Public Law 554 CHAPTER 879

AN ACT

To further amend the Communications Act of 1934.

July 16, 1952
[S. 658]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Communications Act Amendments, 1952".

Communications Act Amendments, 1952.
48 Stat. 1065.
47 USC 153.

SEC. 2. Section 3 of such Act is amended by adding after paragraph (aa) the following:

"(bb) 'Station license', 'radio station license', or 'license' means that instrument of authorization required by this Act or the rules and regulations of the Commission made pursuant to this Act, for the use or operation of apparatus for transmission of energy, or communications, or signals by radio, by whatever name the instrument may be designated by the Commission.

"(cc) 'Broadcast station', 'broadcasting station', or 'radio broadcast station' means a radio station equipped to engage in broadcasting as herein defined.

"(dd) 'Construction permit' or 'permit for construction' means that instrument of authorization required by this Act or the rules and regulations of the Commission made pursuant to this Act for the construction of a station, or the installation of apparatus, for the transmission of energy, or communications, or signals by radio, by whatever name the instrument may be designated by the Commission."

47 USC 154.

SEC. 3. (a) Subsection (b) of section 4 of such Act is amended by striking out the last two sentences thereof and inserting in lieu of such sentences the following: "Such commissioners shall not engage in any other business, vocation, profession, or employment; but this shall not apply to the presentation or delivery of publications or papers for which a reasonable honorarium or compensation may be accepted. Any such commissioner serving as such after one year from the date of enactment of the Communications Act Amendments, 1952, shall not for a period of one year following the termination of his services as a commissioner represent any person before the Commission in a professional capacity, except that this restriction shall not apply to any commissioner who has served the full term for which he was appointed. Not more than four members of the Commission shall be members of the same political party."

Commissioners. Restriction.

(b) Paragraph (2) of subsection (f) of section 4 of such Act is amended by striking out "(2)" and inserting in lieu thereof "(3)"; and such subsection (f) is further amended by striking out paragraph (1) thereof and inserting in lieu of such paragraph the following paragraphs:

"(f) (1) The Commission shall have authority, subject to the provisions of the civil-service laws and the Classification Act of 1949, as amended, to appoint such officers, engineers, accountants, attorneys, inspectors, examiners, and other employees as are necessary in the exercise of its functions.

Employees; appointment.
63 Stat. 954.
5 USC 1071 note.

"(2) Without regard to the civil-service laws, but subject to the Classification Act of 1949, each commissioner may appoint a legal assistant, an engineering assistant, and a secretary, each of whom shall perform such duties as such commissioner shall direct. In addition, the chairman of the Commission may appoint, without regard to the civil-service laws, but subject to the Classification Act of 1949, an administrative assistant who shall perform such duties as the chairman shall direct."

(c) The first sentence of subsection (g) of section 4 of such Act is amended to read as follows: "The Commission may make such expenditures (including expenditures for rent and personal services at the

Expenditures.

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seat of government and elsewhere, for office supplies, law books, periodicals, and books of reference, for printing and binding, for land for use as sites for radio monitoring stations and related facilities, including living quarters where necessary in remote areas, for the construction of such stations and facilities, and for the improvement, furnishing, equipping, and repairing of such stations and facilities and of laboratories and other related facilities (including construction of minor subsidiary buildings and structures not exceeding $25,000 in any one instance) used in connection with technical research activities), as may be necessary for the execution of the functions vested in the Commission and as from time to time may be appropriated for by Congress."

47 USC 154.

(d) Subsection (k) of section 4 of such Act is amended to read as follows:

Report.

