

21. *Effect of relinquishment prior to one year's residence.*—In the event that any entry of public land shall be relinquished at any time prior to actual resident upon the land by the entryman for not less than one year, the lands so relinquished shall not be subject to entry for a period of 60 days after the filing and notation of the relinquishment in the local land office. During the 10-day period next succeeding the expiration of such 60-day period, any person having the necessary qualifications may file application for said public land. If, on the tenth day of said 10-day period, prior to 2 p. m., the number of applications filed exceeds the number of available farm units, then the right to make entry for such farm units shall be determined in accordance with the procedure described in paragraph 11 of this order.

22. *Waiver of mineral rights.*—All homestead entries for any of the above-described land will be subject to the laws of the United States governing mineral land and all applicants under this order must waive the right to the mineral content of the land, if required to do so, by the Land Office, otherwise the homestead application will be rejected, or the homestead entry canceled.

T. A. WALTERS,
First Assistant Secretary.

[F. R. Doc. 937—Filed, June 18, 1936; 9:35 a. m.]

FEDERAL COMMUNICATIONS COMMISSION.

Telegraph Division.

[Order No. 22—Docket No. 4010]

NOTICE OF HEARING, AMENDMENT OF RULE FOR SUB-ALLOCATION OF FREQUENCIES, CLASS A AMATEUR RADIO-TELEPHONY OPERATION

At a session of the Telegraph Division of the Federal Communications Commission held at its offices in Washington, D. C., on the 9th day of June 1936;

The Telegraph Division having under consideration the request of the Board of Directors of the American Radio Relay League that the Commission's Rule 377, providing for a sub-allocation of frequencies for Class A amateur radio-telephony operation (Type A-3 emission), be amended to expand the present band 3900 to 4000 kilocycles to include the band 3850 to 4000 kilocycles, and

It appearing, that many licensed amateur operators are opposed to any expansion of the existing radiotelephony bands, and

It further appearing, that it is desirable in the public interest for the Commission to be more fully advised in the premises;

It is therefore ordered, that a public hearing be held before the Telegraph Division in the offices of the Commission at Washington, D. C., beginning at 10 A. M., on October 20, 1936, and continuing from day to day until completed, for the purpose of assisting the Commission in determining whether the proposed change in Rule 377 would serve public interest, convenience, and necessity, and such other questions as may be properly considered by the Commission before acting upon the said request.

It is further ordered, that notice of the hearing shall be given interested parties by posting a copy of this order in the office of the Secretary of the Commission, by publication in the Federal Register, and by issuing a press release thereon.

It is further ordered, that all persons desiring to be heard at the hearing herein provided for shall, not later than ten (10) days prior to the hearing, file with the Commission a notice of such intention stating their interest in the proceeding and in a general way the nature of testimony to be presented.

By the Commission.

[SEAL]

JOHN B. REYNOLDS,
Acting Secretary.

[F. R. Doc. 934—Filed, June 18, 1936; 9:29 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

SECURITIES EXCHANGE ACT OF 1934

AMENDMENT TO RULE AN21

The Securities and Exchange Commission, deeming it necessary and appropriate in the public interest and for the protection of investors so to do, pursuant to authority conferred upon it by the Securities Exchange Act of 1934, as amended, and particularly Sections 3 (a) (12), 10 (b) and 23 (a) thereof hereby amends paragraph (a) of Rule AN21 by deleting the word "thirtieth" in the phrase "to and including the thirtieth day" and inserting in lieu thereof the word "seventy-fifth", so that, as amended, said paragraph (a) shall read as follows:

(a) Evidences of indebtedness (I) which have been issued by any foreign state that is presently governed by an interim government which is holding office temporarily and which is to continue to hold such office only until the assumption thereof by a regular government which has been elected and (II) as to which temporary exemption from the operation of Section 12 (a) shall expire pursuant to the terms of Rule AN7 on May 15, 1936, and as to which registration shall not be effective on that date, shall be exempt from the operation of said Section 12 (a) to and including the seventy-fifth day following the assumption of office by such elected regular government.

This amendment shall be effective immediately upon publication.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, Secretary.

[F. R. Doc. 940—Filed, June 18, 1936; 12:43 p. m.]

Saturday, June 20, 1936

No. 71

DEPARTMENT OF LABOR.

Immigration and Naturalization Service.

[Fourth Amendment to General Order No. 228]

DESIGNATING CHIEF MOUNTAIN, MONTANA, AS A PORT OF ENTRY FOR ALIENS

JUNE 13, 1936.

By virtue of and pursuant to the authority vested in me by Section 23 of the Immigration Act of 1917 (Act of February 5, 1917, 39 Stat. 892; U. S. C., Ti. 8, Sec. 102), and Executive Order No. 6166, dated June 10, 1933, I, Daniel W. MacCormack, Commissioner of Immigration and Naturalization, with the approval of the Secretary of Labor, do hereby prescribe that Paragraph 1, Subdivision A, Rule 3, of the Immigration Rules of January 1, 1930, as amended by General Order No. 228, dated December 21, 1935, be amended by adding Chief Mountain, Montana, to the list of ports of entry for aliens in District No. 15, headquarters Spokane, Washington, for the period June 20 to October 15, 1936, inclusive.

[SEAL]

D. W. MACCORMACK, Commissioner.

Approved:

FRANCES PERKINS, Secretary.

[F. R. Doc. 945—Filed, June 19, 1936; 11:11 a. m.]

FEDERAL HOME LOAN BANK BOARD.

Federal Savings and Loan Insurance Corporation.

BONDS FOR OFFICERS, DIRECTORS, AND EMPLOYEES

Be it resolved, That pursuant to the authority vested in the Board of Trustees by Sections 402 (a) and 403 (b) of the National Housing Act (48 Stat. 1246, 1256, 1257) as amended, Section 15 (a) of the Rules and Regulations for Insurance of Accounts is hereby repealed and the following new Section 15 (a) is hereby substituted in lieu thereof:

An applicant prior to receiving its certificate of insurance shall procure a fidelity bond covering each officer, director, or employee who has control over or access to cash or

securities of such institution in the regular discharge of his duties. In lieu of individual bonds for each such officer, director, or employee, the applicant may procure a blanket bond covering all persons having control over or access to its cash and securities. Each such bond shall be executed by a responsible surety company or organization acceptable to the Board in amounts as follows: (1) for associations with assets up to \$1,250,000, \$2,500 or 2 per cent of the assets of the association, whichever is greater; (2) for associations with assets from \$1,250,000 to \$2,500,000, \$25,000; (3) for associations with assets over \$2,500,000 and not over \$5,000,000, 1 per cent of the assets of the association; (4) for associations with assets over \$5,000,000 and not over \$10,000,000, \$50,000; (5) for associations with assets over \$10,000,000 and not over \$20,000,000, 1/2 of 1 per cent of the assets of the association; (6) for associations with assets equal to or in excess of \$20,000,000, \$100,000; provided, however, that where individual bonds are furnished, the Board may, in the case of employees other than officers or directors, upon application which shall set forth the character of the duties and responsibilities of such employees, modify the requirements of the foregoing schedule with respect thereto. Such bond shall be approved by the board of directors of the applicant.

