

Calendar No. 550

87<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 2034

[Report No. 576]

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## IN THE SENATE OF THE UNITED STATES

JUNE 7, 1961

Mr. PASTORE introduced the following bill; which was read twice and referred to the Committee on Commerce

JULY 19, 1961

Reported, under authority of the order of the Senate of July 18, 1961, by Mr. PASTORE, with amendments

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

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## A BILL

To amend the Communications Act of 1934, as amended, in order to expedite and improve the administrative process by authorizing the Federal Communications Commission to delegate functions in adjudicatory cases, repealing the review staff provisions, and revising related provisions.

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

3       That subsection (c) of section 5 of the Communications Act  
4       of 1934, as amended, is hereby repealed.

5       SEC. 2. Subsection (d) of section 5 of the Communi-  
6       cations Act of 1934, as amended, is amended to read as  
7       follows:

1       “(c) (1) When necessary to the proper functioning  
2 of the Commission and the prompt and orderly conduct of  
3 its business, the Commission may, by *published* rule or by  
4 order, delegate any of its functions to a panel of commis-  
5 sioners, an individual commissioner, an employee board, or  
6 an individual employee, including functions with respect to  
7 hearing, determining, ordering, certifying, reporting, or  
8 otherwise acting as to any work, business, or matter, and  
9 may at any time amend, modify, or rescind any such rule  
10 or order. ~~Nothing in this subsection shall modify the pro-~~  
11 ~~visions of section 7(a) of the Administrative Procedure Act.~~  
12 *Nothing in this paragraph shall authorize the Commission to*  
13 *provide for the conduct, by any person or persons other than*  
14 *persons referred to in clauses (2) and (3) of section 7(a)*  
15 *of the Administrative Procedure Act, of any hearing to*  
16 *which such section 7(a) applies.*

17       “(2) *As used in this subsection (c) the term ‘order, de-*  
18 *cision, report, or action’ does not include an initial, tentative,*  
19 *or recommended decision to which exceptions may be filed as*  
20 *provided in section 409(b).*

21       “~~(2)~~ (3) Any order, decision, ~~or~~ report, or action made  
22 or ~~other action~~ taken, pursuant to any such delegation, unless  
23 reviewed as provided in ~~subsection~~ *paragraph (3) (4)*, shall  
24 have the same force and effect, and shall be made, evidenced,

1 and enforced in the same manner, as orders, decisions, re-  
2 ports, or other actions of the Commission.

3 “~~(3)~~ (4) Any person aggrieved by any such order,  
4 decision, ~~or report, or action,~~ may file an application for  
5 review by the ~~Commission~~ *Commission*, within such time and  
6 in such manner as the Commission shall prescribe. The  
7 Commission shall have authority on its own initiative to  
8 order any matters delegated under ~~subsection~~ *paragraph* (1)  
9 before it for review on such conditions as it shall prescribe  
10 and shall make such orders therein, consistent with law, as  
11 shall be appropriate.

12 “~~(4)~~ (5) In passing upon applications for review, the  
13 Commission may grant, in whole or in part, or deny such  
14 applications without specifying any reasons therefor. No  
15 such application for review shall rely on questions of fact  
16 or law upon which the *panel of Commissioners*, individual  
17 Commissioner, ~~panel of Commissioners~~, employee board, or  
18 individual employee, has been afforded no opportunity to  
19 pass.

20 “~~(5)~~ (6) If the Commission grants the application for  
21 review, it may affirm, modify, or set aside the order, deci-  
22 sion, ~~or report made, or other action taken~~ *report, or action;*  
23 *or it may order a rehearing upon such order, decision, report;*  
24 *or action* in accordance with section 405.



1 thereby, may petition for rehearing only to the authority  
2 making ~~the decision, order, or requirement~~ or *taking the*  
3 *order, decision, report, or action*; and it shall be lawful for  
4 such authority, whether it be the Commission or other  
5 authority designated under section 5 (c) (1), in its discre-  
6 tion, to grant such a rehearing if sufficient reason therefor  
7 be made to appear. ~~Petitions~~ *A petition* for rehearing must  
8 be filed within thirty days from the date upon which public  
9 notice is given of ~~any decision, order, or requirement~~ *the*  
10 *order, decision, report, or action* complained of. No such  
11 application shall excuse any person from complying with  
12 or obeying any ~~decision, order, or requirement~~ *order, de-*  
13 *cision, report, or action* of the Commission, or operate in any  
14 manner to stay or postpone the enforcement thereof, without  
15 the special order of the Commission. The filing of a petition  
16 for rehearing shall not be a condition precedent to judicial re-  
17 view of any such ~~decision, order, or requirement~~ *order, deci-*  
18 *sion, report, or action*, except where the party seeking such  
19 review (1) was not a party to the proceedings resulting  
20 in such ~~decision, order, or requirement~~ *order, decision, report,*  
21 *or action*, or (2) relies on questions of fact or law upon  
22 which the Commission, or designated authority within the  
23 Commission, has been afforded no opportunity to pass. The  
24 Commission, or designated authority within the Commission,

1 shall enter an order, with a concise statement of the reasons  
2 therefor, denying a petition for rehearing or granting such  
3 petition, in whole or in part, and ordering such further pro-  
4 ceedings as may be appropriate: *Provided*, That in any case  
5 where such petition relates to an instrument of authorization  
6 granted without a hearing, the Commission, *or designated*  
7 *authority within the Commission*, shall take such action  
8 within ninety days of the filing of such petition. Rehearings  
9 shall be governed by such general rules as the Commission  
10 may establish, *except that no evidence other than newly*  
11 *discovered evidence, evidence which has become available*  
12 *only since the original taking of evidence, or evidence which*  
13 *the Commission or designated authority within the Commis-*  
14 *sion believes should have been taken in the original proceeding*  
15 *shall be taken on any rehearing.* The time within which a  
16 petition for review must be filed in a proceeding to which  
17 section 402 (a) applies, or within which an appeal must  
18 be taken under section 402 (b) *in any case*, shall be com-  
19 puted from the date upon which public notice is given of  
20 orders disposing of all petitions for rehearing filed with  
21 the Commission in ~~any~~ *such proceeding or case*, but any  
22 ~~decision, order, or requirement~~ *order, decision, report, or*  
23 *action made or taken* after such rehearing reversing, chang-  
24 ing, or modifying the original order shall be subject to the

1 same provisions with respect to rehearing as an original  
2 order.”