"(k) The Commission shall make an annual report to Congress, copies of which shall be distributed as are other reports transmitted to Congress. Such reports shall contain—

"(1) such information and data collected by the Commission as may be considered of value in the determination of questions connected with the regulation of interstate and foreign wire and radio communication and radio transmission of energy;

"(2) such information and data concerning the functioning of the Commission as will be of value to Congress in appraising the amount and character of the work and accomplishments of the Commission and the adequacy of its staff and equipment: *Provided*, That the first and second annual reports following the date of enactment of the Communications Act Amendments, 1952, shall set forth in detail the number and caption of pending applications requesting approval of transfer of control or assignment of a broadcasting station license, or construction permits for new broadcasting stations, or for increases in power, or for changes of frequency of existing broadcasting stations at the beginning and end of the period covered by such reports;

"(3) information with respect to all persons taken into the employment of the Commission during the year covered by the report, including names, pertinent biographical data and experience, Commission positions held and compensation paid, together with the names of those persons who have left the employ of the Commission during such year: *Provided*, That the first annual report following the date of enactment of the Communications Act Amendments, 1952, shall contain such information with respect to all persons in the employ of the Commission at the close of the year for which the report is made;

"(4) an itemized statement of all funds expended during the preceding year by the Commission, of the sources of such funds, and of the authority in this Act or elsewhere under which such expenditures were made; and

"(5) specific recommendations to Congress as to additional legislation which the Commission deems necessary or desirable, including all legislative proposals submitted for approval to the Director of the Bureau of the Budget."

47 USC 155.

SEC. 4. Section 5 of such Act is amended to read as follows:

"ORGANIZATION AND FUNCTIONING OF THE COMMISSION

Chairman.

"SEC. 5. (a) The member of the Commission designated by the President as chairman shall be the chief executive officer of the Commission. It shall be his duty to preside at all meetings and sessions of the Commission, to represent the Commission in all matters relating to legislation and legislative reports, except that any com-

missioner may present his own or minority views or supplemental reports, to represent the Commission in all matters requiring conferences or communications with other governmental officers, departments or agencies, and generally to coordinate and organize the work of the Commission in such manner as to promote prompt and efficient disposition of all matters within the jurisdiction of the Commission. In the case of a vacancy in the office of the chairman of the Commission, or the absence or inability of the chairman to serve, the Commission may temporarily designate one of its members to act as chairman until the cause or circumstance requiring such designation shall have been eliminated or corrected.

Organization.

"(b) Within six months after the enactment of the Communications Act Amendments, 1952, and from time to time thereafter as the Commission may find necessary, the Commission shall organize its staff into (1) integrated bureaus, to function on the basis of the Commission's principal workload operations, and (2) such other divisional organizations as the Commission may deem necessary. Each such integrated bureau shall include such legal, engineering, accounting, administrative, clerical, and other personnel as the Commission may determine to be necessary to perform its functions.

"Review staff".

"(c) The Commission shall establish a special staff of employees, hereinafter in this Act referred to as the 'review staff', which shall consist of such legal, engineering, accounting, and other personnel as the Commission deems necessary. The review staff shall be directly responsible to the Commission and shall not be made a part of any bureau or divisional organization of the Commission. Its work shall not be supervised or directed by any employee of the Commission other than a member of the review staff whom the Commission may designate as the head of such staff. The review staff shall perform no duties or functions other than to assist the Commission, in cases of adjudication (as defined in the Administrative Procedure Act) which have been designated for hearing, by preparing a summary of the evidence presented at any such hearing, by preparing, after an initial decision but prior to oral argument, a compilation of the facts material to the exceptions and replies thereto filed by the parties, and by preparing for the Commission or any member or members thereof, without recommendations and in accordance with specific directions from the Commission or such member or members, memoranda, opinions, decisions, and orders. The Commission shall not permit any employee who is not a member of the review staff to perform the duties and functions which are to be performed by the review staff; but this shall not be construed to limit the duties and functions which any assistant or secretary appointed pursuant to section 4 (f) (2) may perform for the commissioner by whom he was appointed.

60 Stat. 237.
5 USC 1001 note.

Ante, p. 711.

"(d) (1) Except as provided in section 409, the Commission may, when necessary to the proper functioning of the Commission and the prompt and orderly conduct of its business, by order assign or refer any portion of its work, business, or functions to an individual commissioner or commissioners or to a board composed of one or more employees of the Commission, to be designated by such order for action thereon, and may at any time amend, modify, or rescind any such order of assignment or reference. Any order, decision, or report made, or other action taken, pursuant to any such order of assignment or reference shall, unless reviewed pursuant to paragraph (2), have the same force and effect, and shall be made, evidenced, and enforced in the same manner, as orders, decisions, reports, or other action of the Commission.