[SEAL]

R. L. NAGLE, *Secretary*.

[F. R. Doc. 942—Filed, June 19, 1936; 11:02 a. m.]

RESERVES

Be it resolved, That pursuant to the authority vested in the Board of Trustees by Sections 402 (a) and 403 (b) of the National Housing Act (48 Stat. 1246, 1256, 1257) as amended, Section 11 (e) of the Rules and Regulations for Insurance of Accounts is hereby repealed, and the following new Section 11 (e) is hereby substituted in lieu thereof:

If at any time before the Federal insurance reserve account equals 5 per cent of all insured accounts, losses are charged to such reserve account the insured institution shall not declare any dividends until such reserve account equals a sum aggregating the credits of three-tenths of 1 per cent of its insured accounts hereinabove required to be annually credited to such reserve account. If at any time after the Federal insurance reserve account equals or exceeds 5 per cent of all insured accounts, losses are charged to such reserve account so that such reserve account is reduced below 5 per cent of all insured accounts, the insured institution shall credit an amount sufficient to restore such reserve account to 5 per cent of all insured accounts before any dividend can be paid on the shares of the insured institution; provided, however, that if such reserve account shall have been brought up to 5 per cent of all insured accounts by credits thereto in excess of the amounts hereinabove required to be annually credited to such account, then it shall only be necessary before dividends may be declared or paid by the insured institution, to restore such reserve account to an amount which shall equal a sum aggregating the credits of three-tenths of 1 per cent of its insured accounts hereinabove required to be annually credited to such reserve account, and thereafter such annual credits shall be resumed until the net credits again equal 5 per cent of all insured accounts. Even though losses may have been charged to the Insurance Reserve Account, dividends may be declared and paid in any year if the declaration of such dividends is approved by the Corporation.

[SEAL]

R. L. NAGLE, *Secretary*.

[F. R. Doc. 943—Filed, June 19, 1936; 11:02 a. m.]

Home Owners' Loan Corporation.

BONDS FOR OFFICERS, DIRECTORS, AND EMPLOYEES

Be it resolved, That pursuant to the authority vested in the Board by Section 5 (a) of the Home Owners' Loan Act of

1933 (48 Stat. 132; U. S. Code, Title 12, Section 1464) Section 12 (a) of the Rules and Regulations for Federal Savings and Loan Associations is hereby repealed and the following new Section 12 (a) is hereby substituted in lieu thereof:

Thereupon the board of directors shall procure a fidelity bond covering each officer, director, or employee who has control over or access to cash or securities of such association. In lieu of individual bonds for each such officer, director, or employee, the board of directors may procure a blanket bond covering all persons having control over or access to its cash and securities. Each such bond shall be executed by a responsible surety company or organization acceptable to the board in amounts as follows: (1) for associations with assets up to \$1,250,000, \$2,500 or 2 per cent of the assets of the association, whichever is greater; (2) for associations with assets from \$1,250,000 to \$2,500,000, \$25,000; (3) for associations with assets over \$2,500,000 and not over \$5,000,000, 1 per cent of the assets of the association; (4) for associations with assets over \$5,000,000 and not over \$10,000,000, \$50,000; (5) for associations with assets over \$10,000,000 and not over \$20,000,000, one-half of 1 per cent of the assets of the association; (6) for associations with assets equal to or in excess of \$20,000,000, \$100,000; provided, however, that where individual bonds are furnished, the Board may, in the case of employees other than officers or directors, upon application which shall set forth the character of the duties and responsibilities of such employees, modify the requirements of the foregoing schedule with respect thereto. Such bond shall be approved by the board of directors of the association. The premium shall be paid by the association. The bond shall be placed in the custody of the Federal home loan bank of which the association is a member. The receipt for the bond shall be at all times in the possession of the association.

[SEAL]

R. L. NAGLE, *Secretary*.

[F. R. Doc. 944—Filed, June 19, 1936; 11:02 a. m.]

INTERSTATE COMMERCE COMMISSION.

RULES OF PRACTICE BEFORE THE COMMISSION IN PROCEEDINGS UNDER THE INTERSTATE COMMERCE ACT AND RELATED ACTS¹

[Revised to April 1, 1936]

Rule	CONTENTS
I.	Public sessions and hearings; notice.
I-A.	Personal appearances; appearances by individual parties, partner, or officer.
I-B.	Admission to practice.
	1. Register of practitioners.
	2. Classes of persons who may be admitted.
	(a) Attorneys at law.
	(b) Persons not attorneys, possessing legal and technical qualifications.
	3. Applications for admission; certificates as to qualifications.
	4. Additional certificates by sponsors of applicant; hearing; abandonment of application.
	5. Oath.
	6. Denial of application, suspension, disbarment.
II.	Parties.
	(a) Classes who may appear; ethical standards of conduct.
	(b) 1. Complainants defined.
	2. Defendants defined.
	3. Joinder of complainants who have similar causes of action.
	(c) Defendants, when through transportation involved.
	(d) Joint defendants, when several carriers involved.
	(e) Defendants in classification cases.
	(f) Receiver or trustee as defendant.
	(g) Respondents.
	(h) Protestants and respondents in investigation and suspension, and valuation proceedings.

¹ These rules are prescribed under authority of sections 5, 13, 17, and 19a of the Interstate Commerce Act.

The bracketed headings, and the cross references and annotations, are not part of the rules themselves.

References to "Inters. Com. Acts Ann." are to the eight numbered volumes constituting Senate Document No. 166, 70th Congress, 1st session, entitled "Interstate Commerce Acts Annotated" and Senate Document No. 139, 73rd Congress, 2d session.