3 SEC. 4. Section 409 (a), (b), (c), and (d) of the  
4 Communications Act of 1934, as amended, are amended to  
5 read as follows:

6 “(a) In every case of adjudication (as defined in the  
7 Administrative Procedure Act) which has been designated  
8 for a hearing by the Commission, ~~the hearing shall be con-~~  
9 ~~ducted in accordance with the provisions of the Administra-~~  
10 ~~tive Procedure Act and such other rules as the Commission~~  
11 ~~may prescribe not inconsistent therewith.~~ *the person or per-*  
12 *sons conducting the hearing shall prepare and file an initial,*  
13 *tentative, or recommended decision, except where such person*  
14 *or persons become unavailable to the Commission or where*  
15 *the Commission finds upon the record that due and timely*  
16 *execution of its functions imperatively and unavoidably re-*  
17 *quire that the record be certified to the Commission for*  
18 *initial or final decision.*

19 “(b) ~~In such cases any party to the proceeding shall~~  
20 ~~be permitted to file exceptions and memoranda in support~~  
21 ~~thereof to such initial, tentative, or recommended decision,~~  
22 ~~which shall be passed upon by the Commission or the au-~~  
23 ~~thority to whom the matter may have been delegated under~~  
24 ~~section 5(e)(1).~~ *In every case of adjudication (as defined in*

1 *the Administrative Procedure Act) which has been desig-*  
2 *nated by the Commission for hearing, any party to the*  
3 *proceeding shall be permitted to file exceptions and memo-*  
4 *randa in support thereof to the initial, tentative, or recom-*  
5 *mended decision, which shall be passed upon by the Commis-*  
6 *sion or by the authority within the Commission, if any, to*  
7 *whom the function of passing upon the exceptions is delegated*  
8 *under section 5(c)(1).*

9       “(c)(1) In any case of adjudication (as defined in the  
10 Administrative Procedure Act) which has been designated  
11 for a hearing by the Commission, no person ~~except to the~~  
12 ~~extent required for the disposition of ex parte matters as~~  
13 ~~authorized by law, shall directly or indirectly make any~~  
14 ~~presentation respecting such case to the hearing officer,~~  
15 ~~unless upon notice and opportunity for all parties to partici-~~  
16 ~~pate: *Provided*, That a Commissioner conducting the hear-~~  
17 ~~ing shall be permitted to consult with his assistants and to~~  
18 ~~participate, without restriction because of his conduct of the~~  
19 ~~hearing, with the Commission upon review of the case or~~  
20 ~~any other matter: *Provided further*, That examiners shall~~  
21 ~~be permitted to consult with other examiners on questions~~  
22 ~~of law. No person except to the extent required for the~~  
23 ~~disposition of ex parte matters as authorized by law, and~~  
24 ~~except for officers, employees or agents of the Commission~~  
25 ~~not engaged in the performance of investigative or prose-~~

1 eeting functions for the Commission in such case or a fac-  
2 tually related case, shall directly or indirectly make any  
3 presentation respecting such case to the Commission or  
4 designated authority within the Commission, unless upon  
5 notice and opportunity for all parties to participate. who has  
6 participated in the presentation or preparation for presenta-  
7 tion of such case at the hearing or upon review shall (except  
8 to the extent required for the disposition of *ex parte* matters  
9 as authorized by law) directly or indirectly make any addi-  
10 tional presentation respecting such case to the hearing officer  
11 or officers or, upon review, to the Commission or to any au-  
12 thority within the Commission to whom, in such case, review  
13 functions have been delegated by the Commission under sec-  
14 tion 5(c)(1), unless upon notice and opportunity for all  
15 parties to participate.

16 “(2) The provision in subsection (c) of section 5 of the  
17 Administrative Procedure Act which states that such subsec-  
18 tion shall not apply in determining applications for initial  
19 licenses, shall not be applicable hereafter in the case of applica-  
20 tions for initial licenses before the Federal Communications  
21 Commission.

22 “(d) To the extent that the foregoing provisions of  
23 this section and section 5(c) ~~(4)~~ are in conflict with the  
24 provisions of the Administrative Procedure Act, such pro-

1 visions of this section and section 5 (c) ~~(4)~~ shall be held  
2 to supersede and modify the provisions of ~~the~~ *that* Act.”

3       SEC. 5. Notwithstanding the foregoing provisions of  
4 this Act, the second sentence of subsection (b) of section  
5 409 of the Communications Act of 1934 (which relates  
6 to the filing of exceptions and the presentation of oral argu-  
7 ment), as in force at the time of the enactment of this Act,  
8 shall continue to be applicable with respect to any case of  
9 adjudication (as defined in the Administrative Procedure  
10 Act) ~~set for hearing~~ *designated* by the Federal Communi-  
11 cations Commission *for hearing* by a notice of hearing issued  
12 prior to the date of the enactment of this Act.

13       SEC. 6. *Section 5(e) of the Communications Act of*  
14 *1934, as amended, is hereby designated section 5(d).*

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By Mr. PASTORE

JUNE 7, 1961

Read twice and referred to the Committee on  
Commerce

JULY 19, 1961

Reported with amendments

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3       That subsection (c) of section 5 of the Communications Act  
4       of 1934, as amended, is hereby repealed.

5       SEC. 2. Subsection (d) of section 5 of the Communi-  
6       cations Act of 1934, as amended, is amended to read as  
7       follows:

8       “(c) (1) When necessary to the proper functioning

1 of the Commission and the prompt and orderly conduct of  
2 its business, the Commission may, by rule or order, delegate  
3 any of its functions to a panel of commissioners, an individ-  
4 ual commissioner, an employee board, or an individual em-  
5 ployee, including functions with respect to hearing, determin-  
6 ing, ordering, certifying, reporting, or otherwise acting as  
7 to any work, business, or matter, and may at any time amend,  
8 modify, or rescind any such rule or order. Nothing in this  
9 subsection shall modify the provisions of section 7 (a) of the  
10 Administrative Procedure Act.

11 “(2) Any order, decision, or report made or other action  
12 taken, pursuant to any such delegation, unless reviewed as  
13 provided in subsection (3), shall have the same force and  
14 effect, and shall be made, evidenced, and enforced in the same  
15 manner, as orders, decisions, reports, or other actions of the  
16 Commission.

17 “(3) Any person aggrieved by any such order, decision,  
18 or report may file an application for review by the Commis-  
19 sion within such time and in such manner as the Commission  
20 shall prescribe. The Commission shall have authority on its  
21 own initiative to order any matters delegated under subsec-  
22 tion (1) before it for review on such conditions as it shall  
23 prescribe and shall make such orders therein, consistent with  
24 law, as shall be appropriate.

