

24. *Personal attack—no tape or transcript.* In the same inquiry as above (Ruling 23), the question was also raised as to the responsibility of the licensee when his facilities are used for a personal attack in a program dealing with a controversial issue of public importance and the licensee has no transcript or tape of the program.

Ruling. Where a personal attack is made and no script or tape is available, good sense and fairness dictate that the licensee send as accurate a summary as possible of the substance of the attack to the person or group involved. (Letter of September 18, 1963 to Douglas A. Anello, FCC 63–850.)

25. *Personal attacks on, and criticism of, candidate; partisan position on campaign issues.* In more than 20 broadcasts, two station commentators presented their views on the issues in the 1962 California gubernatorial campaign between Governor Brown and Mr. Nixon. The views expressed on the issues were critical of the Governor and favored Mr. Nixon, and at times involved personal attacks on individuals and groups in the gubernatorial campaign, and specifically on Governor Brown. The licensee responded that it had presented opposing viewpoints but upon examination there were two instances of broadcasts featuring Governor Brown (both of which were counterbalanced by appearances of Mr. Nixon) and two instances of broadcasts presenting viewpoints opposed to two of the issues raised by the above-noted broadcasts by the commentators. It did not appear that any of the other broadcasts cited by the station dealt with the issues raised as to the gubernatorial campaign.

Ruling. Since there were only two instances which involved the presentation of viewpoints concerning the gubernatorial campaign, opposed to the more than twenty programs of the commentators presenting their views on many different issues of the campaign for which no opportunity was afforded for the presentation of opposing viewpoints, there was not a fair opportunity for presentation of opposing viewpoints with respect to many of the issues discussed in the commentators' programs. The continuous, repetitive opportunity afforded for the expression of the commentators' viewpoints on the gubernatorial campaign, in contrast to the minimal opportunity afforded to opposing viewpoints, violated the right of the public to a fair presentation of views. Further, with respect to the personal attacks by the one commentator on individuals and groups involved in the gubernatorial campaign, the principle in Mapoles and Billings should have been followed. In the circumstances, the station should have sent a transcript of the pertinent continuity on the above programs to Governor Brown and should have offered a comparable opportunity for an appropriate spokesman to answer the broadcasts. (Times-Mirror, FCC 62–1130, 24 R.R. 404, Oct. 26, 1962; FCC 62–1109, 24 R.R. 407, Oct. 19, 1962.)

26. *Personal attacks on, and criticism of, candidates; partisan position on campaign issues—appropriate spokesman.* See facts above. The question was raised whether the candidate has the right to insist upon his own appearance, to respond to the broadcasts in question.

Ruling. Since a response by a candidate would, in turn, require that equal opportunities under Section 315 be afforded to the other legally-qualified candidates for the same office, the fairness doctrine requires only that the licensee afford the attacked candidate an opportunity to respond through an appropriate spokesman. The candidate should, of course, be given a substantial voice in the selection of the spokesman to respond to the attack or to the statement of support. (Times-Mirror Bctg. Co., FCC 62–1130, 24 R.R. 404, 406, Oct. 19, 1962, Oct. 26, 1962.)

27. *Personal attacks on, and criticism of, candidate; partisan position on campaign issues.* During the fall of an election year, a news commentator on a local affairs program made several critical and uncomplimentary references to the actions and public positions of various political and non-partisan candidates for public office and of the California Democratic Clubs and demanded the resignation of an employee of the staff of the County Superintendent of Schools. In response to a request for time to respond by the local Democratic Central Committee, and after negotiations between the licensee and the complaining party, the licensee offered two five-minute segments of time on November 1 and 2, 1962, and instructed its commentator to refrain from expressing any point of view on partisan issues on November 5, or November 6, election eve and election day, respectively.

Ruling. On the facts of this case, the comments of the news commentator constituted personal attacks on candidates and others and involved the taking of a partisan position on issues involved in a race for political office. Therefore, under the ruling of the Times-Mirror case, the licensee was under an obligation to "send a transcript of the pertinent continuity in each such program to the appropriate candidates immediately and [to] offer a comparable opportunity for an appropriate spokesman to answer the broadcast." However, upon the basis of the showing, the licensee's offer of time, in response to the request, was not unreasonable under the fairness doctrine. (Letter to The McBride Industries, Inc., FCC 63–756, July 31, 1963.)

F. *Licensee Editorializing.*

28. *Freedom to editorialize.* The Editorializing Report and the 1960 Programming Statement, while stating that the licensee is not required to editorialize, make clear that he is free to do so, but that if he does, he must meet the requirements of the fairness doctrine.

Adopted: July 1, 1964.

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

Appendix A

EDITORIALIZING BY BROADCAST LICENSEES

REPORT OF COMMISSION

1. This report is issued by the Commission in connection with its hearings on the above entitled matter held at Washington, D.C., on March 1, 2, 3, 4, and 5 and April 19, 20, and 21, 1948. The hearing had been ordered on the Commission's own motion on September 5, 1947, because of our belief that further clarification of the Commission's position with respect to the obligations of broadcast licensees in the field of broadcasts of news, commentary and opinion was advisable. It was believed that in view of the apparent confusion concerning certain of the Commission's previous statements on these vital matters by broadcast licensees and members of the general public, as well as the professed disagreement on the part of some of these persons with earlier Commission pronouncements, a reexamination and restatement of its views by the Commission would be desirable. And in order to provide an opportunity to interested persons and organizations to acquaint the Commission with their views, prior to any Commission determination, as to the proper resolution of the difficult and complex problems involved in the presentation of radio news and comment in a democracy, it was designated for public hearing before the Commission en banc on the following issues:

1. To determine whether the expression of editorial opinions by broadcast station licensees on matters of public interest and controversy is consistent with their obligations to operate their stations in the public interest.

2. To determine the relationship between any such editorial expression and the affirmative obligation of the licensees to insure that a fair and equal presentation of all sides of controversial issues is made over their facilities.

2. At the hearings testimony was received from some 49 witnesses representing the broadcasting industry and various interested organizations and members of the public. In addition, written statements of their position on the matter were placed into the record by 21 persons and organizations who were unable to appear and testify in person. The various witnesses and statements brought forth for the Commission's consideration, arguments on every side of both of the questions involved in the hearing. Because of the importance of the issues considered in the hearing, and because of the possible confusion which may have existed in the past concerning the policies applicable to the matters which were the subject of the hearing, we have deemed it advisable to set forth

in detail and at some length our conclusions as to the basic considerations relevant to the expression of editorial opinion by broadcast licensees and the relationship of any such expression to the general obligations of broadcast licensees with respect to the presentation of programs involving controversial issues.