Post, p. 721.

"(2) Any person aggrieved by any such order, decision, or report may file an application for review by the Commission, within such

time and in such form as the Commission shall prescribe, and every such application shall be passed upon by the Commission. If the Commission grants the application, it may affirm, modify, or set aside such order, decision, report, or action, or may order a rehearing upon such order, decision, report, or action under section 405.

Post, p. 720.

"(3) The secretary and seal of the Commission shall be the secretary and seal of each individual commissioner or board.

Meetings.

"(e) Meetings of the Commission shall be held at regular intervals, not less frequently than once each calendar month, at which times the functioning of the Commission and the handling of its work load shall be reviewed and such orders shall be entered and other action taken as may be necessary or appropriate to expedite the prompt and orderly conduct of the business of the Commission with the objective of rendering a final decision (1) within three months from the date of filing in all original application, renewal, and transfer cases in which it will not be necessary to hold a hearing, and (2) within six months from the final date of the hearing in all hearing cases; and the Commission shall promptly report to the Congress each such case which has been pending before it more than such three- or six-month period, respectively, stating the reasons therefor."

47 USC 307.

SEC. 5. Subsection (d) of section 307 of such Act is amended to read as follows:

Broadcasting licenses.

"(d) No license granted for the operation of a broadcasting station shall be for a longer term than three years and no license so granted for any other class of station shall be for a longer term than five years, and any license granted may be revoked as hereinafter provided. Upon the expiration of any license, upon application therefor, a renewal of such license may be granted from time to time for a term of not to exceed three years in the case of broadcasting licenses, and not to exceed five years in the case of other licenses, if the Commission finds that public interest, convenience, and necessity would be served thereby. In order to expedite action on applications for renewal of broadcasting station licenses and in order to avoid needless expense to applicants for such renewals, the Commission shall not require any such applicant to file any information which previously has been furnished to the Commission or which is not directly material to the considerations that affect the granting or denial of such application, but the Commission may require any new or additional facts it deems necessary to make its findings. Pending any hearing and final decision on such an application and the disposition of any petition for rehearing pursuant to section 405, the Commission shall continue such license in effect."

47 USC 308.

SEC. 6. (a) So much of subsection (a) of section 308 of such Act as precedes the second proviso is amended to read as follows: "The Commission may grant construction permits and station licenses, or modifications or renewals thereof, only upon written application therefor received by it: *Provided*, That (1) in cases of emergency found by the Commission involving danger to life or property or due to damage to equipment, or (2) during a national emergency proclaimed by the President or declared by the Congress and during the continuance of any war in which the United States is engaged and when such action is necessary for the national defense or security or otherwise in furtherance of the war effort, or (3) in cases of emergency where the Commission finds, in the nonbroadcast services, that it would not be feasible to secure renewal applications from existing licensees or otherwise to follow normal licensing procedure, the Commission may grant construction permits and station licenses, or modifications or renewals thereof, during the emergency so found by the Commission or during the continuance of any such national emergency or war, in such manner and upon such terms and conditions as

Construction permits and station licenses.
Emergency cases.

the Commission shall by regulation prescribe, and without the filing of a formal application, but no authorization so granted shall continue in effect beyond the period of the emergency or war requiring it:".

(b) The first sentence of subsection (b) of section 308 of such Act is amended by striking out the words "All such applications shall set forth" and inserting in lieu thereof "All applications for station licenses, or modifications or renewals thereof, shall set forth". 47 USC 308.

SEC. 7. Section 309 of such Act is amended to read as follows: 47 USC 309.

"ACTION UPON APPLICATIONS; FORM OF AND CONDITIONS ATTACHED TO LICENSES

"SEC. 309. (a) If upon examination of any application provided for in section 308 the Commission shall find that public interest, convenience, and necessity would be served by the granting thereof, it shall grant such application.