1       “(4) In passing upon applications for review, the Com-  
2 mission may grant, in whole or in part, or deny such appli-  
3 cations without specifying any reasons therefor. No such  
4 application for review shall rely on questions of fact or law  
5 upon which the individual Commissioner, panel of Commis-  
6 sioners, employee board, or individual employee, has been  
7 afforded no opportunity to pass.

8       “(5) If the Commission grants the application for re-  
9 view, it may affirm, modify, or set aside the order, decision,  
10 or report made, or other action taken in accordance with  
11 section 405.

12       “(6) The filing of an application for review shall be  
13 a condition precedent to judicial review of any order, de-  
14 cision, or report made or other action taken. The time  
15 within which a petition for review must be filed in a proceed-  
16 ing to which section 402 (a) applies or within which an  
17 appeal must be taken under section 402 (b), shall be com-  
18 puted from the date upon which public notice is given of  
19 orders disposing of all applications for review filed in any  
20 case.

21       “(7) The secretary and seal of the Commission shall be  
22 the secretary and seal of each panel of the Commission, each  
23 individual Commissioner, and each employee board or indi-

1 vidual employee exercising functions delegated pursuant to  
2 subsection (1) of this section.”

3 SEC. 3. Section 405 of the Communications Act of 1934,  
4 as amended, is hereby amended to read as follows:

5 “After a decision, order, or requirement has been made  
6 in any proceeding by the Commission or designated authority  
7 within the Commission under section 5 (c) (1), any party  
8 thereto, or any other person aggrieved or whose interests are  
9 adversely affected thereby, may petition for rehearing only to  
10 the authority making the decision, order, or requirement;  
11 and it shall be lawful for such authority, whether it be the  
12 Commission or other authority designated under section 5  
13 (c) (1), in its discretion, to grant such a rehearing if suf-  
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15 hearing must be filed within thirty days from the date upon  
16 which public notice is given of any decision, order, or re-  
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18 any person from complying with or obeying any decision,  
19 order, or requirement of the Commission, or operate in any  
20 manner to stay or postpone the enforcement thereof, without  
21 the special order of the Commission. The filing of a petition  
22 for rehearing shall not be a condition precedent to judicial re-  
23 view of any such decision, order, or requirement, except  
24 where the party seeking such review (1) was not a party

1 to the proceedings resulting in such decision, order, or re-  
2 quirement, or (2) relies on questions of fact or law upon  
3 which the Commission, or designated authority within the  
4 Commission, has been afforded no opportunity to pass. The  
5 Commission, or designated authority within the Commission,  
6 shall enter an order, with a concise statement of the reasons  
7 therefor, denying a petition for rehearing or granting such  
8 petition, in whole or in part, and ordering such further pro-  
9 ceedings as may be appropriate: *Provided*, That in any case  
10 where such petition relates to an instrument of authorization  
11 granted without a hearing, the Commission shall take such  
12 action within ninety days of the filing of such petition. Re-  
13 hearings shall be governed by such general rules as the  
14 Commission may establish. The time within which a petition  
15 for review must be filed in a proceeding to which section 402  
16 (a) applies, or within which an appeal must be taken under  
17 section 402 (b), shall be computed from the date upon which  
18 public notice is given of orders disposing of all petitions for  
19 rehearing filed with the Commission in any case, but any  
20 decision, order, or requirement made after such rehearing  
21 reversing, changing, or modifying the original order shall be  
22 subject to the same provisions with respect to rehearing as an  
23 original order.”

24 SEC. 4. Section 409 (a), (b), (c), and (d) of the

1 Communications Act of 1934, as amended, are amended to  
2 read as follows:

3 “(a) In every case of adjudication (as defined in the  
4 Administrative Procedure Act) which has been designated  
5 for hearing by the Commission, the hearing shall be con-  
6 ducted in accordance with the provisions of the Administra-  
7 tive Procedure Act and such other rules as the Commission  
8 may prescribe not inconsistent therewith.

9 “(b) In such cases any party to the proceeding shall  
10 be permitted to file exceptions and memoranda in support  
11 thereof to such initial, tentative, or recommended decision,  
12 which shall be passed upon by the Commission or the au-  
13 thority to whom the matter may have been delegated under  
14 section 5 (c) (1).

15 “(c) In any case of adjudication (as defined in the  
16 Administrative Procedure Act) which has been designated  
17 for hearing by the Commission, no person except to the  
18 extent required for the disposition of ex parte matters as  
19 authorized by law, shall directly or indirectly make any  
20 presentation respecting such case to the hearing officer,  
21 unless upon notice and opportunity for all parties to partici-  
22 pate: *Provided*, That a Commissioner conducting the hear-  
23 ing shall be permitted to consult with his assistants and to  
24 participate, without restriction because of his conduct of the

1 hearing, with the Commission upon review of the case or  
2 any other matter: *Provided further*, That examiners shall  
3 be permitted to consult with other examiners on questions  
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5 disposition of ex parte matters as authorized by law, and  
6 except for officers, employees or agents of the Commission  
7 not engaged in the performance of investigative or prose-  
8 cuting functions for the Commission in such case or a fac-  
9 tually related case, shall directly or indirectly make any  
10 presentation respecting such case to the Commission or  
11 designated authority within the Commission, unless upon  
12 notice and opportunity for all parties to participate.

13 “(d) To the extent that the foregoing provisions of  
14 this section and section 5 (c) (4) are in conflict with the  
15 provisions of the Administrative Procedure Act, such pro-  
16 visions of this section and section 5 (c) (4) shall be held  
17 to supersede and modify the provisions of the Act.”

18 SEC. 5. Notwithstanding the foregoing provisions of  
19 this Act, the second sentence of subsection (b) of section  
20 409 of the Communications Act of 1934 (which relates  
21 to the filing of exceptions and the presentation of oral argu-  
22 ment), as in force at the time of the enactment of this Act,  
23 shall continue to be applicable with respect to any case of  
24 adjudication (as defined in the Administrative Procedure

1 Act) set for hearing by the Federal Communications Com-  
2 mission by a notice of hearing issued prior to the date of  
3 the enactment of this Act.

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5 ployee, including functions with respect to hearing, determin-  
6 ing, ordering, certifying, reporting, or otherwise acting as  
7 to any work, business, or matter, and may at any time amend,  
8 modify, or rescind any such rule or order. Nothing in this  
9 subsection shall modify the provisions of section 7 (a) of the  
10 Administrative Procedure Act.