3. In approaching the issues upon which this proceeding has been held, we believe that the paramount and controlling consideration is the relationship between the American system of broadcasting carried on through a large number of private licensees upon whom devolves the responsibility for the selection and presentation of program material, and the Congressional mandate that this licensee responsibility is to be exercised in the interests of, and as a trustee for the public at large which retains ultimate control over the channels of radio and television communications. One important aspect of this relationship, we believe, results from the fact that the needs and interests of the general public with respect to programs devoted to news commentary and opinion can only be satisfied by making available to them for their consideration and acceptance or rejection, of varying and conflicting views held by responsible elements of the community. And it is in the light of these basic concepts that the problems of insuring fairness in the presentation of news and opinion and the place in such a picture of any expression of the views of the station licensee as such must be considered.

4. It is apparent that our system of broadcasting, under which private persons and organizations are licensed to provide broadcasting service to the various communities and regions, imposes responsibility in the selection and presentation of radio program material upon such licensees. Congress has recognized that the requests for radio time may far exceed the amount of time reasonably available for distribution by broadcasters. It provided, therefore, in section 3 (h) of the Communications Act that a person engaged in radio broadcasting shall not be deemed a common carrier. It is the licensee, therefore, who must determine what percentage of the limited broadcast day should appropriately be devoted to news and discussion or consideration of public issues, rather than to the other legitimate services of radio broadcasting, and who must select or be responsible for the selection of the particular news items to be reported or the particular local, state, national or international issues or questions of public interest to be considered, as well as the person or persons to comment or analyze the news or to discuss or debate the issues chosen as topics for radio consideration. "The life of each community involves a multitude of interests some dominant and all pervasive such as interest in public affairs, education and similar matters and some highly specialized and limited to few. The practical day-to-day problem with which every licensee is faced is one of striking a balance between these various interests to reflect them in a program service which is useful to the community, and which will in some way fulfil the needs and interests of the many." Capital Broadcasting Company, 4 Pike & Fischer, R.R. 21; The Northern Corporation (WMEX), 4 Pike & Fischer, R.R. 333, 338. And both the Commission and the Courts have stressed that this responsibility devolves upon the individual licensees, and can neither be delegated by the licensee to any network or other person or group, or be unduly fettered by contractual arrangements restricting the licensee in his free exercise of his independent judgments. National Broadcasting Company v. United States, 319 U.S. 190 (upholding the Commission's Chain Broadcasting Regulations, §§ 3.101–3.108, 3.231–3.238, 3.631–3.638), Churchhill Tabernacle v. Federal Communications Commission, 160 F. 2d 244 (See, Rules and Regulations, §§ 3.109, 3.239, 3.639); Allen T. Simmons v. Federal Communications Commission, 169 F. 2d 670, certiorari denied 335 U.S. 846.

5. But the inevitability that there must be some choosing between various claimants for access to a licensee's microphone, does not mean that the licensee is free to utilize his facilities as he sees fit or in his own particular interests as contrasted with the interests of the general public. The Communications Act of 1934, as amended, makes clear that licenses are to be issued only where the public interest, convenience or necessity would be served thereby. And we think it is equally clear that one of the basic elements of any such operation is the maintenance of radio and television as a medium of freedom of speech and freedom of expression for the people of the nation as a whole. Section 301 of the Communications Act provides that it is the purpose of the Act to maintain the control of the United States over all channels of interstate and foreign commerce. Section 326 of the Act provides that this control of the United States shall not result in any impairment of the right of free speech by means of such radio communications. It would be inconsistent with these express provisions of the Act to assert that, while it is the purpose of the Act to maintain the control of the United States over radio channels, but free from any regulation or condition which interferes with the right of free speech, nevertheless persons who are granted limited rights to be licensees of radio stations, upon a finding under Sections 307(a) and 309 of the Act that the public interest, convenience, or necessity would be served thereby, may themselves make radio unavailable as a medium of free speech. The legislative history of the Communications Act and its predecessor, the Radio Act of 1927 shows, on the contrary, that Congress intended that radio stations should not be used for the private interest, whims, or caprices of the particular persons who have been granted licenses, but in manner which will serve the community generally and the various groups which make up the community.[2] And the courts have consistently upheld Commission action giving recognition to and fulfilling that intent of Congress. KFAB Broadcasting Association v. Federal Radio Commission, 47 F. 2d 670; Trinity Methodist Church, South v. Federal Radio Commission, 62 F. 2d 850, certiorari denied, 288 U.S. 599.

6. It is axiomatic that one of the most vital questions of mass communication in a democracy is the development of an informed public opinion through the public dissemination of news and ideas concerning the vital public issues of the day. Basically, it is in recognition of the great contribution which radio can make in the advancement of this purpose that portions of the radio spectrum are allocated to that form of radio communications known as radio-broadcasting. Unquestionably, then, the standard of public interest, convenience and necessity as applied to radio-broadcasting must be interpreted in the light of this basic purpose. The Commission has consequently recognized the necessity for licensees to devote a reasonable percentage of their broadcast time to the presentation of news and programs devoted to the consideration and discussion of public issues of interest in the community served by the particular station. And we have recognized, with respect to such programs, the paramount right of the public in a free society to be informed and to have presented to it for acceptance or rejection the different attitudes and viewpoints concerning those vital and often controversial issues which are held by the various groups which make up the community.[3] It is this right of the public to be informed, rather than any right on the part of the government, any broadcast licensee or any individual member of the public to broadcast his own particular views on any matter, which is the foundation stone of the American system of broadcasting.

And this view that the interest of the listening public rather than the private interests of particular licensees was reemphasized as recently as June 9, 1948 in a unanimous report of the Senate Committee on Interstate and Foreign Commerce on S. 1333 (80th Cong.) which would have amended the present Communications Act in certain respects. See S. Rep't No. 1567, 80th Cong., 2d Sess., pp. 1415.

