

Calendar No. 696

86TH CONGRESS
1ST SESSION

S. 1898

[Report No. 690]

IN THE SENATE OF THE UNITED STATES

MAY 11, 1959

Mr. MAGNUSON (by request) introduced the following bill; which was read twice and referred to the Committee on Interstate and Foreign Commerce

AUGUST 12, 1959

Reported by Mr. PASTORE, with an amendment

[Omit the part struck through and insert the part printed in italic]

A BILL

To amend the Communications Act of 1934 with respect to the procedure in obtaining a license and for rehearings under such Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That section 309 of the Communications Act of 1934 (47
4 U.S.C. 309) is amended to read as follows:

5 ~~“ACTION UPON APPLICATIONS; FORM OF AND CONDITIONS~~
6 ~~ATTACHED TO LICENSES~~

7 ~~“SEC. 309. (a)(1) No application provided for in sec-~~
8 ~~tion 308 for an instrument of authorization for any station~~
9 ~~in the broadcasting or common carrier services or for any~~

1 station within the scope of subsection (d) shall be granted
2 by the Commission earlier than thirty days following issuance
3 of public notice by the Commission of the acceptance for
4 filing of such application or of any substantial amendment
5 thereof: *Provided*, That this requirement shall not apply to
6 any minor amendment of any such application or to any ap-
7 plication for (A) minor change in the facilities of an au-
8 thorized station; (B) consent to an involuntary assignment
9 or transfer under section 310(b) or to an assignment or
10 transfer thereunder which does not involve a substantial
11 change in ownership or control; (C) license under section
12 319(e) or, pending application for or grant of such license,
13 any special or temporary authorization to permit interim
14 operation to facilitate completion of authorized construction
15 or to provide substantially the same service as would be au-
16 thorized by such license; (D) extension of time to complete
17 construction of authorized facilities; (E) authorization of
18 facilities for remote pickups and studio links for use by the
19 licensee or permittee of a broadcast station in the operation
20 of such station or (F) authorization under any of the proviso
21 clauses of section 308(a).

22 “(2) Any party in interest may file a petition to deny
23 any application or amendment thereof to which the require-
24 ment of paragraph (1) of this subsection applies at any
25 time prior to the day of Commission grant thereof without

1 hearing or formal designation thereof for hearing. Such pe-
2 tition shall be served on the applicant and shall contain spe-
3 cific allegations of fact sufficient to show that the petitioner
4 is a party in interest and that a grant thereof would be prima
5 facie inconsistent with subsection (b). Such allegations of
6 fact shall, except for those of which official notice may be
7 taken, be supported by affidavit of a person or persons with
8 personal knowledge thereof. The applicant shall be given
9 the opportunity to file a reply in which allegations of fact
10 or denials thereof shall similarly be supported by affidavit.
11 If the Commission, after oral argument if it deems oral
12 argument appropriate, finds that there are no substantial and
13 material questions of fact and that grant of the application
14 would be consistent with subsection (b), it shall make the
15 grant, deny the petition, and issue a concise statement of the
16 reasons for denying the petition which shall dispose of each
17 substantial question presented thereby. If a substantial and
18 material question of fact is presented or if the Commission for
19 any other reason is unable to find that grant of the applica-
20 tion would be consistent with subsection (b), it shall proceed
21 as provided in subsection (c).

22 “(b) Whether or not a petition to deny is filed under
23 subsection (a), the Commission shall examine each applica-
24 tion provided for in section 308. If upon examination of
25 any such application provided for in section 308 and upon

1 consideration of any such petition and any reply thereto, the
2 Commission shall find that public interest, convenience, and
3 necessity would be served by the granting thereof, it shall
4 grant such application.