11 “(2) Any order, decision, or report made or other action  
12 taken, pursuant to any such delegation, unless reviewed as  
13 provided in subsection (3), shall have the same force and  
14 effect, and shall be made, evidenced, and enforced in the same  
15 manner, as orders, decisions, reports, or other actions of the  
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18 or report may file an application for review by the Commis-  
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21       “(7) The secretary and seal of the Commission shall be  
22 the secretary and seal of each panel of the Commission, each  
23 individual Commissioner, and each employee board or indi-

1 vidual employee exercising functions delegated pursuant to  
2 subsection (1) of this section.”

3 SEC. 3. Section 405 of the Communications Act of 1934,  
4 as amended, is hereby amended to read as follows:

5 “After a decision, order, or requirement has been made  
6 in any proceeding by the Commission or designated authority  
7 within the Commission under section 5 (c) (1), any party  
8 thereto, or any other person aggrieved or whose interests are  
9 adversely affected thereby, may petition for rehearing only to  
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8 may prescribe not inconsistent therewith.

9       “(b) In such cases any party to the proceeding shall  
10 be permitted to file exceptions and memoranda in support  
11 thereof to such initial, tentative, or recommended decision,  
12 which shall be passed upon by the Commission or the au-  
13 thority to whom the matter may have been delegated under  
14 section 5 (c) (1).

15       “(c) In any case of adjudication (as defined in the  
16 Administrative Procedure Act) which has been designated  
17 for hearing by the Commission, no person except to the  
18 extent required for the disposition of ex parte matters as  
19 authorized by law, shall directly or indirectly make any  
20 presentation respecting such case to the hearing officer,  
21 unless upon notice and opportunity for all parties to partici-  
22 pate: *Provided*, That a Commissioner conducting the hear-  
23 ing shall be permitted to consult with his assistants and to  
24 participate, without restriction because of his conduct of the

1 hearing, with the Commission upon review of the case or  
2 any other matter: *Provided further*, That examiners shall  
3 be permitted to consult with other examiners on questions  
4 of law. No person except to the extent required for the  
5 disposition of ex parte matters as authorized by law, and  
6 except for officers, employees or agents of the Commission  
7 not engaged in the performance of investigative or prose-  
8 cuting functions for the Commission in such case or a fac-  
9 tually related case, shall directly or indirectly make any  
10 presentation respecting such case to the Commission or  
11 designated authority within the Commission, unless upon  
12 notice and opportunity for all parties to participate.

13 “(d) To the extent that the foregoing provisions of  
14 this section and section 5 (c) (4) are in conflict with the  
15 provisions of the Administrative Procedure Act, such pro-  
16 visions of this section and section 5 (c) (4) shall be held  
17 to supersede and modify the provisions of the Act.”

18 SEC. 5. Notwithstanding the foregoing provisions of  
19 this Act, the second sentence of subsection (b) of section  
20 409 of the Communications Act of 1934 (which relates  
21 to the filing of exceptions and the presentation of oral argu-  
22 ment), as in force at the time of the enactment of this Act,  
23 shall continue to be applicable with respect to any case of  
24 adjudication (as defined in the Administrative Procedure

1 Act) set for hearing by the Federal Communications Com-  
2 mission by a notice of hearing issued prior to the date of  
3 the enactment of this Act.

87<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**S. 2034**

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## **A BILL**

To amend the Communications Act of 1934, as amended, in order to expedite and improve the administrative process by authorizing the Federal Communications Commission to delegate functions in adjudicatory cases, repealing the review staff provisions, and revising related provisions.

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By Mr. PASTORE

JUNE 7, 1961

Read twice and referred to the Committee on  
Commerce

Calendar No. 550

87<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 2034

[Report No. 576]

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## IN THE SENATE OF THE UNITED STATES

JUNE 7, 1961

Mr. PASTORE introduced the following bill; which was read twice and referred to the Committee on Commerce

JULY 19, 1961

Reported, under authority of the order of the Senate of July 18, 1961, by Mr. PASTORE, with amendments

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

---

## A BILL

To amend the Communications Act of 1934, as amended, in order to expedite and improve the administrative process by authorizing the Federal Communications Commission to delegate functions in adjudicatory cases, repealing the review staff provisions, and revising related provisions.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That subsection (c) of section 5 of the Communications Act  
4       of 1934, as amended, is hereby repealed.

5       SEC. 2. Subsection (d) of section 5 of the Communi-  
6       cations Act of 1934, as amended, is amended to read as  
7       follows:

1       “(c) (1) When necessary to the proper functioning  
2 of the Commission and the prompt and orderly conduct of  
3 its business, the Commission may, by *published* rule or by  
4 order, delegate any of its functions to a panel of commis-  
5 sioners, an individual commissioner, an employee board, or  
6 an individual employee, including functions with respect to  
7 hearing, determining, ordering, certifying, reporting, or  
8 otherwise acting as to any work, business, or matter, and  
9 may at any time amend, modify, or rescind any such rule  
10 or order. ~~Nothing in this subsection shall modify the pro-~~  
11 ~~visions of section 7(a) of the Administrative Procedure Act.~~  
12 *Nothing in this paragraph shall authorize the Commission to*  
13 *provide for the conduct, by any person or persons other than*  
14 *persons referred to in clauses (2) and (3) of section 7(a)*  
15 *of the Administrative Procedure Act, of any hearing to*  
16 *which such section 7(a) applies.*

17       “(2) *As used in this subsection (c) the term ‘order, de-*  
18 *cision, report, or action’ does not include an initial, tentative,*  
19 *or recommended decision to which exceptions may be filed as*  
20 *provided in section 409(b).*

21       “~~(2)~~ (3) Any order, decision, ~~or~~ report, or action made  
22 or ~~other action~~ taken, pursuant to any such delegation, unless  
23 reviewed as provided in ~~subsection~~ *paragraph* ~~(3)~~ (4), shall  
24 have the same force and effect, and shall be made, evidenced,

1 and enforced in the same manner, as orders, decisions, re-  
2 ports, or other actions of the Commission.

3 “~~(3)~~ (4) Any person aggrieved by any such order,  
4 decision, ~~or report, or action,~~ may file an application for  
5 review by the ~~Commission~~ *Commission*, within such time and  
6 in such manner as the Commission shall prescribe. The  
7 Commission shall have authority on its own initiative to  
8 order any matters delegated under ~~subsection~~ *paragraph* (1)  
9 before it for review on such conditions as it shall prescribe  
10 and shall make such orders therein, consistent with law, as  
11 shall be appropriate.