"(b) If upon examination of any such application the Commission is unable to make the finding specified in subsection (a), it shall forthwith notify the applicant and other known parties in interest of the grounds and reasons for its inability to make such finding. Such notice, which shall precede formal designation for a hearing, shall advise the applicant and all other known parties in interest of all objections made to the application as well as the source and nature of such objections. Following such notice, the applicant shall be given an opportunity to reply. If the Commission, after considering such reply, shall be unable to make the finding specified in subsection (a), it shall formally designate the application for hearing on the grounds or reasons then obtaining and shall notify the applicant and all other known parties in interest of such action and the grounds and reasons therefor, specifying with particularity the matters and things in issue but not including issues or requirements phrased generally. The parties in interest, if any, who are not notified by the Commission of its action with respect to a particular application may acquire the status of a party to the proceeding thereon by filing a petition for intervention showing the basis for their interest at any time not less than ten days prior to the date of hearing. Any hearing subsequently held upon such application shall be a full hearing in which the applicant and all other parties in interest shall be permitted to participate but in which both the burden of proceeding with the introduction of evidence upon any issue specified by the Commission, as well as the burden of proof upon all such issues, shall be upon the applicant. Hearing.

"(c) When any instrument of authorization is granted by the Commission without a hearing as provided in subsection (a) hereof, such grant shall remain subject to protest as hereinafter provided for a period of thirty days. During such thirty-day period any party in interest may file a protest under oath directed to such grant and request a hearing on said application so granted. Any protest so filed shall contain such allegations of fact as will show the protestant to be a party in interest and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. The Commission shall, within fifteen days from the date of the filing of such protest, enter findings as to whether such protest meets the foregoing requirements and if it so finds the application involved shall be set for hearing upon the issues set forth in said protest, together with such further specific issues, if any, as may be prescribed by the Commission. In any hearing subsequently held upon such application all issues specified by the Commission shall be tried in the same manner provided in subsection (b) hereof, but with respect to all issues set forth in the protest and not specifically

adopted by the Commission, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the protestant. The hearing and determination of cases arising under this subsection shall be expedited by the Commission and pending hearing and decision the effective date of the Commission's action to which protest is made shall be postponed to the effective date of the Commission's decision after hearing, unless the authorization involved is necessary to the maintenance or conduct of an existing service, in which event the Commission shall authorize the applicant to utilize the facilities or authorization in question pending the Commission's decision after hearing.

Station licenses.

"(d) Such station licenses as the Commission may grant shall be in such general form as it may prescribe, but each license shall contain, in addition to other provisions, a statement of the following conditions to which such license shall be subject: (1) The station license shall not vest in the licensee any right to operate the station nor any right in the use of the frequencies designated in the license beyond the term thereof nor in any other manner than authorized therein; (2) neither the license nor the right granted thereunder shall be assigned or otherwise transferred in violation of this Act; (3) every license issued under this Act shall be subject in terms to the right of use or control conferred by section 606 hereof."

47 USC 606.

47 USC 310.

SEC. 8. Subsection (b) of section 310 of said Act is amended to read as follows:

Transfer.

"(b) No construction permit or station license, or any rights thereunder, shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation holding such permit or license, to any person except upon application to the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby. Any such application shall be disposed of as if the proposed transferee or assignee were making application under section 308 for the permit or license in question; but in acting thereon the Commission may not consider whether the public interest, convenience, and necessity might be served by the transfer, assignment, or disposal of the permit or license to a person other than the proposed transferee or assignee."

47 USC 311.

SEC. 9. Section 311 of such Act, as amended, is amended to read as follows:

Refusal.

"SEC. 311. The Commission is hereby directed to refuse a station license and/or the permit herinafter required for the construction of a station to any person (or to any person directly or indirectly controlled by such person) whose license has been revoked by a court under section 313."

47 USC 313.

47 USC 312.

SEC. 10. Section 312 of such Act is amended to read as follows:

"ADMINISTRATIVE SANCTIONS

Revocation.