5 “(e) If upon examination of any such application the
6 Commission is unable to make the finding specified in sub-
7 section (b), it shall forthwith notify the applicant and all
8 other known parties in interest of the grounds and reasons
9 for its inability to make such finding other than the grounds
10 and reasons specified in any petition to deny the application
11 filed under subsection (a). Such notice, which shall pre-
12 ceede formal designation for a hearing, shall advise the
13 applicant and all other known parties in interest of all such
14 other objections made to the application as well as the source
15 and nature of such objections. Following such notice, the
16 applicant shall be given an opportunity to reply. If the
17 Commission, after considering such reply and any petition
18 to deny the application filed under subsection (a) as well
19 as any reply thereto, shall be unable to make the finding
20 specified in subsection (b), it shall formally designate the
21 application for hearing on the grounds or reasons then ob-
22 taining and shall notify the applicant and all other known
23 parties in interest of such action and the grounds and reasons
24 therefor and shall specify the issues to be heard. Any party
25 in interest who is not notified by the Commission of its action

1 with respect to a particular application may acquire the
2 status of a party to the proceeding thereon by filing a peti-
3 tion for intervention showing the basis for its interest at
4 any time not less than ten days prior to the date of hearing.
5 Any hearing subsequently held upon such application shall
6 be a full hearing in which the applicant and all other parties
7 in interest shall be permitted to participate. The burden
8 of proceeding with the introduction of evidence and the
9 burden of proof shall be upon the applicant, except that,
10 with respect to any issue presented by a petition to deny or
11 a petition to enlarge issues and specified by the Commission,
12 both such burdens shall be as determined by the Commission.

13 “(d) The stations other than in the broadcasting or
14 common carrier service referred to in subsection (a) are (1)
15 fixed point to point stations, but not including control and
16 relay stations used as integral parts of mobile radio systems,
17 (2) industrial radio positioning stations for which frequen-
18 cies are assigned on an exclusive basis, (3) aeronautical en
19 route stations, (4) aeronautical advisory stations, (5) air-
20 drome control stations, (6) aeronautical fixed stations, and
21 (7) such other stations or classes of stations as the Commis-
22 sion by rule provides.

23 “(e) The Commission is authorized to adopt by rule
24 reasonable classifications of applications and amendments in
25 order to effectuate the purposes of this section.

1 “(f) Such station licenses as the Commission may grant
 2 shall be in such general form as it may prescribe, but each
 3 license shall contain, in addition to other provisions, a state-
 4 ment of the following conditions to which such license shall
 5 be subject: (1) The station license shall not vest in the
 6 licensee any right to operate the station nor any right in
 7 the use of the frequencies designated in the license beyond
 8 the term thereof nor in any other manner than authorized
 9 therein; (2) neither the license nor the right granted there-
 10 under shall be assigned or otherwise transferred in violation
 11 of this Act; (3) every license issued under this Act shall
 12 be subject in terms to the right of use or control conferred
 13 by section 606 hereof.”

14 SEC. 2. Section 319(e) of the Communications Act
 15 of 1934 (47 U.S.C. 319(e)) is amended by striking out
 16 “and (e)” and inserting in lieu thereof “(e), (d), and
 17 (c)”.

18 SEC. 3. Section 405 of the Communications Act of
 19 1934 (47 U.S.C. 405) is amended—

20 (1) by striking out “and party” in the first sen-
 21 tence and inserting in lieu thereof “any party”, and

22 (2) by inserting after the fourth sentence a new
 23 sentence as follows: “The Commission shall enter an
 24 order, with a concise statement of the reasons therefor,
 25 denying a petition for rehearing or granting such peti-

1 tion, in whole or in part, and ordering such further pro-
2 ceedings as may be appropriate: *Provided*, That in any
3 case where such petition relates to an instrument of
4 authorization granted without a hearing, the Commis-
5 sion shall take such action within ninety days of the
6 filing of such petition."