12 “~~(4)~~ (5) In passing upon applications for review, the  
13 Commission may grant, in whole or in part, or deny such  
14 applications without specifying any reasons therefor. No  
15 such application for review shall rely on questions of fact  
16 or law upon which the *panel of Commissioners*, individual  
17 Commissioner, ~~panel of Commissioners~~, employee board, or  
18 individual employee, has been afforded no opportunity to  
19 pass.

20 “~~(5)~~ (6) If the Commission grants the application for  
21 review, it may affirm, modify, or set aside the order, deci-  
22 sion, ~~or report made, or other action taken~~ *report, or action;*  
23 *or it may order a rehearing upon such order, decision, report,*  
24 *or action in accordance with section 405.*



1 thereby, may petition for rehearing only to the authority  
2 making ~~the decision, order, or requirement~~ or taking the  
3 order, decision, report, or action; and it shall be lawful for  
4 such authority, whether it be the Commission or other  
5 authority designated under section 5 (c) (1), in its discre-  
6 tion, to grant such a rehearing if sufficient reason therefor  
7 be made to appear. ~~Petitions~~ A petition for rehearing must  
8 be filed within thirty days from the date upon which public  
9 notice is given of ~~any decision, order, or requirement~~ the  
10 order, decision, report, or action complained of. No such  
11 application shall excuse any person from complying with  
12 or obeying any ~~decision, order, or requirement~~ order, de-  
13 cision, report, or action of the Commission, or operate in any  
14 manner to stay or postpone the enforcement thereof, without  
15 the special order of the Commission. The filing of a petition  
16 for rehearing shall not be a condition precedent to judicial re-  
17 view of any such ~~decision, order, or requirement~~ order, deci-  
18 sion, report, or action, except where the party seeking such  
19 review (1) was not a party to the proceedings resulting  
20 in such ~~decision, order, or requirement~~ order, decision, report,  
21 or action, or (2) relies on questions of fact or law upon  
22 which the Commission, or designated authority within the  
23 Commission, has been afforded no opportunity to pass. The  
24 Commission, or designated authority within the Commission,

1 shall enter an order, with a concise statement of the reasons  
2 therefor, denying a petition for rehearing or granting such  
3 petition, in whole or in part, and ordering such further pro-  
4 ceedings as may be appropriate: *Provided*, That in any case  
5 where such petition relates to an instrument of authorization  
6 granted without a hearing, the Commission, *or designated*  
7 *authority within the Commission*, shall take such action  
8 within ninety days of the filing of such petition. Rehearings  
9 shall be governed by such general rules as the Commission  
10 may establish, *except that no evidence other than newly*  
11 *discovered evidence, evidence which has become available*  
12 *only since the original taking of evidence, or evidence which*  
13 *the Commission or designated authority within the Commis-*  
14 *sion believes should have been taken in the original proceeding*  
15 *shall be taken on any rehearing*. The time within which a  
16 petition for review must be filed in a proceeding to which  
17 section 402 (a) applies, or within which an appeal must  
18 be taken under section 402 (b) *in any case*, shall be com-  
19 puted from the date upon which public notice is given of  
20 orders disposing of all petitions for rehearing filed with  
21 the Commission in ~~any~~ *such proceeding or case*, but any  
22 ~~decision, order, or requirement~~ *order, decision, report, or*  
23 *action made or taken after such rehearing reversing, chang-*  
24 *ing, or modifying the original order shall be subject to the*

1 same provisions with respect to rehearing as an original  
2 order.”

3 SEC. 4. Section 409 (a), (b), (c), and (d) of the  
4 Communications Act of 1934, as amended, are amended to  
5 read as follows:

6 “(a) In every case of adjudication (as defined in the  
7 Administrative Procedure Act) which has been designated  
8 for a hearing by the Commission, ~~the hearing shall be con-~~  
9 ~~ducted in accordance with the provisions of the Administra-~~  
10 ~~tive Procedure Act and such other rules as the Commission~~  
11 ~~may prescribe not inconsistent therewith.~~ *the person or per-*  
12 *sons conducting the hearing shall prepare and file an initial,*  
13 *tentative, or recommended decision, except where such person*  
14 *or persons become unavailable to the Commission or where*  
15 *the Commission finds upon the record that due and timely*  
16 *execution of its functions imperatively and unavoidably re-*  
17 *quire that the record be certified to the Commission for*  
18 *initial or final decision.*

19 “(b) ~~In such cases any party to the proceeding shall~~  
20 ~~be permitted to file exceptions and memoranda in support~~  
21 ~~thereof to such initial, tentative, or recommended decision;~~  
22 ~~which shall be passed upon by the Commission or the au-~~  
23 ~~thority to whom the matter may have been delegated under~~  
24 ~~section 5(e)(1).~~ *In every case of adjudication (as defined in*

1 *the Administrative Procedure Act) which has been desig-*  
2 *nated by the Commission for hearing, any party to the*  
3 *proceeding shall be permitted to file exceptions and memo-*  
4 *randa in support thereof to the initial, tentative, or recom-*  
5 *mended decision, which shall be passed upon by the Commis-*  
6 *sion or by the authority within the Commission, if any, to*  
7 *whom the function of passing upon the exceptions is delegated*  
8 *under section 5(c)(1).*

9       “(c) (1) In any case of adjudication (as defined in the  
10 Administrative Procedure Act) which has been designated  
11 for a hearing by the Commission, no person except to the  
12 extent required for the disposition of ex parte matters as  
13 authorized by law, shall directly or indirectly make any  
14 presentation respecting such case to the hearing officer,  
15 unless upon notice and opportunity for all parties to partici-  
16 pate: *Provided*, That a Commissioner conducting the hear-  
17 ing shall be permitted to consult with his assistants and to  
18 participate, without restriction because of his conduct of the  
19 hearing, with the Commission upon review of the case or  
20 any other matter: *Provided further*, That examiners shall  
21 be permitted to consult with other examiners on questions  
22 of law. No person except to the extent required for the  
23 disposition of ex parte matters as authorized by law, and  
24 except for officers, employees or agents of the Commission  
25 not engaged in the performance of investigative or prose-

1 euting functions for the Commission in such case or a fac-  
2 tually related case, shall directly or indirectly make any  
3 presentation respecting such case to the Commission or  
4 designated authority within the Commission, unless upon  
5 notice and opportunity for all parties to participate. who has  
6 participated in the presentation or preparation for presenta-  
7 tion of such case at the hearing or upon review shall (except  
8 to the extent required for the disposition of ex parte matters  
9 as authorized by law) directly or indirectly make any addi-  
10 tional presentation respecting such case to the hearing officer  
11 or officers or, upon review, to the Commission or to any au-  
12 thority within the Commission to whom, in such case, review  
13 functions have been delegated by the Commission under sec-  
14 tion 5(c)(1), unless upon notice and opportunity for all  
15 parties to participate.