7. This affirmative responsibility on the part of broadcast licensees to provide a reasonable amount of time for the presentation over their facilities of programs devoted to the discussion and consideration of public issues has been reaffirmed by this Commission in a long series of decisions. The United Broadcasting Company (WHKC) case, 10 F.C.C. 675, emphasized that this duty includes the making of reasonable provision for the discussion of controversial issues of public importance in the community served, and to make sufficient time available for full discussion thereof. The Scott case, 3 Pike & Fischer, Radio Regulation 259, stated our conclusions that this duty extends to all subjects of substantial importance to the community coming within the scope of free discussion under the First Amendment without regard to personal views and opinions of the licensees on the matter, or any determination by the licensee as to the possible unpopularity of the views to be expressed on the subject matter to be discussed among particular elements of the station's listening audience. Cf., National Broadcasting Company v. United States, 319 U.S. 190; Allen T. Simmons, 3 Pike & Fischer, R.R. 1029, affirmed; Simmons v. Federal Communications Commission, 169 F. 2d 670, certiorari denied, 335 U.S. 846; Bay State Beacon, 3 Pike & Fischer, R.R. 1455, affirmed; Bay State Beacon v. Federal Communications Commission, U.S. App. D.C., decided December 20, 1948; Petition of Sam Morris, 3 Pike & Fischer, R.R. 154; Thomas N. Beach, 3 Pike & Fischer R.R. 1784. And the Commission has made clear that in such presentation of news and comment the public interest requires that the licensee must operate on a basis of overall fairness, making his facilities available for the ex-

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[2] Thus in the Congressional debates leading to the enactment of the Radio Act of 1927, Congressman (later Senator) White stated (67 Cong. Rec. 5479, March 12, 1926):

We have reached the definite conclusion that the right of all our people to enjoy this means of communication can be preserved only by the repudiation of the idea underlying the 1912 law that anyone who will, may transmit and by the assertion in its stead of the doctrine that the right of the public to service is superior to the right of any individual to use the ether * * * the recent radio conference met this issue squarely. It recognized that in the present state of scientific development there must be a limitation upon the number of broadcasting stations and it recommended that licenses should be issued only to those stations whose operation would render a benefit to the public, are necessary in the public interest or would contribute to the development of the art. This principle was approved by every witness before your committee. We have written it into the bill. *If enacted into law, the broadcasting privilege will not be a right of selfishness. It will rest upon an assurance of public interest to be served.* [Emphasis added.]

[3] Cf., Thornhill v. Alabama, 310 U.S. 88, 95, 102; Associated Press v. United States, 326 U.S. 1, 20.

pression of the contrasting views of all responsible elements in the community on the various issues which arise. Mayflower Broadcasting Co., 8 F.C.C. 333; United Broadcasting Co. (WHKC), 10 F.C.C. 515; Cf. WBNX Broadcasting Co., Inc., 4 Pike & Fischer, R.R. 244 (Memorandum Opinion). Only where the licensee's discretion in the choice of the particular programs to be broadcast over his facilities is exercised so as to afford a reasonable opportunity for the presentation of all responsible positions on matters of sufficient importance to be afforded radio time can radio be maintained as a medium of freedom of speech for the people as a whole. These concepts, of course, do restrict the licensee's freedom to utilize his station in whatever manner he chooses but they do so in order to make possible the maintenance of radio as a medium of freedom of speech for the general public.

8. It has been suggested in the course of the hearings that licensees have an affirmative obligation to insure fair presentation of all sides of any controversial issue before any time may be allocated to the discussion or consideration of the matter. On the other hand, arguments have been advanced in support of the proposition that the licensee's sole obligation to the public is to refrain from suppressing or excluding any responsible point of view from access to the radio. We are of the opinion, however, that any rigid requirement that licensees adhere to either of these extreme prescriptions for proper station programming techniques would seriously limit the ability of licensees to serve the public interest. Forums and roundtable discussions, while often excellent techniques of presenting a fair cross section of differing viewpoints on a given issue, are not the only appropriate devices for radio discussion, and in some circumstances may not be particularly appropriate or advantageous. Moreover, in many instances the primary "controversy" will be whether or not the particular problem should be discussed at all; in such circumstances, where the licensee has determined that the subject is of sufficient import to receive broadcast attention, it would obviously not be in the public interest for spokesmen for one of the opposing points of view to be able to exercise a veto power over the entire presentation by refusing to broadcast its position. Fairness, in such circumstances might require no more than that the licensee make a reasonable effort to secure responsible representation of the particular position and, if it fails in this effort, to continue to make available its facilities to the spokesmen for such position in the event that, after the original programs are broadcast, they then decide to avail themselves of a right to reply to present their contrary opinion. It should be remembered, moreover that discussion of public issues will not necessarily be confined to questions which are obviously controversial in nature, and in many cases, programs initiated with no thought on the part of the licensee of their possibly controversial nature will subsequently arouse controversy and opposition of a substantial nature which will merit presentation of opposing views. In such cases, however, fairness can be preserved without undue difficulty since the facilities of the station can be made available to the spokesmen for the groups wishing to state views in opposition to those expressed in the original presentation when such opposition becomes manifest.

9. We do not believe, however, that the licensee's obligations to serve the public interest can be met merely through the adoption of a general policy of not refusing to broadcast opposing views where a demand is made of the station for broadcast time. If, as we believe to be the case, the public interest is best served in a democracy through the ability of the people to hear expositions of the various positions taken by responsible groups and individuals on particular topics and to choose between them, it is evident that broadcast licensees have an affirmative duty generally to encourage and implement the broadcast of all sides of controversial public issues over their facilities, over and beyond their obligation to make available on demand opportunities for the expression of opposing views. It is clear that any approximation of fairness in the presentation of any controversy will be difficult if not impossible of achievement unless the licensee plays a conscious and positive role in bringing about balanced presentation of the opposing viewpoints.

10. It should be recognized that there can be no one all embracing formula which licensees can hope to apply to insure the fair and balanced presentation of all public issues. Different issues will inevitably require different techniques of presentation and production. The licensee will in each instance be called upon to exercise his best judgment and good sense in determining what subjects should be considered, the particular format of the programs to be devoted to each subject, the different shades of opinion to be presented, and the spokesmen for each point of view. In determining whether to honor specific requests for time, the station will inevitably be confronted with such questions as whether the subject is worth considering, whether the viewpoint of the requesting party has already received a sufficient amount of broadcast time, or whether there may not be other available groups or individuals who might be more appropriate spokesmen for the particular point of view than the person making the request. The latter's personal involvement in the controversy may also be a factor which must be considered, for elementary considerations of fairness may dictate that time be allocated to a person or group which has been specifically attacked over the station, where otherwise no such obligation would exist. Undoubtedly, over a period of time some licensees may make honest errors of judgment. But there can be no doubt that any licensee honestly desiring to live up to its obligation to serve the public interest and making a reasonable effort to do so, will be able to achieve a fair and satisfactory resolution of these problems in the light of the specific facts.