"SEC. 312. (a) Any station license or construction permit may be revoked—

"(1) for false statements knowingly made either in the application or in any statement of fact which may be required pursuant to section 308;

"(2) because of conditions coming to the attention of the Commission which would warrant it in refusing to grant a license or permit on an original application;

"(3) for willful or repeated failure to operate substantially as set forth in the license;

"(4) for willful or repeated violation of, or willful or repeated failure to observe, any provision of this Act or any rule or regulation of the Commission authorized by this Act or by a treaty ratified by the United States; and

"(5) for violation of or failure to observe any cease and desist order issued by the Commission under this section.

"(b) Where any person (1) has failed to operate substantially as set forth in a license, or (2) has violated or failed to observe any of the provisions of this Act, or (3) has violated or failed to observe any rule or regulation of the Commission authorized by this Act or by a treaty ratified by the United States, the Commission may order such person to cease and desist from such action.

"(c) Before revoking a license or permit pursuant to subsection (a), or issuing a cease and desist order pursuant to subsection (b), the Commission shall serve upon the licensee, permittee, or person involved an order to show cause why an order of revocation or a cease and desist order should not be issued. Any such order to show cause shall contain a statement of the matters with respect to which the Commission is inquiring and shall call upon said licensee, permittee, or person to appear before the Commission at a time and place stated in the order, but in no event less than thirty days after the receipt of such order, and give evidence upon the matter specified therein; except that where safety of life or property is involved, the Commission may provide in the order for a shorter period. If after hearing, or a waiver thereof, the Commission determines that an order of revocation or a cease and desist order should issue, it shall issue such order, which shall include a statement of the findings of the Commission and the grounds and reasons therefor and specify the effective date of the order, and shall cause the same to be served on said licensee, permittee, or person.

"(d) In any case where a hearing is conducted pursuant to the provisions of this section, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Commission.

"(e) The provisions of section 9 (b) of the Administrative Procedure Act which apply with respect to the institution of any proceeding for the revocation of a license or permit shall apply also with respect to the institution, under this section, of any proceeding for the issuance of a cease and desist order."

60 Stat. 242.
5 USC 1008(b).

SEC. 11. Section 315 of the Communications Act of 1934 is amended to read as follows:

47 USC 315.

"FACILITIES FOR CANDIDATES FOR PUBLIC OFFICE

"SEC. 315. (a) If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station: *Provided*, That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is hereby imposed upon any licensee to allow the use of its station by any such candidate.

"(b) The charges made for the use of any broadcasting station for any of the purposes set forth in this section shall not exceed the charges made for comparable use of such station for other purposes.

"(c) The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section."

SEC. 12. Such Act is amended by adding after section 315 the following section:

"MODIFICATION BY COMMISSION OF CONSTRUCTION PERMITS OR LICENSES

"SEC. 316. (a) Any station license or construction permit may be modified by the Commission either for a limited time or for the duration of the term thereof, if in the judgment of the Commission such action will promote the public interest, convenience, and necessity, or the provisions of this Act or of any treaty ratified by the United States will be more fully complied with. No such order of modification shall become final until the holder of the license or permit shall have been notified in writing of the proposed action and the grounds and reasons therefor, and shall have been given reasonable opportunity, in no event less than thirty days, to show cause by public hearing, if requested, why such order of modification should not issue: *Provided*, That where safety of life or property is involved, the Commission may by order provide for a shorter period of notice.

Notification of licensee.

"(b) In any case where a hearing is conducted pursuant to the provisions of this section, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Commission."

47 USC 319.

SEC. 13. (a) The first sentence of subsection (a) of section 319 of such Act is amended by striking out the words "upon written application therefor".

(b) Subsection (a) of section 319 of such Act is amended by striking out the second sentence thereof, and the third sentence thereof is amended by striking out "This application shall set forth" and inserting in lieu thereof "The application for a construction permit shall set forth".

(c) Subsection (b) of section 319 of such Act is amended by striking out the second sentence thereof.

(d) Such section 319 is amended by striking out the last two sentences of subsection (b) thereof, and by inserting at the end of such section the following subsection:

License for operation.