16 “(2) The provision in subsection (c) of section 5 of the  
17 Administrative Procedure Act which states that such subsec-  
18 tion shall not apply in determining applications for initial  
19 licenses, shall not be applicable hereafter in the case of applica-  
20 tions for initial licenses before the Federal Communications  
21 Commission.

22 “(d) To the extent that the foregoing provisions of  
23 this section and section 5 (c) ~~(4)~~ are in conflict with the  
24 provisions of the Administrative Procedure Act, such pro-

1 provisions of this section and section 5 (c) ~~(4)~~ shall be held  
2 to supersede and modify the provisions of ~~the~~ *that Act.*”

3       SEC. 5. Notwithstanding the foregoing provisions of  
4 this Act, the second sentence of subsection (b) of section  
5 409 of the Communications Act of 1934 (which relates  
6 to the filing of exceptions and the presentation of oral argu-  
7 ment), as in force at the time of the enactment of this Act,  
8 shall continue to be applicable with respect to any case of  
9 adjudication (as defined in the Administrative Procedure  
10 Act) ~~set for hearing~~ *designated* by the Federal Communi-  
11 cations Commission *for hearing* by a notice of hearing issued  
12 prior to the date of the enactment of this Act.

13       SEC. 6. *Section 5(e) of the Communications Act of*  
14 *1934, as amended, is hereby designated section 5(d).*

Calendar No. 550

87<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**S. 2034**

[Report No. 576]

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---

**A BILL**

To amend the Communications Act of 1934, as amended, in order to expedite and improve the administrative process by authorizing the Federal Communications Commission to delegate functions in adjudicatory cases, repealing the review staff provisions, and revising related provisions.

---

---

By Mr. PASTORE

JUNE 7, 1961

Read twice and referred to the Committee on  
Commerce

JULY 19, 1961

Reported with amendments

87<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 2034

---

IN THE SENATE OF THE UNITED STATES

JUNE 7, 1961

Mr. PASTORE introduced the following bill; which was read twice and referred to the Committee on Commerce

---

## A BILL

To amend the Communications Act of 1934, as amended, in order to expedite and improve the administrative process by authorizing the Federal Communications Commission to delegate functions in adjudicatory cases, repealing the review staff provisions, and revising related provisions.

1       *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 That subsection (c) of section 5 of the Communications Act  
4 of 1934, as amended, is hereby repealed.

5       SEC. 2. Subsection (d) of section 5 of the Communi-  
6 cations Act of 1934, as amended, is amended to read as  
7 follows:

8       “(c) (1) When necessary to the proper functioning

1 of the Commission and the prompt and orderly conduct of  
2 its business, the Commission may, by rule or order, delegate  
3 any of its functions to a panel of commissioners, an individ-  
4 ual commissioner, an employee board, or an individual em-  
5 ployee, including functions with respect to hearing, determin-  
6 ing, ordering, certifying, reporting, or otherwise acting as  
7 to any work, business, or matter, and may at any time amend,  
8 modify, or rescind any such rule or order. Nothing in this  
9 subsection shall modify the provisions of section 7 (a) of the  
10 Administrative Procedure Act.

11 “ (2) Any order, decision, or report made or other action  
12 taken, pursuant to any such delegation, unless reviewed as  
13 provided in subsection (3), shall have the same force and  
14 effect, and shall be made, evidenced, and enforced in the same  
15 manner, as orders, decisions, reports, or other actions of the  
16 Commission.

17 “ (3) Any person aggrieved by any such order, decision,  
18 or report may file an application for review by the Commis-  
19 sion within such time and in such manner as the Commission  
20 shall prescribe. The Commission shall have authority on its  
21 own initiative to order any matters delegated under subsec-  
22 tion (1) before it for review on such conditions as it shall  
23 prescribe and shall make such orders therein, consistent with  
24 law, as shall be appropriate.

1       “(4) In passing upon applications for review, the Com-  
2 mission may grant, in whole or in part, or deny such appli-  
3 cations without specifying any reasons therefor. No such  
4 application for review shall rely on questions of fact or law  
5 upon which the individual Commissioner, panel of Commis-  
6 sioners, employee board, or individual employee, has been  
7 afforded no opportunity to pass.

8       “(5) If the Commission grants the application for re-  
9 view, it may affirm, modify, or set aside the order, decision,  
10 or report made, or other action taken in accordance with  
11 section 405.

12       “(6) The filing of an application for review shall be  
13 a condition precedent to judicial review of any order, de-  
14 cision, or report made or other action taken. The time  
15 within which a petition for review must be filed in a proceed-  
16 ing to which section 402 (a) applies or within which an  
17 appeal must be taken under section 402 (b), shall be com-  
18 puted from the date upon which public notice is given of  
19 orders disposing of all applications for review filed in any  
20 case.

21       “(7) The secretary and seal of the Commission shall be  
22 the secretary and seal of each panel of the Commission, each  
23 individual Commissioner, and each employee board or indi-

1 vidual employee exercising functions delegated pursuant to  
2 subsection (1) of this section.”

3 SEC. 3. Section 405 of the Communications Act of 1934,  
4 as amended, is hereby amended to read as follows:

5 “After a decision, order, or requirement has been made  
6 in any proceeding by the Commission or designated authority  
7 within the Commission under section 5 (c) (1), any party  
8 thereto, or any other person aggrieved or whose interests are  
9 adversely affected thereby, may petition for rehearing only to  
10 the authority making the decision, order, or requirement;  
11 and it shall be lawful for such authority, whether it be the  
12 Commission or other authority designated under section 5  
13 (c) (1), in its discretion, to grant such a rehearing if suf-  
14 ficient reason therefor be made to appear. Petitions for re-  
15 hearing must be filed within thirty days from the date upon  
16 which public notice is given of any decision, order, or re-  
17 quirement complained of. No such application shall excuse  
18 any person from complying with or obeying any decision,  
19 order, or requirement of the Commission, or operate in any  
20 manner to stay or postpone the enforcement thereof, without  
21 the special order of the Commission. The filing of a petition  
22 for rehearing shall not be a condition precedent to judicial re-  
23 view of any such decision, order, or requirement, except  
24 where the party seeking such review (1) was not a party