11. It is against this background that we must approach the question of "editorialization"—the use of radio facilities by the licensees thereof for the expression of the opinions and ideas of the licensee on the various controversial and significant issues of interest to the members of the general public afforded radio (or television) service by the particular station. In considering this problem it must be kept in mind that such editorial expression may take many forms ranging from the overt statement of position by the licensee in person or by his acknowledged spokesmen to the selection and presentation of news editors and commentators sharing the licensee's general opinions or the making available of the licensee's facilities, either free of charge or for a fee to persons or organizations reflecting the licensee's viewpoint either generally or with respect to specific issues. It should also be clearly indicated that the question of the relationship of broadcast editorialization, as defined above, to operation in the public interest, is not identical with the broader problem of assuring "fairness" in the presentation of news, comment or opinion, but is rather one specific facet of this larger problem.

12. It is clear that the licensee's authority to determine the specific programs to be broadcast over his station gives him an opportunity, not available to other persons, to insure that his personal viewpoint on any particular issue is presented in his station's broadcasts, whether or not these views are expressly identified with the licensee. And, in absence of governmental restraint, he would, if he so chose, be able to utilize his position as a broadcast licensee to weight the scales in line with his personal views, or even directly or indirectly to propagandize in behalf of his particular philosophy or views on the various public issues to the exclusion of any contrary opinions. Such action can be effective and persuasive whether or not it is accompanied by any editorialization in the narrow sense of overt statement of particular opinions and views identified as those of licensee.

13. The narrower question of whether any overt editorialization or advocacy by broadcast licensees, identified as such is consonant with the operation of their stations in the public interest, resolves itself, primarily into the issue of whether such identification of comment or opinion broadcast over a radio or television station with the licensee, as such, would inevitably or even probably result in such over-emphasis on the side of any particular controversy which the licensee chooses to espouse as to make impossible any reasonably balanced presentation of all sides of such issues or to render ineffective the available safeguards of that over-all fairness which is the essential element of operation in the public interest. We do not believe that any such consequence is either inevitable or probable, and we have therefore come to the conclusion that overt licensee editorialization, within reasonable limits and subject to the general requirements of fairness detailed above, is not contrary to the public interest.

14. The Commission has given careful consideration to contentions of those witnesses at the hearing who stated their belief that any overt editorialization or advocacy by broadcast licensee is *per se* contrary to the public interest. The main arguments advanced by these witnesses were that overt editorialization by broadcast licensees would not be consistent with the attainment of balanced presentations since there was a danger that the institutional good will and the production resources at the disposal of broadcast licensees would inevitably influence public opinion in favor of the positions advocated in the name of the licensee and that, having taken an open stand on behalf of one position in a given controversy, a licensee is not likely to give a fair break to the opposition. We believe, however, that these fears are largely misdirected, and that they stem from a confusion of the question of overt advocacy in the name of the licensee, with the broader issue of insuring that the station's broadcasts devoted to the consideration of public issues will provide the listening public with a fair and balanced presentation of differing viewpoints on such issues, without regard to the particular views which may be held or expressed by the licensee. Considered, as we believe they must be, as just one of several types of presentation of public issues, to be afforded their appropriate and non-exclusive place in the station's total schedule of programs devoted to balanced discussion and consideration of public issues, we do not believe that programs in which the licensee's personal opinions are expressed are intrinsically more or less subject to abuse than any other program devoted to public issues. If it be true that station good will and licensee prestige, where it exists, may give added weight to opinion expressed by the licensee, it does not follow that such opinion should be excluded from the air any more than it should in the case of any individual or institution which over a period of time has built up a reservoir of good will or prestige in the community. In any competition for public acceptance of ideas, the skills and resources of the proponents and opponents will always have some measure of effect in producing the results sought. But it would not be

suggested that they should be denied expression of their opinions over the air by reason of their particular assets. What is against the public interest is for the licensee "to stack the cards" by a deliberate selection of spokesmen for opposing points of view to favor one viewpoint at the expense of the other, whether or not the views of those spokesmen are identified as the views of the licensee or of others. Assurance of fairness must in the final analysis be achieved, not by the exclusion of particular views because of the source of the views, or the forcefulness with which the view is expressed, but by making the microphone available, for the presentation of contrary views without deliberate restrictions designed to impede equally forceful presentation.

15. Similarly, while licensees will in most instances have at their disposal production resources making possible graphic and persuasive techinques for forceful presentation of ideas, their utilization for the promulgation of the licensee's personal viewpoints will not necessarily or automatically lead to unfairness or lack of balance. While uncontrolled utilization of such resources for the partisan ends of the licensee might conceivably lead to serious abuses, such abuses could as well exist where the station's resources are used for the sole use of his personal spokesmen. The prejudicial or unfair use of broadcast production resources would, in either case, be contrary to the public interest.

16. The Commission is not persuaded that a station's willingness to stand up and be counted on these particular issues upon which the licensee has a definite position may not be actually helpful in providing and maintaining a climate of fairness and equal opportunity for the expression of contrary views. Certainly the public has less to fear from the open partisan than from the covert propagandist. On many issues, of sufficient importance to be allocated broadcast time, the station licensee may have no fixed opinion or viewpoint which he wishes to state or advocate. But where the licensee, himself, believes strongly that one side of a controversial issue is correct and should prevail, prohibition of his expression of such position will not of itself insure fair presentation of that issue over his station's facilities, nor would open advocacy necessarily prevent an overall fair presentation of the subject. It is not a sufficient answer to state that a licensee should occupy the position of an impartial umpire, where the licensee is in fact partial. In the absence of a duty to present all sides of controversial issues, overt editorialization by station licensees could conceivably result in serious abuse. But where, as we believe to be the case under the Communications Act, such a responsibility for a fair and balanced presentation of controversial public issues exists, we cannot see how the open espousal of one point of view by the licensee should necessarily prevent him from affording a fair opportunity for the presentation of contrary positions or make more difficult the enforcement of the statutory standard of fairness upon any licensee.