"(c) Upon the completion of any station for the construction or continued construction of which a permit has been granted, and upon it being made to appear to the Commission that all the terms, conditions, and obligations set forth in the application and permit have been fully met, and that no cause or circumstance arising or first coming to the knowledge of the Commission since the granting of the permit would, in the judgment of the Commission, make the operation of such station against the public interest, the Commission shall issue a license to the lawful holder of said permit for the operation of said station. Said license shall conform generally to the terms of said permit. The provisions of section 309 (a), (b), and (c) shall not apply with respect to any station license the issuance of which is provided for and governed by the provisions of this subsection."

Ante, p. 715.

47 USC 402.

SEC. 14. Section 402 of such Act is amended to read as follows:

"PROCEEDINGS TO ENJOIN, SET ASIDE, ANNUL, OR SUSPEND ORDERS OF THE COMMISSION

"SEC. 402. (a) Any proceeding to enjoin, set aside, annul, or suspend any order of the Commission under this Act (except those appealable under subsection (b) of this section) shall be brought as provided by and in the manner prescribed in Public Law 901, Eighty-first Congress, approved December 29, 1950.

64 Stat. 1129.

Appeals.

"(b) Appeals may be taken from decisions and orders of the Commission to the United States Court of Appeals for the District of Columbia in any of the following cases:

"(1) By any applicant for a construction permit or station license, whose application is denied by the Commission.

"(2) By any applicant for the renewal or modification of any such instrument of authorization whose application is denied by the Commission.

"(3) By any party to an application for authority to transfer, assign, or dispose of any such instrument of authorization, or any rights thereunder, whose application is denied by the Commission.

"(4) By any applicant for the permit required by section 325 of this Act whose application has been denied by the Commission, or by any permittee under said section whose permit has been revoked by the Commission. 47 USC 325.

"(5) By the holder of any construction permit or station license which has been modified or revoked by the Commission.

"(6) By any other person who is aggrieved or whose interests are adversely affected by any order of the Commission granting or denying any application described in paragraphs (1), (2), (3), and (4) hereof.

"(7) By any person upon whom an order to cease and desist has been served under section 312 of this Act. *Ante*, p. 716.

"(8) By any radio operator whose license has been suspended by the Commission.

"(c) Such appeal shall be taken by filing a notice of appeal with the court within thirty days from the date upon which public notice is given of the decision or order complained of. Such notice of appeal shall contain a concise statement of the nature of the proceedings as to which the appeal is taken; a concise statement of the reasons on which the appellant intends to rely, separately stated and numbered; and proof of service of a true copy of said notice and statement upon the Commission. Upon filing of such notice, the court shall have jurisdiction of the proceedings and of the questions determined therein and shall have power, by order, directed to the Commission or any other party to the appeal, to grant such temporary relief as it may deem just and proper. Orders granting temporary relief may be either affirmative or negative in their scope and application so as to permit either the maintenance of the status quo in the matter in which the appeal is taken or the restoration of a position or status terminated or adversely affected by the order appealed from and shall, unless otherwise ordered by the court, be effective pending hearing and determination of said appeal and compliance by the Commission with the final judgment of the court rendered in said appeal.

"(d) Upon the filing of any such notice of appeal the Commission shall, not later than five days after the date of service upon it, notify each person shown by the records of the Commission to be interested in said appeal of the filing and pendency of the same and shall thereafter permit any such person to inspect and make copies of said notice and statement of reasons therefor at the office of the Commission in the city of Washington. Within thirty days after the filing of an appeal, the Commission shall file with the court a copy of the order complained of, a full statement in writing of the facts and grounds relied upon by it in support of the order involved upon said appeal, and the originals or certified copies of all papers and evidence presented to and considered by it in entering said order.

"(e) Within thirty days after the filing of any such appeal any interested person may intervene and participate in the proceedings had upon said appeal by filing with the court a notice of intention to intervene and a verified statement showing the nature of the interest of such party, together with proof of service of true copies of said notice and statement, both upon appellant and upon the Commission. Any person who would be aggrieved or whose interest would be adversely affected by a reversal or modification of the order of the

Commission complained of shall be considered an interested party.