1 to the proceedings resulting in such decision, order, or re-  
2 quirement, or (2) relies on questions of fact or law upon  
3 which the Commission, or designated authority within the  
4 Commission, has been afforded no opportunity to pass. The  
5 Commission, or designated authority within the Commission,  
6 shall enter an order, with a concise statement of the reasons  
7 therefor, denying a petition for rehearing or granting such  
8 petition, in whole or in part, and ordering such further pro-  
9 ceedings as may be appropriate: *Provided*, That in any case  
10 where such petition relates to an instrument of authorization  
11 granted without a hearing, the Commission shall take such  
12 action within ninety days of the filing of such petition. Re-  
13 hearings shall be governed by such general rules as the  
14 Commission may establish. The time within which a petition  
15 for review must be filed in a proceeding to which section 402  
16 (a) applies, or within which an appeal must be taken under  
17 section 402 (b), shall be computed from the date upon which  
18 public notice is given of orders disposing of all petitions for  
19 rehearing filed with the Commission in any case, but any  
20 decision, order, or requirement made after such rehearing  
21 reversing, changing, or modifying the original order shall be  
22 subject to the same provisions with respect to rehearing as an  
23 original order.”

24 SEC. 4. Section 409 (a), (b), (c), and (d) of the

1 Communications Act of 1934, as amended, are amended to  
2 read as follows:

3 “(a) In every case of adjudication (as defined in the  
4 Administrative Procedure Act) which has been designated  
5 for hearing by the Commission, the hearing shall be con-  
6 ducted in accordance with the provisions of the Administra-  
7 tive Procedure Act and such other rules as the Commission  
8 may prescribe not inconsistent therewith.

9 “(b) In such cases any party to the proceeding shall  
10 be permitted to file exceptions and memoranda in support  
11 thereof to such initial, tentative, or recommended decision,  
12 which shall be passed upon by the Commission or the au-  
13 thority to whom the matter may have been delegated under  
14 section 5 (c) (1).

15 “(c) In any case of adjudication (as defined in the  
16 Administrative Procedure Act) which has been designated  
17 for hearing by the Commission, no person except to the  
18 extent required for the disposition of ex parte matters as  
19 authorized by law, shall directly or indirectly make any  
20 presentation respecting such case to the hearing officer,  
21 unless upon notice and opportunity for all parties to partici-  
22 pate: *Provided*, That a Commissioner conducting the hear-  
23 ing shall be permitted to consult with his assistants and to  
24 participate, without restriction because of his conduct of the

1 hearing, with the Commission upon review of the case or  
2 any other matter: *Provided further*, That examiners shall  
3 be permitted to consult with other examiners on questions  
4 of law. No person except to the extent required for the  
5 disposition of ex parte matters as authorized by law, and  
6 except for officers, employees or agents of the Commission  
7 not engaged in the performance of investigative or prose-  
8 cuting functions for the Commission in such case or a fac-  
9 tually related case, shall directly or indirectly make any  
10 presentation respecting such case to the Commission or  
11 designated authority within the Commission, unless upon  
12 notice and opportunity for all parties to participate.

13 “(d) To the extent that the foregoing provisions of  
14 this section and section 5 (c) (4) are in conflict with the  
15 provisions of the Administrative Procedure Act, such pro-  
16 visions of this section and section 5 (c) (4) shall be held  
17 to supersede and modify the provisions of the Act.”

18 SEC. 5. Notwithstanding the foregoing provisions of  
19 this Act, the second sentence of subsection (b) of section  
20 409 of the Communications Act of 1934 (which relates  
21 to the filing of exceptions and the presentation of oral argu-  
22 ment), as in force at the time of the enactment of this Act,  
23 shall continue to be applicable with respect to any case of  
24 adjudication (as defined in the Administrative Procedure

1 Act) set for hearing by the Federal Communications Com-  
2 mission by a notice of hearing issued prior to the date of  
3 the enactment of this Act.

87<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**S. 2034**

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---

## **A BILL**

To amend the Communications Act of 1934, as amended, in order to expedite and improve the administrative process by authorizing the Federal Communications Commission to delegate functions in adjudicatory cases, repealing the review staff provisions, and revising related provisions.

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By Mr. PASTORE

JUNE 7, 1961

Read twice and referred to the Committee on  
Commerce

87<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 2034

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IN THE SENATE OF THE UNITED STATES

JUNE 7, 1961

Mr. PASTORE introduced the following bill; which was read twice and referred to the Committee on Commerce

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## A BILL

To amend the Communications Act of 1934, as amended, in order to expedite and improve the administrative process by authorizing the Federal Communications Commission to delegate functions in adjudicatory cases, repealing the review staff provisions, and revising related provisions.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That subsection (c) of section 5 of the Communications Act  
4       of 1934, as amended, is hereby repealed.

5       SEC. 2. Subsection (d) of section 5 of the Communi-  
6       cations Act of 1934, as amended, is amended to read as  
7       follows:

8       “(c) (1) When necessary to the proper functioning

1 of the Commission and the prompt and orderly conduct of  
2 its business, the Commission may, by rule or order, delegate  
3 any of its functions to a panel of commissioners, an individ-  
4 ual commissioner, an employee board, or an individual em-  
5 ployee, including functions with respect to hearing, determin-  
6 ing, ordering, certifying, reporting, or otherwise acting as  
7 to any work, business, or matter, and may at any time amend,  
8 modify, or rescind any such rule or order. Nothing in this  
9 subsection shall modify the provisions of section 7 (a) of the  
10 Administrative Procedure Act.

11 “ (2) Any order, decision, or report made or other action  
12 taken, pursuant to any such delegation, unless reviewed as  
13 provided in subsection (3), shall have the same force and  
14 effect, and shall be made, evidenced, and enforced in the same  
15 manner, as orders, decisions, reports, or other actions of the  
16 Commission.

17 “ (3) Any person aggrieved by any such order, decision,  
18 or report may file an application for review by the Commis-  
19 sion within such time and in such manner as the Commission  
20 shall prescribe. The Commission shall have authority on its  
21 own initiative to order any matters delegated under subsec-  
22 tion (1) before it for review on such conditions as it shall  
23 prescribe and shall make such orders therein, consistent with  
24 law, as shall be appropriate.