17. It must be recognized, however, that the licensee's opportunity to express his own views as part of a general presentation of varying opinions on particular controversial issues, does not justify or empower any licensee to exercise his authority over the selection of program material to distort or suppress the basic factual information upon which any truly fair and free discussion of public issues must necessarily depend. The basis for any fair consideration of public issues, and particularly those of a controversial nature, is the presentation of news and information concerning the basic facts of the controversy in as complete and impartial a manner as possible. A licensee would be abusing his position as public trustee of these important means of mass communication were he to withhold from expression over his facilities relevant news or facts concerning a controversy or to slant or distort the presentation of such news. No discussion of the issues involved in any controversy can be fair or in the public interest where such discussion must take place in a climate of false or misleading information concerning the basic facts of the controversy.

18. During the course of the hearings, fears have been expressed that any effort on the part of the Commission to enforce a reasonable standard of fairness and impartiality would inevitably require the Commission to take a stand on the merits of the particular issues considered in the programs broadcast by the several licensees, as well as exposing the licensees to the risk of loss of license because of "honest mistakes" which they may make in the exercise of their judgment with respect to the broadcasts of programs of a controversial nature. We believe that these fears are wholly without justification, and are based on either an assumption of abuse of power by the Commission or a lack of proper understanding of the role of the Commission, under the Communications Act, in considering the program service of broadcast licensees in passing upon applications for renewal of license. While this Commission and its predecessor, the Federal Radio Commission, have, from the beginning of effective radio regulation in 1927, properly considered that a licensee's overall program service is one of the primary indicia of his ability to serve the public interest, actual consideration of such service has always been limited to a determination as to whether the licensee's programming, taken as a whole, demonstrates that the licensee is aware of his listening public and is willing and able to make an honest and reasonable effort to live up to such obligations. The action of the station in carrying or refusing to carry any particular program is of relevance only as the station's actions with respect to such programs fits into its overall pattern of broadcast service, and must be considered in the light of its other program activities. This does not mean, of course, that stations may, with impunity, engage in a partisan editorial campaign on a particular issue or series of issues provided only that the remainder of its program schedule conforms to the statutory norm of fairness; a licensee may not utilize the portion of its broadcast service which conforms to the statutory requirements as a cover or shield for other programming which fails to meet the minimum standards of operation in the public interest. But it is clear that the standard of public interest is not so rigid that an honest mistake or error in judgment on the part of a licensee will be or should be condemned where his overall record demonstrates a reasonable effort to provide a balanced presentation of comment and opinion on such issues. The question is necessarily one of the reasonableness of the station's actions, not whether any absolute standard of fairness has been achieved. It does not require any appraisal of the merits of the particular issue to determine whether reasonable efforts have been made to present both sides of the question. Thus, in appraising the record of a station in presenting programs concerning a controversial bill pending before the Congress of the United States, if the record disclosed that the licensee had permitted only advocates of the bill's enactment to utilize its facilities to the exclusion of its opponents, it is clear that no independent appraisal of the bill's merits by the Commission would be required to reach a determination that the licensee had misconstrued its duties and obligations as a person licensed to serve the public interest. The Commission has observed, in considering this general problem that "the duty to operate in the public interest is no esoteric mystery, but is essentially a duty to operate a radio station with good judgment and good faith guided by a reasonable regard for the interests of the community to be served." Northern Corporation (WMEX), 4 Pike & Fischer, R.R. 333, 339. Of course, some cases will be clearer than others, and the Commission in the exercise of its functions may be called upon to weigh conflicting evidence to determine whether the licensee has or has not made reasonable efforts to present a fair and well-rounded presentation of particular public issues. But the standard of reasonableness and the reasonable approximation of a statutory norm is not an arbitrary standard incapable of administrative or judicial determination, but, on the contrary, one of the basic standards of conduct in numerous fields of Anglo-American law, Like all other flexible standards of conduct, it is subject to abuse and arbitrary interpretation and application by the duly authorized reviewing authorities. But the possibility that a legitimate standard of legal conduct might be abused or arbitrarily applied by capricious governmental authority is not and cannot be a reason for abandoning the standard itself. And broadcast licensees are protected against any conceivable abuse of power by the Commission in the exercising of its licensing authority by the procedural safeguards of the Communications Act and the Administrative Procedure Act, and by the right of appeal to the Courts from final action claimed to be arbitrary or capricious.

19. There remains for consideration the allegation made by a few of the witnesses in the hearing that any action by the Commission in this field enforcing a basic standard of fairness upon broadcast licensees necessarily constitutes an "abridgement of the right of free speech" in violation of the First Amendment of the United States Constitution. We can see no sound basis for any such conclusion. The freedom of speech protected against governmental abridgement by the First Amendment does not extend any privilege to government licensees of means of public communications to exclude the expression of opinions and ideas with which they are in disagreement. We believe, on the contrary, that a requirement that broadcast licensees utilize their franchises in a manner in which the listening public may be assured of hearing varying opinions on the paramount issues facing the American people is within both the spirit and letter of the First Amendment. As the Supreme Court of the United States has pointed out in the Associated Press monopoly case:

> It would be strange indeed, however, if the grave concern for freedom of the press which prompted adoption of the First Amendment should be read as a command that the government was without power to protect that freedom. * * * That Amendment rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public, that a free press is a condition of free society. Surely a command that the government itself shall not impede the free flow of ideas does not afford nongovernmental combinations a refuge if they impose restraints upon that constitutionally guaranteed freedom. Freedom to publish means freedom for all and not for some. Freedom to publish is guaranteed by the Constitution, but freedom to combine to keep others from publishing is not. (Associated Press v. United States, 326 U.S. 1 at p. 20.)

20. We fully recognize that freedom of the radio is included among the freedoms protected against governmental abridgement by the First Amendment. United States v. Paramount Pictures, Inc., et al., 334 U.S. 131, 166.