"(f) The record and briefs upon which any such appeal shall be heard and determined by the court shall contain such information and material, and shall be prepared within such time and in such manner as the court may by rule prescribe.

"(g) At the earliest convenient time the court shall hear and determine the appeal upon the record before it in the manner prescribed by section 10 (e) of the Administrative Procedure Act.

60 Stat. 243. 5 USC 1009.

"(h) In the event that the court shall render a decision and enter an order reversing the order of the Commission, it shall remand the case to the Commission to carry out the judgment of the court and it shall be the duty of the Commission, in the absence of the proceedings to review such judgment, to forthwith give effect thereto, and unless otherwise ordered by the court, to do so upon the basis of the proceedings already had and the record upon which said appeal was heard and determined.

"(i) The court may, in its discretion, enter judgment for costs in favor of or against an appellant, or other interested parties intervening in said appeal, but not against the Commission, depending upon the nature of the issues involved upon said appeal and the outcome thereof.

"(j) The court's judgment shall be final, subject, however, to review by the Supreme Court of the United States upon writ of certiorari on petition therefor under section 1254 of title 28 of the United States Code, by the appellant, by the Commission, or by any interested party intervening in the appeal, or by certification by the court pursuant to the provisions of that section."

62 Stat. 928.

47 USC 405.

SEC. 15. Section 405 of such Act is amended to read as follows:

"REHEARINGS BEFORE COMMISSION

"SEC. 405. After a decision, order, or requirement has been made by the Commission in any proceeding, and party thereto, or any other person aggrieved or whose interests are adversely affected thereby, may petition for rehearing; and it shall be lawful for the Commission, in its discretion, to grant such a rehearing if sufficient reason therefor be made to appear. Petitions for rehearing must be filed within thirty days from the date upon which public notice is given of any decision, order, or requirement complained of. No such application shall excuse any person from complying with or obeying any decision, order, or requirement of the Commission, or operate in any manner to stay or postpone the enforcement thereof, without the special order of the Commission. The filing of a petition for rehearing shall not be a condition precedent to judicial review of any such decision, order, or requirement, except where the party seeking such review (1) was not a party to the proceedings resulting in such decision, order, or requirement, or (2) relies on questions of fact or law upon which the Commission has been afforded no opportunity to pass. Rehearings shall be governed by such general rules as the Commission may establish, except that no evidence other than newly discovered evidence, evidence which has become available only since the original taking of evidence, or evidence which the Commission believes should have been taken in the original proceeding shall be taken on any rehearing. The time within which a petition for review must be filed in a proceeding to which section 402 (a) applies, or within which an appeal must be taken under section 402 (b), shall be computed from the date upon which public notice is given of orders disposing of all petitions for rehearing filed in any case, but any decision, order, or requirement made after such rehearing reversing, changing, or modifying the original order

Ante, p. 718.

shall be subject to the same provisions with respect to rehearing as an original order."

SEC. 16. (a) Section 409 (a) of such Act is amended to read as follows: 47 USC 409.

"SEC. 409. (a) In every case of adjudication (as defined in the Administrative Procedure Act) which has been designated for a hearing by the Commission, the hearing shall be conducted by the Commission or by one or more examiners provided for in section 11 of the Administrative Procedure Act, designated by the Commission. 60 Stat. 237. 5 USC 1001 note.

"(b) The officer or officers conducting a hearing to which subsection (a) applies shall prepare and file an initial decision, except where the hearing officer becomes unavailable to the Commission or where the Commission finds upon the record that due and timely execution of its functions imperatively and unavoidably require that the record be certified to the Commission for initial or final decision. In all such cases the Commission shall permit the filing of exceptions to such initial decision by any party to the proceeding and shall, upon request, hear oral argument on such exceptions before the entry of any final decision, order, or requirement. All decisions, including the initial decision, shall become a part of the record and shall include a statement of (1) findings and conclusions, as well as the basis therefor, upon all material issues of fact, law, or discretion, presented on the record; and (2) the appropriate decision, order, or requirement.