Rule

II. Parties—Continued.

- (l) Carriers as applicants.
- (j) Petitions.
- (k) Interveners.
- (1) 1. Intervening petitions; who may make; contents.
- 2. Number of copies to be furnished.
- 3. Broadening issues.
- 4. Intervener becomes a party.
- 5. Appearance by parties without intervention in investigations and abandonment proceedings.

III. Complaints.

- (a) Complaints either informal or formal.
- (b) Informal complaints.
- (c) Substance of informal complaint.
- (d) Informal complainant may complain formally.
- (e) Statute of limitations, requisites of informal complaints as to damages.
- (f) Special docket applications.
- (g) Six months' rule for resubmission on informal or formal docket.
- (h) Formal complaints:
 - 1. Form and style.
 - 2. Subscription and verification of complaints required.
 - 3. Number of copies; service.
- (i) Statement of issues:
 - 1. Joinder of causes of complaint.
 - 2. Tariff references.
- (j) Violation of several sections to be separately stated.
- (k) Rates increased since Jan. 1, 1910.
- (l) Discrimination under sec. 2 to be specified.
- (m) Preference or prejudice under sec. 3 to be specified.
- (n) Complaints as to intrastate rates.
- (o) Violations of sec. 4, facts and tariff references to be specified.
- (p) Complaints asking damages, matters to be alleged.
- (q) Sufficiency to toll statute of limitations; damages pendente lite.
- (r) Proof of damage when shipments or rates numerous.
- (s) Reparation must be prayed for.
- (t) Supplemental complaints.
- (u) Limitation of action when damages sought by supplemental complaint.
- (v) Cross complaints (see rule IV (g) and (h)).

IV. Answers.

- (a) Form and style.
- (b) Time of filing.
- (c) Answers to petitions in intervention, amended or cross complaints.
- (d) Answers to be full and complete.
- (e) Denials of violations of secs. 2 or 3.
- (f) Fourth-section departures.
- (g) Narrowing issues desired; affirmative defenses; counterclaim and set-offs.
- (h) Cross complaints; filing and service; hearing and disposition.
- (i) Statements as to satisfaction of complaints.

IV.-A. Protests of tentative valuations; form, style, matters to be stated.

V. Reparation statements—formal claims for reparation based upon findings of the Commission.

- (a) Shipments not covered by complaint to be excluded; verification by carriers; certification; concurrence of non-defendants.
- (b) Shipments moving over more than one route; separate statements.
- (c) Filing with Commission.
 - (1) Reparation orders.
 - (2) Statute not tolled when shipments not covered by complaint.
- (d) Adjustment of errors, and agreed statements.

VI. Service.

- (a) Service of complaints; number of copies.
- (b) Pleadings filed must show service; method of service.
- (c) Service upon attorneys.
- (d) Valuation proceedings, pleadings filed must show service; copies for use of Commission.

VII. Amendments.

- (a) Allowance or refusal discretionary.
- (b) Subscription and verification.
- (c) Directed, of valuation protests.

VIII. Continuances and extensions of time; cause; discretion in granting or denying.

IX. Stipulations; how evidenced; agreement upon facts desirable.

X. Hearings.

- (a) Assignment for hearing; examination of witnesses.
- (b) Order of procedure, various proceedings; when interveners heard.
- (c) Calling for further evidence.

Rule

X-A. Shortened procedure.

- (a) Selection of cases, and consent to reference and hearing, under shortened procedure.
- (b) Designation of representatives to receive memoranda; joint representation desirable.
- (c) Notice by Commission of application of rule.
- (d) Declination to consent not prejudicial; oral hearing.
- (e) Complainant's memorandum of facts and argument; copies, service.
- (f) Defendant's answer memorandum; copies; service; default.
- (g) Complainant's reply memorandum; copies; service; default.
- (h) Intervening petitions; service of memoranda upon and by interveners.
- (i) Form and contents of memoranda; expense bills.
- (j) Verification of memoranda; notation on copies.
- (k) Additional time for filing and service of memoranda.
- (l) Reply memorandum concludes evidence; subsequent procedure.
- (m) Assignment for oral hearing.

XI. Depositions.

- (a) When permissible.
- (b) Officer before whom taken; when taken in foreign country.
- (c) Notice of taking; service; order for taking.
- (d) Oath; reduction to writing; filing and distribution.
- (e) Form and style.
- (f) Limitation upon time for taking.
- (g) Fees of officers and witnesses.
- (h) Valuation proceedings.

XII. Witnesses and subpoenas.

- (a) Subpoenas, who may issue.
- (b) Subpoenas duces tecum, written application, specifications.
- (c) Fees of witnesses.
- (d) Return of subpoena, manner of service.

XIII. Documentary evidence.

- (a) Relevant and material matter designated as offered; copies supplied.
- (b) Offers in evidence:
 - (1) Commission's files, except tariffs, production not required.
 - (2) Records in other proceedings; objections.
- (c) Tariffs:
 - (1) Offer of matter contained in schedules.
 - (2) Reference in exhibits to tariff authority, routes, and distances.
- (d) Copies of exhibits furnished opposing counsel.
- (e) Size, form, and identification of exhibits; relevancy, materiality; not argumentative.
- (f) Filing subsequent to hearing.
- (g) Documents not received after hearing.
- (h) Exhibits in valuation cases.
- (i) Copies furnished for use of Commission.

XIV. Briefs and oral argument.

- (a) Form and style of briefs; abstracts; requests for findings.
- (b) Contents:
 - 1. Arrangement; exhibits; index and citations.
 - 2. Maps, when rate relation or misrouting involved.
- (c) Filing and service; copies for Commission; application for extension.
- (d) Procedure in proposed report cases.
 - 1. Oral argument at close of testimony.
 - 2. Initial briefs; simultaneous time; reply not permitted.
 - 3. Proposed report of examiner, service.
 - 4. Exceptions to proposed report; briefs; request for oral argument.
 - 5. Exceptions to be specific; references to record.
 - 6. Examiner's statement as basis for Commission's report.
- (e) Order of filing.
 - 1. Briefs in "no proposed report" cases.
 - 2. Time for service and filing of briefs.
 - 3. Briefs in finance and investigation and suspension proceedings.
 - 4. Briefs in valuation cases.
 - 5. Interveners' briefs.
 - 6. Failure to file opening brief precludes reply.
 - 7. Applications for oral argument, when made.
 - 8. Oral arguments at close of testimony in valuation cases.
- (f) Oral argument discretionary.