But this does not mean that the freedom of the people as a whole to enjoy the maximum possible utilization of this medium of mass communication may be subordinated to the freedom of any single person to exploit the medium for his own private interest. Indeed, it seems indisputable that full effect can only be given to the concept of freedom of speech on the radio by giving precedence to the right of the American public to be informed on all sides of public questions over any such individual exploitation for private purposes. Any regulation of radio, especially a system of limited licensees, is in a real sense an abrigement of the inherent freedom of persons to express themselves by means of radio communications. It is, however, a necessary and constitutional abridgement in order to prevent chaotic interference from destroying the great potential of this medium for public enlightenment and entertainment. National Broadcasting Company v. United States, 319 U.S. 190, 296; cf. Federal Radio Commission v. Nelson Brothers Bond & Mortgage Co., 289 U.S. 266; Fisher's Blend Station, Inc. v. State Tax Commission, 277 U.S. 650. Nothing in the Communications Act or its history supports any conclusion that the people of the nation, acting through Congress, have intended to surrender or diminish their paramount rights in the air waves, including access to radio broadcasting facilities to a limited number of private licensees to be used as such licensees see fit, without regard to the paramount interests of the people. The most significant meaning of freedom of the radio is the right of the American people to listen to this great medium of communications free from any governmental dictation as to what they can or cannot hear and free alike from similar restraints by private licensees.

21. To recapitulate, the Commission believes that under the American system of broadcasting the individual licensees of radio stations have the responsibility for determining the specific program material to be broadcast over their stations. This choice, however, must be exercised in a manner consistent with the basic policy of the Congress that radio be maintained as a medium of free speech for the general public as a whole rather than as an outlet for the purely personal or private interests of the licensee. This requires that licensees devote a reasonable percentage of their broadcasting time to the discussion of public issues of interest in the community served by their stations and that such programs be designed so that the public has a reasonable opportunity to hear different opposing positions on the public issues of interest and importance in the community. The particular format best suited for the presentation of such programs in a manner consistent with the public interest must be determined by the licensee in the light of the facts of each individual situation. Such presentation may include the identified expression of the licensee's personal viewpoint as part of the more general presentation of views or comments on the various issues, but the opportunity of licensees to present such views as they may have on matters of controversy may not be utilized to achieve a partisan or one-sided presentation of issues. Licensee editorialization is but one aspect of freedom of expression by means of radio. Only insofar as it is exercised in conformity with the paramount right of the public to hear a reasonably balanced presentation of all responsible viewpoints on particular issues can such editorialization be considered to be consistent with the licensee's duty to operate in the public interest. For the licensee is a trustee impressed with the duty of preserving for the public generally radio as a medium of free expression and fair presentation.

Appendix B

[FCC 64-612]

THE HISTORY OF THE FAIRNESS DOCTRINE

A. *Legislative History.*

The fairness doctrine was adopted pursuant to the public interest standards of the Federal Radio Act of 1927 and the Communications Act of 1934, and in light of the expressions of Congress as set forth in legislative history.

From the inception of commercial radio broadcasting, Congress expressed its concern that the air waves be used as a vital means of communication, capable of making a major contribution to the development of an informed public opinion. It was to encourage these capabilities within the American institutional framework that Congress legislated in this field.[1]

Both the Federal Radio Act of 1927 and the Communications Act of 1934 established that the American system of broadcasting should be carried on through a large number of private licensees upon whom rested the sole responsibility for determining the content and presentation of program material. But the Congress, in granting access to broadcast facilities to a limited number of private licensees, made clear from the beginning that the responsibility which licensees held must be exercised in accordance with the paramount public interest. Thus, the legislative history is clear that the Congress intended that radio should be maintained as a medium of free speech for the general public, rather than as an outlet for the views of a few, and that the responsibility held by broadcast licensees must be exercised in a manner which would serve the community generally and the various groups, whether organized or not, which made up the community.

As early as 1926, in the Congressional debates which led to the enactment of the Radio Act of 1927, Congressman (later Senator) White stated (67 Cong. Rec. 5479, March 12, 1926):

"We have reached the definite conclusion that the right of all our people to enjoy this means of communication can be preserved only by repudiation of the idea underlying the 1912 law that anyone who will, may transmit and by the assertion in its stead of the doctrine that the right of public to service is superior to the right of any individual to use the ether. This is the first and most fundamental difference between the pending bill and present law."

"The recent radio conference met this issue squarely. It recognized that in the present state of scientific development there must be a limitation upon the number of broadcasting stations and it recognized that licenses should be issued only to those stations whose operation would render a benefit to the public, are necessary in the public interest or would contribute to the development of the art. This principle was approved by every witness before your committee. We have written it into the bill. If enacted into law, the broadcasting privilege will not be the right of selfishness. It will rest upon an assurance of public interest to be served."

Similarly, the view that the public interest is paramount to the private interest of particular licensees was emphasized again on June 9, 1948, in a unanimous report of the Senate Committee on Interstate and Foreign Commerce on S. 1333, S. Rept. No. 1567, 80th Cong., 2d Sess., pp. 14–15; and, more recently, on April 17, 1962, in S. Rept. No. 994 (Part 6), 87th Cong., 2d Sess., pp. 1–4, with particular reference to the Commission's fairness doctrine, in which the view was expressed that the public interest requires that a fair cross-section of opinion be presented with respect to the controversial issues discussed, regardless of the personal views of the licensee.

Indeed, since 1959 the Communications Act has affirmed the fairness doctrine with respect to the broadcast licensee who permits the use of his facilities for the presentation of controversial public issues. In the 1959 Amendment to Section 315 of the Act, Congress specifically affirmed the fairness doctrine by providing that:

"Nothing in the foregoing sentence [i.e., exemption from equal time requirements for news-type programs] shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from the obligation imposed upon them under this chapter to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance."

The legislative history of this amendment establishes that this provision "is a restatement of the basic policy of the 'standard of fairness' which is imposed on broadcasters under the Communications Act of 1934" (House Rept. No. 1069, 86th Cong., 1st Sess., August 27, 1959, p. 5). As shown by the use of the word "chapter" rather than "section" and also by the legislative history (ibid., Sen. Rept. No. 562, 86th Cong., 1st Sess., pp. 13, 19; 105 Cong. Rec. 16310, 16346–47; 17778, 17830–31), Congress made clear that the obligation of fairness is applicable to all broadcasts dealing with controversial issues of public importance. Thus, just as Section 315 prior to 1959 imposed a specific statutory obligation upon the licensee to afford "equal opportunities" to legally qualified candidates for public office, since 1959 it also gives specific statutory recognition to the doctrine that requires the licensee "to afford reasonable opportunity for the discussion of conflicting views on issues of public importance," i.e., to be fair in the broadcasting of controversial issues.