"(c) (1) In any case of adjudication (as defined in the Administrative Procedure Act) which has been designated for a hearing by the Commission, no examiner conducting or participating in the conduct of such hearing shall, except to the extent required for the disposition of ex parte matters as authorized by law, consult any person (except another examiner participating in the conduct of such hearing) on any fact or question of law in issue, unless upon notice and opportunity for all parties to participate. In the performance of his duties, no such examiner shall be responsible to or subject to the supervision or direction of any person engaged in the performance of investigative, prosecutory, or other functions for the Commission or any other agency of the Government. No examiner conducting or participating in the conduct of any such hearing shall advise or consult with the Commission or any member or employee of the Commission (except another examiner participating in the conduct of such hearing) with respect to the initial decision in the case or with respect to exceptions taken to the findings, rulings, or recommendations made in such case.

"(2) In any case of adjudication (as defined in the Administrative Procedure Act) which has been designated for a hearing by the Commission, no person who has participated in the presentation or preparation for presentation of such case before an examiner or examiners or the Commission, and no member of the Office of the General Counsel, the Office of the Chief Engineer, or the Office of the Chief Accountant shall (except to the extent required for the disposition of ex parte matters as authorized by law) directly or indirectly make any additional presentation respecting such case, unless upon notice and opportunity for all parties to participate.

"(3) No person or persons engaged in the performance of investigative or prosecuting functions for the Commission, or in any litigation before any court in any case arising under this Act, shall advise, consult, or participate in any case of adjudication (as defined in the Administrative Procedure Act) which has been designated for a hearing by the Commission, except as a witness or counsel in public proceedings.

60 Stat. 237. 5 USC 1001 note.

"(d) To the extent that the foregoing provisions of this section are in conflict with provisions of the Administrative Procedure Act, such provisions of this section shall be held to supersede and modify the provisions of that Act."

47 USC 409.

(b) Subsections (b), (c), (d), (e), (f), (g), (h), (i), and (j) of section 409 are hereby redesignated as subsections (e), (f), (g), (h), (i), (j), (k), (l), and (m), respectively.

47 USC 410.

SEC. 17. Section 410 (a) of such Act is amended by striking out the first sentence thereof, and by inserting in lieu of such sentence the following: "Except as provided in section 409, the Commission may refer any matter arising in the administration of this Act to a joint board to be composed of a member, or of an equal number of members, as determined by the Commission, from each of the States in which the wire or radio communication affected by or involved in the proceeding takes place or is proposed. For purposes of acting upon such matter any such board shall have all the jurisdiction and powers conferred by law upon the Commission, and shall be subject to the same duties and obligations."

Joint board.

SEC. 18. (a) Title 18, United States Code, "Crimes and Criminal Procedure", is amended by adding the following new section immediately after section 1342:

62 Stat. 763.

"§ 1343. Fraud by wire, radio, or television.

"Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of interstate wire, radio, or television communication, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined not more than $1,000 or imprisoned not more than five years, or both."

(b) The analysis of chapter 63 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1343. Fraud by wire, radio, or television."

Effective date.

SEC. 19. This Act shall take effect on the date of its enactment, but—

(1) Insofar as the amendments made by this Act to the Communications Act of 1934 provide for procedural changes, requirements imposed by such changes shall not be mandatory as to any agency proceeding (as defined in the Administrative Procedure Act) with respect to which hearings have been commenced prior to the date of enactment of this Act.

Ante, p. 718.

(2) The amendments made by this Act to section 402 of the Communications Act of 1934 (relating to judicial review of orders and decisions of the Commission) shall not apply with respect to any action or appeal which is pending before any court on the date of enactment of this Act.

Approved July 16, 1952.

Public Law 555 CHAPTER 880

July 16, 1952 [S. 2968]

AN ACT

To amend section 8 of the Civil Service Retirement Act of May 29, 1930, as amended.

Civil Service Retirement Act, amendments. 46 Stat. 475.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8 of the Civil Service Retirement Act of May 29, 1930, as amended (5 U. S. C. 736c), is amended by adding at the end thereof the following:

Annuity increase.

"(c) (1) The annuity of any retired employee or of any survivor of a deceased or retired employee who, before the date of enactment