7 "ACTION UPON APPLICATIONS; FORM OF AND CONDITIONS

8 ATTACHED TO LICENSES

9 "SEC. 309. (a) (1) No application provided for in sec-
10 tions 308, 310(b), and 325(b) for an instrument of author-
11 ization or any station in the broadcasting or common car-
12 rier services or for any station within the scope of subsection
13 (e) shall be granted by the Commission earlier than thirty
14 days following issuance of public notice by the Commission of
15 the acceptance for filing of such application or of any sub-
16 stantial amendment thereof: *Provided*, That this requirement
17 shall not apply to any minor amendment of any such appli-
18 cation or to any application for (A) minor change in the
19 facilities of an authorized station, (B) consent to an invol-
20 untary assignment or transfer under section 310(b) or to
21 an assignment or transfer thereunder which does not involve a
22 substantial change in ownership or control, (C) license under
23 section 319(c) or, pending application for or grant of such
24 license, any special or temporary authorization to permit
25 interim operation to facilitate completion of authorized con-

1 *struction or to provide substantially the same service as would*
2 *be authorized by such license, (D) extension of time to com-*
3 *plete construction of authorized facilities, (E) authorization*
4 *of facilities for remote pickups, studio links and similar fa-*
5 *cilities for use in the operation of a broadcast station, or (F)*
6 *authorizations pursuant to section 325(b) where the pro-*
7 *grams to be transmitted are special events not of a continuing*
8 *nature, or (G) special temporary authorization for non-*
9 *broadcast operation not to exceed thirty days where no*
10 *application for regular operation is contemplated to be filed*
11 *or pending the filing of an application for such regular*
12 *operation or (H) authorization under any of the proviso*
13 *clauses of section 308(a).*

14 “(2) *Any party in interest may file a petition to deny*
15 *any application or amendment thereof to which the require-*
16 *ment of paragraph (1) of this subsection applies at any time*
17 *prior to the day of Commission grant thereof without hearing*
18 *or formal designation thereof for hearing: Provided, That,*
19 *with respect to any classification of applications, the Commis-*
20 *sion from time to time by rule may specify a shorter period*
21 *(no less than thirty days following the issuance of public*
22 *notice by the Commission of the acceptance for filing of such*
23 *application or of any substantial amendment thereof), which*
24 *shorter period shall be reasonably related to the time when*
25 *the applications would normally be reached for processing.*

1 *Such petition shall be served on the applicant and shall con-*
2 *tain specific allegations of fact sufficient to show that the*
3 *petitioner is a party in interest and that a grant thereof would*
4 *be prima facie inconsistent with subsection (b). Such alle-*
5 *gations of fact shall, except for those of which official notice*
6 *may be taken, be supported by affidavit of a person or per-*
7 *sons with personal knowledge thereof. The applicant shall*
8 *be given the opportunity to file a reply in which allegations*
9 *of fact or denials thereof shall similarly be supported by*
10 *affidavit. If the Commission finds on the basis of the appli-*
11 *cation, the pleadings filed, or other matters which it may offi-*
12 *cially notice that there are no substantial and material ques-*
13 *tions of fact and that a grant of the application would be*
14 *consistent with subsection (b), it shall make the grant, deny*
15 *the petition, and issue a concise statement of the reasons for*
16 *denying the petition which shall dispose of each substantial*
17 *question presented thereby. If a substantial and material*
18 *question of fact is presented or if the Commission for any*
19 *other reason is unable to find that grant of the application*
20 *would be consistent with subsection (b), it shall proceed as*
21 *provided in subsection (c).*

22 “(b) *Whether or not a petition to deny is filed under*
23 *subsection (a), the Commission shall examine each applica-*
24 *tion provided for in section 308. If upon examination of*
25 *any such application provided for in section 308 and upon*

1 *consideration of any such petition and any reply thereto or*
2 *such other matters as the Commission may officially notice*
3 *the Commission shall find that public interest, convenience,*
4 *and necessity would be served by the granting thereof, it*
5 *shall grant such application.*

