

NOTIFICATION OF GOVERNMENT OFFICIALS OF THE FILING OF  
CERTAIN COMMON CARRIER APPLICATIONS WITH THE FEDERAL  
COMMUNICATIONS COMMISSION

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APRIL 30, 1974.—Ordered to be printed

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Mr. PASTORE, from the Committee on Commerce,  
submitted the following

## REPORT

[To accompany S. 1479]

The Committee on Commerce, to which was referred the bill (S. 1479) to amend subsection (b) of section 214 and subsection (c) (1) of section 222 in order to designate the Secretary of Defense (rather than the Secretaries of the Army and the Navy) as the person entitled to receive official notice of the filing of certain applications in the common carrier service and to provide notice to the Secretary of State of section 214 applications involving service to foreign points, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

### PURPOSE AND SUMMARY OF LEGISLATION

The purpose of this legislation is to eliminate unnecessary paperwork and, at the same time, ensure adequate notice to other government officials whenever a common carrier files an application with the Federal Communications Commission for permission to extend its lines, discontinue or curtail existing common carrier services, or effect certain mergers or consolidations.

A communications common carrier wishing to extend its lines or to discontinue or curtail existing common carrier services must file an application with the Federal Communications Commission for permission to do so. Subsection 214(b) of the Communications Act provides that among those entitled to receive official notice of the filing of such an application are the Secretary of the Army and the Secretary of the Navy. A similar provision for official notice of applications for consolidations and mergers is contained in subsection 222(c) (1).

S. 1479 would amend subsections 214(b) and 222(c)(1) of the Communications Act of 1934, as amended, to designate the Secretary of Defense, rather than the Secretaries of the Army and Navy, as the person entitled to receive the required official notice. Also, the Secretary of State, who presently receives notices of consolidation and merger applications filed under subsection 222(c)(1) would be added as an official to receive notice of 214(b) applications which involve service to foreign points.

#### NEED FOR LEGISLATION

Experience has proved that, while copies of pertinent common carrier applications have been sent to the Secretaries of the Army, Navy, and Air Force, as well as the Secretary of Defense, the Department of Defense is the agency that makes the required reply in the vast majority of cases. Limiting official notice to the Secretary of Defense in such cases should provide adequate notice to the military and, at the same time, eliminate unnecessary administrative work.

Though the Federal Communications Commission does provide notice to the Department of State of at least major applications involving extension, discontinuances, reductions or impairments of common carrier service to foreign points, S. 1479 would require statutory notifications in all such cases.

#### COMMITTEE HEARINGS

This bill was introduced by Senator Warren G. Magnuson, chairman of the committee, at the request of the Federal Communications Commission. The Subcommittee on Communications held hearings on this legislation on March 25, 1974. Federal Communications Commission Chairman Richard E. Wiley testified in support of the proposal.

#### CONCLUSION

Your committee believes that passage of this bill will achieve the objectives of the present law by requiring notice to other appropriate government officials of the filing of the requisite common carrier applications with the Federal Communications Commission and, at the same time, eliminate unnecessary administrative work.

#### CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (new matter is printed in italic and deleted matter is enclosed in black brackets) :

#### COMMUNICATIONS ACT OF 1934, AS AMENDED

“SEC. 214(b). Upon receipt of an application for any such certificate, the Commission shall cause notice thereof to be given to, and shall cause a copy of such application to be filed with, the [Secretary of the Army, the Secretary of the Navy,] *the Secretary of Defense, the Secretary of State (with respect to such applications involving service to foreign points)*, and the Governor of each State in which such line is proposed

to be constructed, extended, acquired, or operated, or in which such discontinuance, reduction, or impairment of service is proposed, with the right to those notified to be heard; and the Commission may require such published notice as it shall determine.”