XV. Applications for further hearings, rehearings, rearguments, reconsideration, or modification of orders.

- (a) Petition; filing; service.
- (b) Further hearing or reopening; statement as to new evidence.

Rule

- XV. Applications for further hearings, etc.—Continued.
 - (c) Rehearing, reargument, or reconsideration, specification of errors; justification of proposed substitute rates.
 - (d) Modification of effective date of order or of prescribed period or date.
 - (e) Time of filing, as to reparation.
 - (f) Second application upon same grounds, not entertained.
- XV-A. Number of copies of petitions, motions, etc., and replies thereto:
 - (a) Number of copies for use of Commission.
 - (b) Replies to petitions, motions, etc.; service, time for filing, copies.
- XVI. Transcript of testimony.
 - (a) Free copies in complaint and investigation and suspension proceedings.
 - (b) Copies not furnished by Commission in other cases.
- XVII. Compliance with orders; notification to Commission; tariff references required.
- XVIII. Applications under fourth section.
 - (a) Carriers may file applications for relief; conformity with rules.
 - (b) Freight and passenger applications separate.
 - (c) Long-and-short-haul and aggregate-of-intermediates applications separate.
 - (d) Copies of applications:
 - 1. Number of copies.
 - 2. Signature, verification.
 - (e) Matters to be shown in applications.
 - (f) Hearings upon applications; pertinent information required.
 - (g) Additional matters to be shown:
 - 1. Applications based on circuitry.
 - 2. Applications based on water competition.
 - 3. Applications based on motor-truck competition.
 - 4. Applications based on market competition.
 - 5. Applications based upon weak financial condition or high operating costs of petitioning line.
 - (h) Miscellaneous provisions.
- XVIII-A. Applications under the Inland Waterways Corporation Act.
 - (a) Matters to be stated in application for certificate of convenience and necessity.
 - (b) Procedure governing submission of application.
 - 1. Subscription and verification of application.
 - 2. Number of copies furnished; completeness.
 - 3. Service upon States; publication of notice; questionnaire.
 - 4. Return to questionnaire; comments by other parties.
 - 5. Copies of return and comments sent to States.
 - 6. Filing statements as to basis of divisions.
 - 7. Petitions for suspension or modification of findings.
 - (c) Specifications, form, and style.
- XIX. Suspension of tariff schedules: time of protest; matters to be stated; number of copies.
- XIX-A. Proceedings in finance cases.
 - (a) Finance cases defined; general rules applicable.
 - (b) Special instructions.
- XX. Information to parties: secretary to advise as to form.
- XXI. Specifications as to complaints, answers, petitions, applications, briefs, etc.
 - (a) Typewritten or printed only.
 - (b) Size, acceptable copies, and legibility of typewritten papers.
 - (c) Size of printed papers.
 - (d) Briefs, printed or typewritten.
 - (e) Signature.
- XXII. Computation of time—Sundays and holidays: extension of time to include following day.
- XXIII. Office and address of the Commission.
 - (a) Transmission of pleadings, etc.; office hours.
 - (b) Address.

APPENDICES

- 1. Data found to be pertinent in cases submitted to the Commission.
- 2. Approved forms.
 - 1. Complaint.
 - 2. Answer.
 - 2-A. Certificate of service.
 - 3. Petition for leave to intervene.
 - 4. Petition for rehearing or reargument.
 - 5. Reparation statement under rule V.
 - 6. Application for relief under sec. 4 (1) of the act.
 - 7-A. Application for admission to practice before the Commission under rule I-B (a).
 - 7-B. Application for admission to practice before the Commission under rule I-B (b).
 - 8. Oath to be taken by practitioners upon admission, to be filed with the Commission.

I. PUBLIC SESSIONS AND HEARINGS; NOTICE

[Notice.] Public sessions of the Commission or divisions thereof for hearing evidence or oral arguments or for public conferences, and hearings before commissioners or examiners, will be held as set upon notice by the Commission, subject to change upon such notice as may be practicable.

CROSS REFERENCES

Interstate Commerce Act.—Principal office of Commission, Washington; Special sessions in any part of United States, § 19; Motor Carrier Act, § 205 (g); hearings, where, in Commission's discretion, § 205 (d).
 Conferences, Commission with State regulatory bodies, § 13 (3); Motor Carrier Act, § 205 (g).
Notice provided in particular cases:
 Certificates of convenience and necessity, for construction, abandonment, operation, § 1 (19); Motor carriers, for revocation, suspension, change of certificate, license, permit, § 212 (a).
 Consolidation, control, etc., of railways, § 5 (4) (b); Tentative consolidation plan, § 5 (3); Whether control unlawful, § 5 (10); Motor Carrier Act, § 213 (a) (1).
 Depositions, taking, § 12 (4); Motor Carrier Act, § 205 (e).
 Emergency service orders, § 1 (15).
 Interchangeable mileage tickets or scrip, § 22 (2).
 Intrastate rates, fares, charges, practices involved, § 13 (3); Motor Carrier Act, Commission not authorized to remove discrimination by, § 216 (e).
 Investigation, whether control unlawful, railways, § 5 (10); Motor carriers, § 213 (b) (2); whether motor carriers complying with act generally, § 204 (d).
 Investigation and suspension proceedings, § 15 (7); Motor Carrier Act, common carriers, § 216 (g); contract carriers, § 218 (c).
 Modification or suspension of orders, § 16 (6); Motor Carrier Act, § 204 (e).
 Proceedings, notice, Motor Carrier Act, § 205 (f).
 Securities, issuance, § 20a (6); Motor Carrier Act, § 214.
 Valuation, tentative, § 19a (h).
Other acts.—Air Mail Act, inquiry as to practices, § 15 (t. 39, § 469m U. S. Code); Rates, hearing, § 6 (a) (t. 39, § 469d (a) U. S. Code); Routes, posting, § 4 (t. 39, § 469b U. S. Code); Termination of contracts, § 6 (c) (t. 39, § 469d (c) U. S. Code).
 Clayton Antitrust Act, § 11 (t. 15, § 21 U. S. Code).
 Coal, transportation rates, to Bituminous Coal Commission, § 18 (t. 15, § 822 U. S. Code).
 Inland Waterways Corporation Act, § 3 (e), (t. 49, § 153 (e) U. S. Code).
 Railway Mail Service Pay Act, t. 39, § 547.
 Reorganization of railroads, Bankruptcy Act, abandonment, sale, § 77 (c), (t. 11, § 205 (o) U. S. Code); Plan of, § 77 (d), (t. 11, § 205 (d) U. S. Code).
 Service of notice, carriers' agent to receive in Washington, § 6 (t. 49, § 50 U. S. Code).
Rules of practice.—Formal complaints and valuation cases, when at issue, rule X.
Notice.—Consolidation of carriers, hearings, rule XIX-A (a); Copies of, number, rule XV-A (a); Depositions, rule XI (o); Informal disposition of claim impossible, rule III (g); Inland Waterways Corp. Act, rule XVIII-A (b) 3, 5; Intrastate rates, rule III (n); Modification of orders as to effective date, rule XV (d); Service of, rule VI (b); Shortened procedure, rule X-A (c).
Notes of decisions.—Necessity for notice and hearing before Commission, t. 28, § 47, n. 43, 4 Inters. Com. Acts Ann., p. 3155, 7 id., p. 6095. Obtaining jurisdiction over carrier by service of, § 13 (1), n. 60, 3 id., p. 1773, 7 id., p. 5422.