6 “(c) *If upon examination of any such application, peti-*
7 *tion to deny or reply thereto or such other matters as the*
8 *Commission may officially notice the Commission is unable*
9 *to make the finding specified in subsection (b), it shall form-*
10 *ally designate the application for hearing on the ground or*
11 *reasons then obtaining and shall forthwith notify the appli-*
12 *cant and all other known parties in interest of such action*
13 *and the grounds and reasons therefor, specifying with par-*
14 *ticularity the matters and things in issue but not including*
15 *issues or requirements phrased generally: Provided, That,*
16 *if the Commission finds that by first giving the applicant and*
17 *other known parties in interest notice of all objections to such*
18 *application and an opportunity to reply thereto a determina-*
19 *tion of the application may be expedited, it shall forthwith give*
20 *such notice and opportunity for reply before formally desig-*
21 *nating the application for hearing. The parties in interest,*
22 *if any, who are not notified by the Commission of its action*
23 *with respect to a particular application, may acquire the status*
24 *of a party to the proceeding thereon by filing a petition for*
25 *intervention showing the basis for their interest at any time*

1 not less than ten days prior to the date of hearing. Any
2 hearing subsequently held upon such application shall be a
3 full hearing in which the applicant and all other parties in
4 interest shall be permitted to participate. The burden of
5 proceeding with the introduction of evidence and the burden
6 of proof shall be upon the applicant, except that with respect
7 to any issue presented by a petition to deny or a petition
8 to enlarge the issues, such burdens shall be as determined by
9 the Commission.

10 “(d) When an application subject to subsection (a)
11 has been filed, the Commission, notwithstanding the require-
12 ments thereof, may, if otherwise authorized by law and if it
13 finds that there are extraordinary circumstances requiring
14 emergency operations in the public interest and that delay in
15 the institution of such emergency operations would seriously
16 prejudice the public interest, grant a temporary authoriza-
17 tion, accompanied by a statement of its reasons therefor, to
18 permit such emergency operations for a period not exceeding
19 ninety days, and upon making like findings may extend such
20 temporary authorization for one additional period not to
21 exceed ninety days. When any such grant is made, the Com-
22 mission shall give expeditious treatment to any timely filed
23 petition to deny such application and to any petition for
24 rehearing of such grant filed under section 405.

25 “(e) The stations other than in the broadcasting or

1 *common carrier service referred to in subsection (a) are (1)*
2 *fixed point-to-point microwave stations, but not including*
3 *control and relay stations used as integral parts of mobile*
4 *radio systems, (2) industrial radio positioning stations for*
5 *which frequencies are assigned on an exclusive basis, (3)*
6 *aeronautical en route stations, (4) aeronautical advisory*
7 *stations, (5) airdrome control stations, (6) aeronautical fixed*
8 *stations, and (7) such other stations or classes of stations*
9 *as the Commission by rule provides.*

10 *“(f) The Commission is authorized to adopt by rule*
11 *reasonable classifications of applications and amendments in*
12 *order to effectuate the purposes of this section.*

13 *“(g) Such station licenses as the Commission may grant*
14 *shall be in such general form as it may prescribe, but each*
15 *license shall contain, in addition to other provisions, a state-*
16 *ment of the following conditions to which such license shall*
17 *be subject: (1) The station license shall not vest in the licensee*
18 *any right to operate the station nor any right in the use of the*
19 *frequencies designated in the license beyond the term thereof*
20 *nor in any other manner than authorized therein; (2) neither*
21 *the license nor the right granted thereunder shall be assigned*
22 *or otherwise transferred in violation of this Act; (3) every*
23 *license issued under this Act shall be subject in terms to the*
24 *right of use or control conferred by section 606 hereof.”*

25 *SEC. 2. Section 319(c) of the Communications Act of*

1 1934 (47 U.S.C. 319(c)) is amended by striking out "and
2 (c)" and inserting in lieu thereof "(c), (d), and (e)".

3 SEC. 3. Section 405 of the Communications Act of 1934
4 (47 U.S.C. 405) is amended—

5 (1) by striking out "and party" in the first sentence
6 and inserting in lieu thereof "any party", and

7 (2) by inserting after the fourth sentence a new sen-
8 tence as follows: "The Commission shall enter an order,
9 with a concise statement of the reasons therefor, denying
10 a petition for rehearing or granting such petition, in
11 whole or in part, and ordering such further proceedings
12 as may be appropriate: Provided, That in any case where
13 such petition relates to an instrument of authorization
14 granted without a hearing, the Commission shall take
15 such action within ninety days of the filing of such peti-
16 tion."