1       “(4) In passing upon applications for review, the Com-  
2 mission may grant, in whole or in part, or deny such appli-  
3 cations without specifying any reasons therefor. No such  
4 application for review shall rely on questions of fact or law  
5 upon which the individual Commissioner, panel of Commis-  
6 sioners, employee board, or individual employee, has been  
7 afforded no opportunity to pass.

8       “(5) If the Commission grants the application for re-  
9 view, it may affirm, modify, or set aside the order, decision,  
10 or report made, or other action taken in accordance with  
11 section 405.

12       “(6) The filing of an application for review shall be  
13 a condition precedent to judicial review of any order, de-  
14 cision, or report made or other action taken. The time  
15 within which a petition for review must be filed in a proceed-  
16 ing to which section 402 (a) applies or within which an  
17 appeal must be taken under section 402 (b), shall be com-  
18 puted from the date upon which public notice is given of  
19 orders disposing of all applications for review filed in any  
20 case.

21       “(7) The secretary and seal of the Commission shall be  
22 the secretary and seal of each panel of the Commission, each  
23 individual Commissioner, and each employee board or indi-

1 vidual employee exercising functions delegated pursuant to  
2 subsection (1) of this section.”

3 SEC. 3. Section 405 of the Communications Act of 1934,  
4 as amended, is hereby amended to read as follows:

5 “After a decision, order, or requirement has been made  
6 in any proceeding by the Commission or designated authority  
7 within the Commission under section 5 (c) (1), any party  
8 thereto, or any other person aggrieved or whose interests are  
9 adversely affected thereby, may petition for rehearing only to  
10 the authority making the decision, order, or requirement;  
11 and it shall be lawful for such authority, whether it be the  
12 Commission or other authority designated under section 5  
13 (c) (1), in its discretion, to grant such a rehearing if suf-  
14 ficient reason therefor be made to appear. Petitions for re-  
15 hearing must be filed within thirty days from the date upon  
16 which public notice is given of any decision, order, or re-  
17 quirement complained of. No such application shall excuse  
18 any person from complying with or obeying any decision,  
19 order, or requirement of the Commission, or operate in any  
20 manner to stay or postpone the enforcement thereof, without  
21 the special order of the Commission. The filing of a petition  
22 for rehearing shall not be a condition precedent to judicial re-  
23 view of any such decision, order, or requirement, except  
24 where the party seeking such review (1) was not a party

1 to the proceedings resulting in such decision, order, or re-  
2 quirement, or (2) relies on questions of fact or law upon  
3 which the Commission, or designated authority within the  
4 Commission, has been afforded no opportunity to pass. The  
5 Commission, or designated authority within the Commission,  
6 shall enter an order, with a concise statement of the reasons  
7 therefor, denying a petition for rehearing or granting such  
8 petition, in whole or in part, and ordering such further pro-  
9 ceedings as may be appropriate: *Provided*, That in any case  
10 where such petition relates to an instrument of authorization  
11 granted without a hearing, the Commission shall take such  
12 action within ninety days of the filing of such petition. Re-  
13 hearings shall be governed by such general rules as the  
14 Commission may establish. The time within which a petition  
15 for review must be filed in a proceeding to which section 402  
16 (a) applies, or within which an appeal must be taken under  
17 section 402 (b), shall be computed from the date upon which  
18 public notice is given of orders disposing of all petitions for  
19 rehearing filed with the Commission in any case, but any  
20 decision, order, or requirement made after such rehearing  
21 reversing, changing, or modifying the original order shall be  
22 subject to the same provisions with respect to rehearing as an  
23 original order.”

24 SEC. 4. Section 409 (a), (b), (c), and (d) of the

1 Communications Act of 1934, as amended, are amended to  
2 read as follows:

3 “(a) In every case of adjudication (as defined in the  
4 Administrative Procedure Act) which has been designated  
5 for hearing by the Commission, the hearing shall be con-  
6 ducted in accordance with the provisions of the Administra-  
7 tive Procedure Act and such other rules as the Commission  
8 may prescribe not inconsistent therewith.

9 “(b) In such cases any party to the proceeding shall  
10 be permitted to file exceptions and memoranda in support  
11 thereof to such initial, tentative, or recommended decision,  
12 which shall be passed upon by the Commission or the au-  
13 thority to whom the matter may have been delegated under  
14 section 5 (c) (1).

15 “(c) In any case of adjudication (as defined in the  
16 Administrative Procedure Act) which has been designated  
17 for hearing by the Commission, no person except to the  
18 extent required for the disposition of ex parte matters as  
19 authorized by law, shall directly or indirectly make any  
20 presentation respecting such case to the hearing officer,  
21 unless upon notice and opportunity for all parties to partici-  
22 pate: *Provided*, That a Commissioner conducting the hear-  
23 ing shall be permitted to consult with his assistants and to  
24 participate, without restriction because of his conduct of the

1 Act) set for hearing by the Federal Communications Com-  
2 mission by a notice of hearing issued prior to the date of  
3 the enactment of this Act.

87<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**S. 2034**

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## **A BILL**

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To amend the Communications Act of 1934, as amended, in order to expedite and improve the administrative process by authorizing the Federal Communications Commission to delegate functions in adjudicatory cases, repealing the review staff provisions, and revising related provisions.

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By Mr. PASTORE

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JUNE 7, 1961

Read twice and referred to the Committee on  
Commerce

1 hearing, with the Commission upon review of the case or  
2 any other matter: *Provided further*, That examiners shall  
3 be permitted to consult with other examiners on questions  
4 of law. No person except to the extent required for the  
5 disposition of ex parte matters as authorized by law, and  
6 except for officers, employees or agents of the Commission  
7 not engaged in the performance of investigative or prose-  
8 cuting functions for the Commission in such case or a fac-  
9 tually related case, shall directly or indirectly make any  
10 presentation respecting such case to the Commission or  
11 designated authority within the Commission, unless upon  
12 notice and opportunity for all parties to participate.

13 “(d) To the extent that the foregoing provisions of  
14 this section and section 5(c) (4) are in conflict with the  
15 provisions of the Administrative Procedure Act, such pro-  
16 visions of this section and section 5(c) (4) shall be held  
17 to supersede and modify the provisions of the Act.”

18 SEC. 5. Notwithstanding the foregoing provisions of  
19 this Act, the second sentence of subsection (b) of section  
20 409 of the Communications Act of 1934 (which relates  
21 to the filing of exceptions and the presentation of oral argu-  
22 ment), as in force at the time of the enactment of this Act,  
23 shall continue to be applicable with respect to any case of  
24 adjudication (as defined in the Administrative Procedure