I-A. PERSONAL APPEARANCES

[Appearance by individual parties, partner, or officer.] Any individual or member of a partnership which is a party to any proceeding may appear for himself or such partnership upon adequate identification, and a corporation or association may be represented by a bona fide officer upon permission granted, in the discretion of the presiding commissioner or examiner.

CROSS REFERENCES

Interstate Commerce Act.—Any party may appear in person or by attorney, § 17 (1). Motor Carrier Act, § 205 (1).
 Who may complain as to acts of carrier, § 13 (1). Motor Carrier Act, § 204 (d), § 216 (e).
Bankruptcy Act.—Creditors, stockholders, may act in person, by attorney, agent, or committee, § 77 (b), (t. 11, § 205 (b) U. S. Code).
Rules of practice.—Any person may appear in person or by attorney, rule II (a); Associations, corporations, partnerships, officer, may appear, rule I-A; Investigation, abandonment proceedings, authorized without intervention, rule II (1) 5; Parties to proceedings before Commission, rule II (a); Party appearing by

² The Motor Carrier Act as enacted is numbered § 201 consecutively through § 227. The United States Code, Supplement I, numbers these sections § 301 through § 327, respectively, as a part of title 49, Transportation.

attorney, service upon attorney deemed upon party, rule VI (c); Unethical conduct as grounds for declination to permit appearance as attorney, rule II (a).

Notes of decisions.—Appearance and failure to appear, § 13 (1), n. 62, 3 Inters. Com. Acts Ann., p. 1774, 7 id., p. 5423. Appearance personally or by attorney, § 17 (1), n. 18, 3 id., p. 2211, 7 id., p. 5659.

I-B. ADMISSION TO PRACTICE

1. [*Register of practitioners.*] Commencing July 1, 1929, a register will be maintained by the Commission in which will be entered the names of all persons entitled to practice before the Commission. Corporations and firms will not be admitted or recognized.

2. [*Classes of persons who may be admitted.*] The following classes of persons whom the Commission finds, upon consideration of their applications, to be of good moral character and to possess the requisite qualifications to represent others may be admitted to practice before the Commission:

(a) [*Attorneys at law.*] Attorneys at law who are admitted to practice before the Supreme Court of the United States or the highest court of any State or Territory or the District of Columbia.

(b) [*Persons not attorneys, possessing legal and technical qualifications.*] Any person not an attorney at law who is a citizen or resident of the United States and who shall file proof to the satisfaction of the Commission that he is possessed of the necessary legal and technical qualifications to enable him to render valuable service before the Commission and is otherwise competent to advise and assist in the presentation of matters before the Commission.

3. [*Applications for admission; certificates as to qualifications.*] An application under oath for admission to practice shall be addressed to the Commission, Washington, D. C., and must state the name, residence address, and business address of the applicant, and the time and place of his admission to the bar, or the nature of his qualifications. Such application shall also state whether the applicant has ever been suspended or disbarred as an attorney in any court, or his right to practice suspended or revoked in any jurisdiction. Such applications shall be accompanied by a certificate of the clerk of the court in which the applicant is admitted to practice to the effect that he has been so admitted and is in good standing; or a certificate by three or more registered practitioners to the effect that the applicant possesses all the requisite qualifications under this rule, and moving and recommending that he be admitted to practice under this rule.

CROSS REFERENCE

Rules of practice.—Forms of applications, Appendix 2, forms No. 7-A, B.

4. [*Additional certificates by sponsors of applicant; hearing; abandonment of application.*] The Commission in its discretion may call upon the registered practitioners making such certificate for a full statement of the nature and extent of their knowledge of the qualifications of the applicant. If upon a consideration of the papers filed by the applicant and the statements submitted by his sponsors, or otherwise, the Commission is not satisfied as to the sufficiency of the applicant's qualifications under these rules, it will so notify him by registered mail, whereupon he may request a hearing for the purpose of showing his qualifications. If he presents such request, the Commission will accord him a hearing. If he presents to the Commission no request for such hearing within 20 days after receiving the notification above referred to, his application shall be deemed to be withdrawn.

5. [*Oath.*] Upon being admitted, each applicant shall subscribe to an oath or affirmation that he will demean himself, as a practitioner before this Commission, uprightly and according to law; and that he will support the Constitution of the United States.

CROSS REFERENCE

Rules of practice.—Form of oath to be taken by practitioner, Appendix 2, form 8.

6. [*Denial of admission, suspension, disbarment.*] The Commission may, in its discretion, deny admission, suspend, or disbar any person who it finds does not possess the requisite qualifications to represent others, or is lacking in character, integrity, or proper professional conduct. Any person who has been admitted to practice may be disbarred only after he is afforded an opportunity to be heard.

CROSS REFERENCE

Rules of practice.—Ethical standards of conduct, declination of permission to appear for nonobservance, Rule II (a).

II. PARTIES

(a) [*Classes; who may appear; ethical standards of conduct.*] The parties to proceedings before the Commission are complainants, defendants, interveners, protestants, respondents, applicants, and petitioners, according to the nature of the proceeding and their relation thereto. Any party may appear and be heard in person or by attorney. All persons appearing must conform in such proceedings to the standards of ethical conduct required of practitioners before the courts of the United States. Failure to conform to those standards will be ground for declining to permit appearance as attorney in any proceeding before the Commission.