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Read twice and referred to the Committee on
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1 *Be it enacted by the Senate and House of Representa-*
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4 U.S.C. 309) is amended to read as follows:

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8 tion 308 for an instrument of authorization for any station
9 in the broadcasting or common carrier services or for any
10 station within the scope of subsection (d) shall be granted

1 by the Commission earlier than thirty days following issuance
2 of public notice by the Commission of the acceptance for
3 filing of such application or of any substantial amendment
4 thereof: *Provided*, That this requirement shall not apply to
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7 thorized station, (B) consent to an involuntary assignment
8 or transfer under section 310(b) or to an assignment or
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15 thorized by such license, (D) extension of time to complete
16 construction of authorized facilities, (E) authorization of
17 facilities for remote pickups and studio links for use by the
18 licensee or permittee of a broadcast station in the operation
19 of such station or (F) authorization under any of the proviso
20 clauses of section 308(a).

21 “(2) Any party in interest may file a petition to deny
22 any application or amendment thereof to which the require-
23 ment of paragraph (1) of this subsection applies at any
24 time prior to the day of Commission grant thereof without
25 hearing or formal designation thereof for hearing. Such pe-

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3 is a party in interest and that a grant thereof would be prima
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6 taken, be supported by affidavit of a person or persons with
7 personal knowledge thereof. The applicant shall be given
8 the opportunity to file a reply in which allegations of fact
9 or denials thereof shall similarly be supported by affidavit.
10 If the Commission, after oral argument if it deems oral
11 argument appropriate, finds that there are no substantial and
12 material questions of fact and that grant of the application
13 would be consistent with subsection (b), it shall make the
14 grant, deny the petition, and issue a concise statement of the
15 reasons for denying the petition which shall dispose of each
16 substantial question presented thereby. If a substantial and
17 material question of fact is presented or if the Commission for
18 any other reason is unable to find that grant of the applica-
19 tion would be consistent with subsection (b), it shall proceed
20 as provided in subsection (c).

21 “(b). Whether or not a petition to deny is filed under
22 subsection (a), the Commission shall examine each applica-
23 tion provided for in section 308. If upon examination of
24 any such application provided for in section 308 and upon
25 consideration of any such petition and any reply thereto, the

1 Commission shall find that public interest, convenience, and
2 necessity would be served by the granting thereof, it shall
3 grant such application.

4 “(c) If upon examination of any such application the
5 Commission is unable to make the finding specified in sub-
6 section (b), it shall forthwith notify the applicant and all
7 other known parties in interest of the grounds and reasons
8 for its inability to make such finding other than the grounds
9 and reasons specified in any petition to deny the application
10 filed under subsection (a). Such notice, which shall pre-
11 cede formal designation for a hearing, shall advise the
12 applicant and all other known parties in interest of all such
13 other objections made to the application as well as the source
14 and nature of such objections. Following such notice, the
15 applicant shall be given an opportunity to reply. If the
16 Commission, after considering such reply and any petition
17 to deny the application filed under subsection (a) as well
18 as any reply thereto, shall be unable to make the finding
19 specified in subsection (b), it shall formally designate the
20 application for hearing on the grounds or reasons then
21 obtaining and shall notify the applicant and all other known
22 parties in interest of such action and the grounds and reasons
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24 in interest who is not notified by the Commission of its action
25 with respect to a particular application may acquire the

1 status of a party to the proceeding thereon by filing a peti-
2 tion for intervention showing the basis for its interest at
3 any time not less than ten days prior to the date of hearing.
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6 the use of the frequencies designated in the license beyond
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12 by section 606 hereof.”