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“Sec. 222 (c) (1). Whenever any consolidation or merger is proposed under subsection (b) of this section, the telegraph carrier or telegraph carriers seeking authority therefor shall submit an application to the Commission, and thereupon the Commission shall order a public hearing to be held with respect to such application and shall give reasonable notice thereof, in writing, and an opportunity to be heard, to the Governor of each of the States in which any of the physical property involved in such proposed consolidation or merger is situated, to the Secretary of State, *the Secretary of Defense*, [the Secretary of the Army,] the Attorney General of the United States, [the Secretary of the Navy,] representatives of employees where represented by bargaining representatives known to the Commission, and to such other persons as the Commission may deem advisable. If, after such public hearing, the Commission finds that the proposed consolidation or merger, or an amended proposal for consolidation or merger, (1) is authorized by subsection (a) of this section, (2) conforms to all other applicable provisions of this section, (3) is in the public interest, the Commission shall enter an order approving and authorizing such consolidation or merger, and thereupon any law or laws making consolidations and mergers unlawful shall not apply to the proposed consolidation or merger. If finding whether any proposed consolidation or merger is in the public interest, the Commission shall give due consideration, among other things, to the financial soundness of the carrier resulting from such consolidation or merger.”

#### COST ESTIMATE

Pursuant to section 252 of the Legislative Reorganization Act of 1970, the Committee estimates that enactment of this legislation will result in no additional cost to the Government.

The Committee knows of no cost estimate by any Federal agency which is at variance with its estimate.

#### AGENCY COMMENTS

Letter from the General Counsel of the Department of Defense dated May 4, 1973; letter from the General Counsel of the Office of Telecommunications Policy, Executive Office of the President, dated May 24, 1973; and the Acting Comptroller General of the United States dated July 6, 1973.

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE,  
*Washington, D.C., May 4, 1973.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of Defense on S. 1479, 93d Congress, a bill

“To amend subsection (b) of section 214 and subsection (c) (1) of section 222 of the Communications Act of 1934, as amended, in order to designate the Secretary of Defense (rather than the Secretaries of the Army and the Navy) as the person entitled to receive official notice of filing of certain applications in the common carrier service and to provide notice to the Secretary of State where under section 214 applications involve service to foreign points.”

The purpose of the bill is stated in the title.

Under present practice, the Federal Communication Commission files such notices simultaneously with this Department and the Secretaries of the military departments, among others referred to in the Act. The intent of the proposed amendment, insofar as the Department of Defense is concerned, appears to be to give formal recognition to the changes in the organization of the military establishment since the enactment of the Communications Act of 1934, while at the same time relieving the Commission of unnecessary duplication in notice filings. This Department, therefore, would favor the enactment of S. 1479, insofar as Defense interests are affected.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

J. FRED BUZHARDT.

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OFFICE OF TELECOMMUNICATIONS POLICY,  
EXECUTIVE OFFICE OF THE PRESIDENT,  
*Washington, D.C., May 23, 1973.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request of April 27, 1973, for the views of the Office of Telecommunications Policy on S. 1479, a bill “To amend subsection (b) of section 214 and subsection (c) (1) of section 222 of the Communications Act of 1934, as amended, in order to designate the Secretary of Defense (rather than the Secretaries of the Army and the Navy) as the person entitled to receive official notice of the filing of certain applications in the common carrier service and to provide notice to the Secretary of State where under section 214 applications involve service to foreign points.”

The caption of this proposed legislation adequately describes its purposes. The Federal Communications Commission's explanation (see 119 Cong. Rec. S6764 (daily ed.) (1973)) sets forth reasons with respect to the desirability of its enactment. We defer to the Commission, and, accordingly, would have no objection to favorable consideration of S. 1479 by your Committee.

The Office of Management and Budget has advised that it has no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

HENRY GOLDBERG.

COMPTROLLER GENERAL OF THE UNITED STATES,  
*Washington, D.C., July 6, 1973.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate*

DEAR MR. CHAIRMAN: Concerning your letter of April 27, 1973, requesting our comments on S. 1479, which would amend the Communications Act of 1934 to designate the Secretary of Defense as the person entitled to receive official notice of the filing of certain applications in the common carrier service and to provide notice to the Secretary of State where applications involve service to foreign points, this is to advise that we have no comments to offer.

Sincerely yours,

PAUL G. DEMBLING,  
*Acting Comptroller General of the United States.*

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