CROSS REFERENCES

Interstate Commerce Act.—Appearance in person or by attorney authorized, § 17 (1). Motor Carrier Act, § 205 (1).

Bankruptcy Act.—Appearance in person, by attorney, agent, or committee authorized, § 77 (b), (t. 11, § 205 (b) U. S. Code.).

Rules of practice.—Denial of admission, suspension, disbarment, for improper professional conduct, rule I-B, 6; Applicants defined, rule II (1); Complainants, rule II (b) 1; Defendants, rule II (b) 2; Defendants in classification cases, rule II (e); Joint defendants, several carriers, rule II (d), when through transportation involved, rule II (c); Receivers or operating trustees as defendants, rule II (f); Interveners, rule II (k), (l) 1; Petitioners, rule II (j); Protestants, rule II (h); Respondents, rule II (g), (h); Appearance by parties, partner, or officer, rule I-A.

Notes of decisions.—§ 13 (1) Appearance and failure to appear, n. 62, 3 Inters. Com. Acts Ann., p. 1774, 7 id., p. 5423; Analogy to judicial procedure, n. 2, 3 id., p. 1735.

(b) 1. [*Complainants defined.*] In complaint cases the parties who complain to the Commission of anything done or omitted to be done in violation of the provisions of the Interstate Commerce Act, in these rules referred to as the act, by any common carrier subject to the act, are those designated in section 13 thereof, and are styled complainants.

CROSS REFERENCES

Interstate Commerce Act.—Who may complain, § 13 (1). State commissions, § 13 (2). Motor Carrier Act, § 204 (d), § 216 (e); contract carriers, § 218 (b).

Rules of practice.—Formal complaints, rule III (h) 1 and notes; Informal complaints, rule III (b), (c), (d), and notes; Joinder, rule II (b) 3.

Notes of decisions.—Complainants, § 13 (1), n. 30-39, 3 Inters. Com. Acts Ann., p. 1744-1751, 7 id., p. 5396-5400; Agents, for principal, § 16 (3), n. 63, 3 id., p. 2168; Consolidation for hearing and decision, § 13 (1), n. 53, 3 id., p. 1772, 7 id., p. 5422; Damages, proper parties seeking, § 8, n. 17-53, 2 id., p. 1554-1573, 7 id., p. 5230-5311; Misdescription of parties, or change in status, § 13 (1), n. 43, 7 id., p. 5403.

2. [*Defendants defined.*] The common carriers so complained of, and their receivers or operating trustees, if any, are styled defendants.

CROSS REFERENCES

Interstate Commerce Act.—Defendants against whom complaint brought, § 13 (1).

Rules of practice.—Defendants, when through transportation involved, rule II (c); Joint defendants, when several carriers involved, rule II (d); In classification cases, rule II (e); Receivers or operating trustees, rule II (f).

Notes of decisions.—§ 13 (1)—Nonjoinder of parties, effect, n. 40, 3 Inters. Com. Acts Ann., p. 1751, 7 id., p. 5400; Parties of whom complaint may be made, n. 37, 3 id., p. 1748, 7 id., p. 5399; Additional parties brought in, n. 41, 103, 3 id., p. 1755, 1782. § 8—Joint and several liability for damages, n. 61, 2 id., p. 1573, 7 id., p. 5307; Necessary parties when through routes and rates involved, n. 217, 2 id., p. 1638, 7 id., p. 5352.

3. [*Joinder of complainants who have similar causes of action.*] Two or more complainants may join in one complaint if their respective causes of action are against the

same defendant or defendants, and involve substantially the same violation of the act and a like state of facts.

CROSS REFERENCES

Rules of practice.—Joinder in one complaint of several grounds involving same principle, subject, or state of facts, rule III (i) 1. *Notes of decisions.*—Nonjoinder of complainants, § 13 (1), n. 39, 3 Inters. Com. Acts Ann., p. 1751, 7 id., p. 5400; Consolidation for hearing and decision, n. 53, 3 id., p. 1772, 7 id., p. 5422.

(c) [*Defendants, when through transportation involved.*] If complaint is made in respect of through transportation by continuous carriage or shipment, all carriers subject to the act participating therein should be made defendants.

CROSS REFERENCES

Interstate Commerce Act.—Defendants against whom complaint brought, § 13 (1). Interested persons included in addition to the carrier, Elkins Act, § 2 (t. 49, § 42 U. S. Code).

Rules of practice.—Defendants, when several carriers involved, rule II (d); When classification in issue, rule II (e). Receivers or operating trustees as defendants, rule II (f). Issue joined as to defendants failing to answer in time, provided, rule IV (b).

Notes of decisions.—§ 13 (1)—Parties of whom complaint may be made, n. 37, 3 Inters. Com. Acts Ann., p. 1748, 7 id., p. 5399. Effect of receivership, n. 38, 3 id., p. 1750, 7 id., p. 5399. § 8—Joint and several liability, n. 61, 2 id., p. 1573, 7 id., p. 5307. Necessity for through charges being in issue, n. 217, 2 id., p. 1638, 7 id., p. 5352.

(d) [*Joint defendants when several carriers involved.*] If complaint is made of rates, fares, charges, regulations, or practices of more than one carrier, all carriers against which an order is sought should be made defendants.

CROSS REFERENCES

See references following rule II (c). *Notes of decisions.*—Carriers directly and immediately interested, joinder, § 13 (1), n. 40, 3 Inters. Com. Acts Ann., p. 1751, 7 id., p. 5400.

(e) [*Defendants in classification cases.*] If complaint is made of a classification or any provision thereof, it will ordinarily suffice to make defendants the carriers operating one or more through routes between representative points of origin and destination.

CROSS REFERENCES

Rules of practice.—Defendants defined, rule II (b) 2; Defendants, when through transportation involved, rule II (c); Joint defendants when several carriers involved, rule II (d); Receivers and operating trustees, rule II (f).

Notes of decisions.—Railroad, concurring generally a proper party; § 13 (1), n. 40, 3 Inters. Com. Acts Ann., p. 1751, 7 id., p. 5400.

(f) [*Receiver or trustee as defendant.*] The receiver or trustee operating the line of a defendant must also be made defendant.

Notes of decisions.—Effect of receivership, § 13 (1), n. 38, 3 Inters. Com. Acts Ann., p. 1750, 7 id., p. 5399. Reparation sought, § 8, n. 66, 67, 2 id., p. 1576, 7 id., p. 5311.