B. *The History of the Fairness Doctrine Within the Commission.*

The administrative history of the fairness doctrine dates back to some of the first decisions of the Federal Radio Commission, operating under the authority of the Federal Radio Act of 1927[2] and seeking to implement the public interest requirement of that Act.

One of the first responsibilities of the Radio Commission was to assign the frequencies and hours of operation to the numerous radio stations which had begun operations prior to the enactment of the Radio Act. The means through which the Radio Commission carried out this responsibility was primarily by the adoption of a general reallocation program which became effective on November 1, 1928, and pursuant to which, the frequencies and hours of operation of every radio station in the country were specified.[3]

Following the adoption of the general reallocation plan, the Radio Commission received numerous applications, many of which were mutually exclusive, for modification of the licenses which had been issued pursuant to the plan. Many of the applications were from organizations which had been using their facilities primarily for the promotion of their own viewpoint. While the Commission generally adopted the principle that, as between two broadcasting stations with otherwise equal claims for privileges, the station with the longest record of continuous service would have the superior right for

[1] S. Rept. No. 994 (Part 6), 87th Cong., 2d Sess., p. 1.

[2] 44 Stat. 1162 (1927).

[3] See 2 F.R.C. Ann. Rept. 17–18, 200–214.

a license, one exception to the principle of "priority" was made in the case of stations which served as outlets for the presentation of only one point of view.

Thus, in *Great Lakes Broadcasting Company* (reported in 3 F.R.C. Ann. Rep. 32), the Commission denied an application for modification of license of a station which broadcast only one point of view, stating that (at pp. 32, 33):

Broadcasting stations are licensed to serve the public and not for the purpose of furthering the private or selfish interests of individuals or groups of individuals. The standard of public interest, convenience, or necessity means nothing if it does not mean this.

It would not be fair, indeed it would not be good service, to the public to allow a one-sided presentation of the political issues of a campaign. Insofar as a program consists of discussion of public questions, public interest requires ample play for the free and fair competition of opposing views, and the commission believes that the principle applies not only to addresses by political candidates but to all discussions of issues of importance to the public. The great majority of broadcasting stations are, the commission is glad to say, already tacitly recognizing a broader duty than the law imposes upon them.

In explanation of this view, the Radio Commission pointed out that in the commercial radio broadcasting scheme (*Id.* at p. 34):

* * * there is no room for the operation of broadcasting stations exclusively by or in the private interests of individuals or groups so far as the nature of programs is concerned. There is not room in the broadcast band for every school of thought, religious, political, social, and economic, each to have its separate broadcasting station, its mouthpiece in the ether. If franchises are extended to some it gives them an unfair advantage over others, and results in a corresponding cutting-down of general public-service stations. It favors the interests and desires of a portion of the listening public at the expense of the rest. Propaganda stations (a term which is here used for the sake of convenience and not in a derogatory sense) are not consistent with the most beneficial sort of discussion of public questions. As a general rule, postulated on the laws of nature as well as on the standard of public interest, convenience, or necessity, particular doctrines, creeds and beliefs must find their way into the market of ideas by the existing public-service stations, and if they are of sufficient importance to the listening public the microphone will undoubtedly be available. If it is not, a well-founded complaint will receive the careful consideration of the Commission in its future action with reference to the station complained of.[4]

And, in the Chicago Federation of Labor case (reported in 3 F.R.C. 36, affirmed, Chicago Federation of Labor v. F.R.C., 41 F. 2d 422, the Commission again denied a modification of license on the ground that:

Since there is only a limited number of available frequencies for broadcasting, this commission was of the opinion, and so found, that there is no place for a station catering to any group, but that all stations should cater to the general public and serve public interest as against group or class interest.[5]

These principles received early and unequivocal affirmation by the Federal Communications Commission operating under the authority of the Communications Act of 1934. Thus, in 1938, the Commission denied an application for a construction permit primarily because of the applicant's policy of refusing to permit the use of its broadcast facilities by persons or organizations wishing to present any viewpoint different from that of the applicant.[6] Similarly, in 1940, in its Sixth Annual Report, the Commission stated (6 F.C.C. Ann. Rep. at 55):

"In carrying out the obligation to render a public service, stations are required to furnish well-rounded rather than one-sided discussion of public questions."

Again, in 1941, in Mayflower Broadcasting Corp., 8 FCC 333 at 340, the Commission stated:

"Freedom of speech on the radio must be broad enough to provide full and equal opportunity for the presentation to the public of all sides of public issues. Indeed, as one licensed to operate in the public domain the licensee has assumed the obligation of presenting all sides of important public questions fairly, objectively and without bias. The public interest—not the private—is paramount."

In that same case, however, it was also stated at p. 340: "In brief, the broadcaster cannot be an advocate." This statement was widely accepted as an outright prohibition of broadcast editorializing, and, in view of the reaction to such policy, the Commission, on September 5, 1947, initiated a proceeding in Docket No. 8516 to study and reexamine the role of broadcast editorializing and the fairness doctrine, in general. This study culminated in the Report on Editorializing, supra, as will be set forth more fully below.

Concurrently with its study in Docket No. 8516, however, the Commission continued the process of defining and applying the fairness doctrine to the various problems which were presented to it. Thus, the Commission made clear its belief that not only did the public interest require broadcast licensees to affirmatively encourage the discussion of controverial issues, but that, in presenting such programs, every licensee had the responsibility to afford reasonable opportunity for the presentation of contrasting viewpoints. See e.g., United Broadcasting Co., 10 FCC 515 (1945); Johnston Broadcasting Co., 12 FCC 517 (1947), reversed on other grounds, Johnston Broadcasting Co. v. F.C.C., 175 F. 2d 351 (1949); Laurence W. Harry, 13 FCC 23 (1948); WBNX Broadcasting Co., 12 FCC 805, 837. In the WBNX case the Commission also stated (12 FCC at 841):

"The fairness with which a licensee deals with particular racial or religious groups in its community, in the exercise of its power to determine who can broadcast what over its facilities, is clearly a substantial aspect of his operation in the public interest."