13 SEC. 2. Section 319 (c) of the Communications Act
14 of 1934 (47 U.S.C. 319 (c)) is amended by striking out
15 “and (c)” and inserting in lieu thereof “(c), (d), and
16 (e)”.

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4 “(c) If upon examination of any such application the
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13 other objections made to the application as well as the source
14 and nature of such objections. Following such notice, the
15 applicant shall be given an opportunity to reply. If the
16 Commission, after considering such reply and any petition
17 to deny the application filed under subsection (a) as well
18 as any reply thereto, shall be unable to make the finding
19 specified in subsection (b), it shall formally designate the
20 application for hearing on the grounds or reasons then
21 obtaining and shall notify the applicant and all other known
22 parties in interest of such action and the grounds and reasons
23 therefor and shall specify the issues to be heard. Any party
24 in interest who is not notified by the Commission of its action
25 with respect to a particular application may acquire the

1 status of a party to the proceeding thereon by filing a peti-
2 tion for intervention showing the basis for its interest at
3 any time not less than ten days prior to the date of hearing.
4 Any hearing subsequently held upon such application shall
5 be a full hearing in which the applicant and all other parties
6 in interest shall be permitted to participate. The burden
7 of proceeding with the introduction of evidence and the
8 burden of proof shall be upon the applicant, except that,
9 with respect to any issue presented by a petition to deny or
10 a petition to enlarge issues and specified by the Commission,
11 both such burdens shall be as determined by the Commission.

12 “(d) The stations other than in the broadcasting or
13 common carrier service referred to in subsection (a) are (1)
14 fixed point-to-point stations, but not including control and
15 relay stations used as integral parts of mobile radio systems,
16 (2) industrial radio positioning stations for which frequen-
17 cies are assigned on an exclusive basis, (3) aeronautical en-
18 route stations, (4) aeronautical advisory stations, (5) air-
19 drome control stations, (6) aeronautical fixed stations, and
20 (7) such other stations or classes of stations as the Commis-
21 sion by rule provides.

22 “(e) The Commission is authorized to adopt by rule
23 reasonable classifications of applications and amendments in
24 order to effectuate the purposes of this section.

25 “(f) Such station licenses as the Commission may grant

1 shall be in such general form as it may prescribe, but each
2 license shall contain, in addition to other provisions, a state-
3 ment of the following conditions to which such license shall
4 be subject: (1) The station license shall not vest in the
5 licensee any right to operate the station nor any right in
6 the use of the frequencies designated in the license beyond
7 the term thereof nor in any other manner than authorized
8 therein; (2) neither the license nor the right granted there-
9 under shall be assigned or otherwise transferred in violation
10 of this Act; (3) every license issued under this Act shall
11 be subject in terms to the right of use or control conferred
12 by section 606 hereof."

13 SEC. 2. Section 319 (c) of the Communications Act
14 of 1934 (47 U.S.C. 319 (c)) is amended by striking out
15 "and (c)" and inserting in lieu thereof "(c), (d), and
16 (e)";

17 SEC. 3: Section 405 of the Communications Act of
18 1934 (47 U.S.C. 405) is amended—

19 (1) by striking out "and party" in the first sen-
20 tence and inserting in lieu thereof "any party", and

21 (2) by inserting after the fourth sentence a new
22 sentence as follows: "The Commission shall enter an
23 order, with a concise statement of the reasons therefor,
24 denying a petition for rehearing or granting such peti-
25 tion, in whole or in part, and ordering such further pro-

1 ceedings as may be appropriate: *Provided*, That in any
2 case where such petition relates to an instrument of
3 authorization granted without a hearing, the Commis-
4 sion shall take such action within ninety days of the
5 filing of such petition.”

86TH CONGRESS
1ST SESSION

S. 1898

A BILL

To amend the Communications Act of 1934
with respect to the procedure in obtaining a
license and for rehearings under such Act.

By Mr. MAGNUSON

MAY 11, 1959

**Read twice and referred to the Committee on
Interstate and Foreign Commerce**