(g) [*Respondents.*] In investigation proceedings the carriers designated therein are styled respondents.

CROSS REFERENCES

Interstate Commerce Act.—Investigations authorized, generally, § 13 (2).

Allowances to shippers, § 15 (13); Car-service facilities, extensions of lines, § 1 (21); Car-service rules, § 1 (14); Classifications, joint, § 15 (1), (3)—Motor Carrier Act, § 216 (e); Competitive relations between rail and water lines, § 5 (20); Compliance with act, motor carriers, § 204 (d)—contract carriers, § 218 (b); Control, or continuance of, whether unlawful, § 5 (10), (11)—Motor Carrier Act, § 213 (b) (2); Divisions of joint rates, fares, charges, § 15 (3), (6)—Motor Carrier Act, § 216 (f); Pooling, traffic, earnings, § 5 (1); Qualifications, maximum hours of service, Motor Carrier Act, § 225; Rates, fares, charges, etc., § 15 (1), (3)—Motor Carrier Act, § 216 (e); Routes, through, and joint rates, classifications, § 15 (3)—Motor Carrier Act, passengers, § 216 (e); Safety, motor operation, § 204 (a) (5); Securities, before authorization, § 20a (2)—Motor Carrier Act, § 214; Sizes, weights, motor carriers, § 225; State rates, practices, § 13 (3); Suspended rates, new fixed, § 15 (7)—Motor carriers, common, § 216 (g), contract, § 218 (c); Switch connections, § 1 (9); Train stops or automatic control, § 26; Valuation, rail carriers' property, § 19a.

Other acts.—Accident Reports Act, § 3 (t. 45, § 40 U. S. Code); Air Mail Act, unfair practices, § 15 (t. 39, § 469m U. S. Code); Examination of books, etc., contract holders, § 6 (b) (t. 39, § 469d (b) U. S. Code); Bankruptcy Act, proxy provisions, § 77 (p) (t. 11, § 205 (p) U. S. Code); Block-signal system (t. 45, § 35 U. S. Code); Clayton Antitrust Act, § 11 (t. 15, § 21 U. S. Code);

Hoch-Smith resolution, rate structure, t. 49, § 55; Medals of Honor Act (t. 45, § 44 U. S. Code); Parcel post, classifications (t. 39, § 247 U. S. Code); Railway Mail Service Pay Acts, rates (t. 39, § 554 U. S. Code).

Rules of practice.—Investigation and suspension proceedings, respondents, rule II (h); Appearances entered without leave to intervene, parties, rule II (1) 5.

Notes of decisions.—Complaint not necessary, § 13 (2), n. 5, 3 Inters. Com. Acts Ann., p. 1827, 7 id., p. 5470; Breadth of Commission's power to investigate, § 13 (1), n. 21, 3 id., p. 1740, 7 id., p. 5392; Duty to make investigation, generally, n. 22-24, 3 id., p. 1741, 7 id., p. 5393.

(h) [*Protestants and respondents in investigation and suspension, and valuation proceedings.*] In investigation and suspension proceedings those opposing the schedules under suspension are styled protestants, and the carriers whose schedules are under suspension are styled respondents. In valuation proceedings all parties given notice of a tentative valuation as provided in section 19a (h) of the act, who shall have filed protests as therein provided, are styled protestants.

CROSS REFERENCES

Rules of practice.—Filing protests, valuation, rule VI (d); Form, rule IV-A; Amendment, valuation protests, rule VII (c); Respondents, generally, rule II (g).

Notes of decisions.—§ 15 (7)—Protestants, n. 20, 3 Inters. Com. Acts Ann., p. 1966; Respondents, n. 21, 3 id., p. 1966. § 10a—Valuation proceedings, n. 290-299, 3 id., p. 2489, 7 id., p. 5786.

(i) [*Carriers as applicants.*] In applications for relief from or under any provisions of the act the carriers by whom or on whose behalf the application is made are styled applicants.

CROSS REFERENCES

Interstate Commerce Act.—Applications authorized: Acquisition of control, § 5 (4); Brokerage licenses, for, § 211 (b); Consolidation, merger, etc., railways, § 5 (4)—for modification of plan; § 5 (3)—motor carriers, § 213 (a) (1); Certificate, convenience and necessity, for abandonment, construction, operation, extension, etc., § 1 (19)—Motor carriers, § 208 (b)—revocation, suspension, change, for, § 212 (a); Competitive relations between rail and water carriers, § 5 (20); Continuance of water service by rail lines, § 5 (21); Contract, motor carriers, for relief from tariff provisions, § 218 (a); Fourth-section relief, for, § 4 (1); Holders of certificate, permit, license, motor carriers, as applicants, § 212 (a); Injunction, violations or disobedience of § 5 orders, § 5 (13)—Motor Carrier Act, § 213 (c); Operation, continuance of after application, motor carriers, § 206 (b); Permit, application for, contract carriers, § 209 (b); Pooling of freight or earnings, § 6 (1); Quotation of rates to shipper, § 6 (11); Water carriers in foreign commerce, § 25 (2); Rehearing, reargument, reconsideration, § 16a; motor carriers, § 204 (e); Securities, issuance, assumption of liability, § 20a (2), (3), (4), (6); motor carriers, § 214; Switch connections, § 1 (9).

Other acts.—Air Mail Act, unfair practice inquired into, § 15 (t. 39, § 469m U. S. Code); Bankruptcy Act, as proxy, § 77 (p) (t. 11, § 205 (p) U. S. Code); for dismissal, § 77 (c) (8); Inland Waterways Corporation Act, for certificate, § 3 (e) (t. 49, § 153 (o) U. S. Code); Medals of Honor Act, regulations of President; Railway Mail Service Pay Acts, t. 39, § 553; Reconstruction Finance Corporation Act, for loan, § 5 (t. 15, § 605 U. S. Code); Transportation of Explosives Act, as to regulation, § 233 (t. 18, § 393 U. S. Code).

Rules of practice.—Admission to practice before Commission, rule I-B; Consolidation and control of carriers, rule XIX-A (a); Convenience and necessity, certificates, rule XIX-A (a); Form and style, rule XXI; Fourth-section relief, rule XVIII; Further hearing, rule XV (a), (b); Inland waterways, certificates, rule XVIII-A; loans to carriers, rule XIX-A (a); Modification of orders, rule XV (c), (d); Number of copies filed, rule XV-A (a); Oral argument, rule XIV (d) 1; before Commission or division, rule XIV (d) 4; valuation cases, rule XIV (e) 8; Rehearing, reargument, reconsideration, rule XV (a)-(c); Securities, issuance, assumption, rule XIX-A (a); Service, methods, rule VI (b); Special docket, rule III (f); Subpenas duces tecum, rule XII (b); Vacation of order, rule XV (f), (e).