C. The Commission's Report on Editorializing.

The Report on Editorializing by Broadcast Licensees, supra, which was issued by the Commission in 1949 in Docket No. 8516, sets forth most fully the basic requirements of the "fairness doctrine" and remains the keystone of the Commission's fairness policy today. The Report was the result of a two-year proceeding in which members of the public, the broadcasting industry, and the Commission participated. In essence, the Report established a two-fold obligation on the part of every licensee seeking to operate in the public interest: (1) that every licensee devote a reasonable portion of broadcast time to the discussion and consideration of controversial issues of public importance; and (2) that in doing so, he be fair—that is, that he affirmatively endeavor to make his facilities available for the expression of contrasting viewpoints held by responsible elements with respect to the controversial issues presented. While concerned with the basic considerations relevant to the expression of editorial opinion by broadcast licensees, the Report also dealt with the relationship of licensee editorial opinion to the general obligations of licensees for the presentation of programs involving controversial issues, and, accordingly, set forth in detail the general obligations of licensees in this area.

First, the Report reaffirmed the basic responsibility of broadcast licensees operating in the public interest to provide a reasonable amount of broadcast time for the presentation of programs devoted to the discussion and consideration of controversial issues of public importance. Because of the vital role that broadcast facilities can play in the development of an informed public opinion in our democracy, the Commission noted that it:

"* * * has consequently recognized the necessity for licensees to devote a reasonable percentage of their broadcast time to the presentation of news and programs devoted to the consideration and discussion of public issues of interest in the community served by the particular station."[7]

The Commission further determined, however, that the "paramount" right of the public in a free society to be informed could not truly be maintained by radio unless there was presented to the public "for acceptance or rejection the different attitudes and viewpoints concerning these vital and often controversial issues which are held by the various groups which make up the community." Consequently, the Commission stated that:

"* * * the licensee's obligations to serve the public interest can[not] be met merely through the adoption of a general policy of not refusing to broadcast opposing views when a demand is made of the station for broadcast time * * * it is evident that broadcast licensees have an affirmative duty generally to encourage and implement the broadcast of all sides of controversial public issues over their facilities, over and beyond their obligation to make available on demand opportunities for the expression of opposing views. It is clear that any approximation of fairness in the presentation of any controversy will be difficult if not impossible of achievement unless the licensee plays a conscious and positive role in bringing about balanced presentation of the opposing viewpoint."[8]

At the same time, the Report made clear that the precise means by which fairness would be achieved is a matter for the dis-

[4] Although the Commission's decision was reversed on other grounds, Great Lakes Broadcasting Co. v. Federal Radio Commission, 37 F. 2d at 993, in discussing the above holding, the Court stated (37 F. 2d at 995): "It is our opinion that [the] application was rightly denied. This conclusion is based upon the comparatively limited public service rendered by the station * * *."

[5] In affirming the Commission's decision, the Court of Appeals found that the radio station which would be adversely affected by a grant of the labor-organization's application "has always rendered and continues to render admirable public service. The station has consistently furnished equal broadcasting facilities to all classes in its community." Chicago Federation of Labor v. F.R.C., 41 F. 2d at 423.

[6] Young People's Association for the Propagation of the Gospel, 6 FCC 178.

[7] Paragraph 6, Report on Editorializing, supra.

[8] Paragraph 9, Report on Editorializing by Broadcast Licensees.

cretion of the licensee. Thus, the Commission rejected suggestions that licensees be required to utilize definite formats, and stated:

"It should be recognized that there can be no one all-embracing formula which licensees can hope to apply to insure the fair and balanced presentation of all public issues. Different issues will inevitably require different techniques of presentation and production. The licensee will in each instance be called upon to exercise his best judgment and good sense in determining what subjects should be considered, the particular format of the programs to be devoted to each subject, the different shades of opinion to be presented, and the spokesman for each point of view." [9]

A limitation on this exercise of discretion is where a personal attack occurs in a program involving controversial issues of public importance. Here the Commission stated:

"* * * for elementary considerations may dictate that time be allocated to a person or group which has been specifically attacked over the station, where otherwise no such obligation would exist * * *." [10]

In determining in an individual case whether or not a licensee has complied with the fairness doctrine, the Commission looks solely to whether, in the circumstances presented, the licensee acted reasonably and in good faith to present a fair cross-section of opinion on the controversial issue presented. In making such a determination, an honest mistake or error in judgment will not be condemned, so long as the licensee demonstrates a reasonable and honest effort to provide a balanced presentation of the controversial issue. The question of whether the licensee generally is operating in the public interest is determined at the time of renewal on an overall basis.

Further, the above procedure does not require the Commission to consider the merits of the viewpoint presented. As stated in the Report:

"The question is necessarily one of the reasonableness of the station's actions, not whether any absolute standard of fairness has been achieved. It does not require any appraisal of the merits of the particular issue to determine whether reasonable efforts have been made to present both sides of the question * * *." [11]

It was against this background that the Commission approached the question of editorialization, stating that:

"Considered, as we believe they must be, as just one of several types of presentation of public issues, to be afforded their appropriate and nonexclusive place on the station's total schedule of programs devoted to balanced discussion and consideration of public issues, we do not believe that programs in which the licensee's personal opinions are expressed are intrinsically more or less subject to abuse than any other program devoted to public issues." [12]

Thus, the Commission concluded that while licensee editorialization was not contrary to the public interest, the overriding question was not whether a licensee could present his own viewpoint, but whether in presenting any viewpoint the licensee was fair.

Finally, the Report set forth the basic "fairness" considerations in the presentation of factual information concerning controversial issues, stating:

"The basis for any fair consideration of public issues, and particularly those of a controversial nature, is the presentation of news and information concerning the basic facts of the controversy in as complete and impartial a manner as possible. A licensee would be abusing his position as public trustee of these important means of mass communication were he to withhold from expression over his facilities relevant news or facts concerning a controversy or to slant or distort presentation of such news. No discussion of the issues involved in any controversy can be fair or in the public interest where such discussion must take place in a climate of false or misleading information concerning the basic facts of the controversy." [13]

[F.R. Doc. 64-7327; Filed, July 24, 1964; 8:45 a.m.]

[9] Paragraph 10, Report on Editorializing by Broadcast Licensees.

[10] Paragraph 10, Report on Editorializing by Broadcast Licensees.

[11] Paragraph 18, Report on Editorializing by Broadcast Licensees.

[12] Paragraph 14, Report on Editorializing by Broadcast Licensees.

[13] Report, Par. 17.