Notes of decisions.—Adversary character of proceedings, ex parte applications, § 13 (1), n. 6, 3 Inters. Com. Acts Ann., p. 1738.

(j) [*Petitioners.*] Others seeking relief are style petitioners.

CROSS REFERENCES

Interstate Commerce Act.—Petitioner not liable for costs unless on his appeal, § (2). Petition for enforcement of order for payment of money, § 16 (3) (f). State rates, fares, charges, petition of carrier concerned, § 13 (3). Motor Carrier Act, of intervention, § 205 (f).

Other acts.—Irreparable injury to petitioner, temporary injunction, t. 28, § 47; Motor Carrier Act, same rights as provided for under Part I, § 205 (h).

Bankruptcy Act, to effect reorganization, copy, § 77 (a), (t. 11, § 205 (a) U. S. Code); for abandonment, sale, § 77 (o); lessor's

petition to abandon operation, continuance until authorized, § 77 (c) 6.

Rules of practice.—For further hearing, rule XV (a) (b); Inland Waterways Act, under, rule XVIII-A (b) 7; Intervention, rule II (1) 1; Modification of orders, rule XV (c)—of date or period of orders, XV (d); Reargument, rehearing, etc., XV (a), (c); Reopening, rule XV (a).

Notes of decisions.—Adversary character of proceedings before Commission ex parte applications, § 13 (1), n. 6, 3 Inters. Com. Acts Ann., p. 1738. Intervening, see notes to rule II (1) 1.

(k) [*Interveners.*] Petitioners permitted to intervene as hereinafter provided are styled interveners.

Motor Carrier Act.—Intervention authorized, § 205 (f).

Other acts.—Bankruptcy Act, in hearings before special masters, § 77 (c) (13), (t. 11, § 205 (c) (13) U. S. Code).

Elkins Act, persons interested other than carrier, § 2 (t. 49, § 42 U. S. Code).

Clayton Antitrust Act, § 11 (t. 15, § 21 U. S. Code).

See also Cross References to next following paragraph.

Rules of practice.—Intervening petitions, rule II (1) 1, 4.

(1) 1. [*Intervening petitions; who may make; contents.*] Anyone entitled under the act to complain to the Commission, and, in valuation and finance cases (other than proceedings for the issuance of a certificate of convenience and necessity for the abandonment of a line of railroad or its operation), anyone having an interest therein, may petition for leave to intervene in any pending proceeding prior to or at the time it is called for hearing, but not after except for good cause shown. The petition must conform to the requirements of rule XXI and set forth the grounds of the proposed intervention; the position and interest of the petitioner in the proceeding; and, if affirmative relief is sought, should conform to the requirements for a formal complaint, and must be subscribed and verified in the same manner as a formal complaint.

CROSS REFERENCES

Rules of practice.—Petitioners styled interveners, rule II (k); Approved form of petition, Appendix 2, form no. 3; Answers to petitions in intervention, rule IV (c); In shortened procedure cases, rule X-A (h); Abandonment of line or operation, appearance without leave to intervene, rule II (1) 5; Investigations, and suspension cases, rule II (1) 5; Interveners become parties to proceedings, rule II (a), (k), (1), 4; Issue, undue broadening, rule II (1) 3.

Notes of decisions.—§ 13 (1)—Interventions, n. 71-78, 3 Inters. Com. Acts Ann., p. 1776-1780, 7 id., p. 5425-5429. § 8—Damages sought, n. 219, 2 id., p. 1639, 7 id., p. 5353. § 5 (4)—Control acquired by short line, n. 89, 6 id., p. 5149, § 16 (3)—Limitation of actions, n. 42, 3 id., p. 2160, 7 id., p. 5627.

2. [*Number of copies to be furnished.*] When the petition is filed prior or subsequent to the hearing the petitioner must furnish therewith a sufficient number of copies for service upon all parties to the proceeding and three additional copies for the use of the Commission. When not filed prior to but tendered at the hearing sufficient copies must be provided for distribution as motion papers to the parties represented at the hearing. If leave be granted at the hearing three additional copies must be furnished for the use of the Commission.

CROSS REFERENCE

Rules of practice.—Service by Commission, number of copies of petition to be furnished, rule VI (a).

3. [*Broadening issues.*] Leave will not be granted except on allegations reasonably pertinent to the issues already presented and which do not unduly broaden them. If the petitioner seeks a broadening of the issues upon a showing that they would not thereby be unduly broadened, and in respect thereof seeks affirmative relief, the petition should be filed in season to permit of service upon and answer by the parties before the hearing, thus making it possible in some instances to grant leave where otherwise it would be denied in fairness to the parties to the pending proceeding.

CROSS REFERENCES

Notes of decisions.—§ 13 (1)—Intervening petition unduly broadening issue, n. 77, 3 Inters. Com. Acts Ann., p. 1778, 7 id., p. 5427; Relief, when no affirmative relief asked, n. 76, 3 id., p. 1776, 7 id., p. 5427; Privilege of intervening within Commission's discretion, n. 72, 3 id., p. 1777, 7 id., p. 5426. § 16 (3)—Tolling statute of limitations, n. 42, 3 id., p. 2160, 7 id., p. 5627.

4. [*Intervener becomes a party.*] If leave is granted the petitioner thereby becomes an intervener and a party to the proceeding.

CROSS REFERENCES

Notes of decisions.—§ 13 (1)—Intervener becomes a party, n. 71, 3 Inters. Com. Acts Ann., p. 1776, 7 id., p. 5425. Intervention independently of parties, n. 73, 3 id., p. 1778.

5. [*Appearance by parties without intervention in investigations and abandonment proceedings.*] Appearances may be entered in investigation and suspension proceedings, in general investigations entered by the Commission, and in proceedings for the issuance of a certificate of convenience and necessity for the abandonment of a line of railroad or its operation, without applying for or receiving leave to intervene. Those entering appearances thereby become parties to such proceedings.

CROSS REFERENCES

Interstate Commerce Act.—Investigations authorized, see notes to rule II (c).

Notes of decisions.—§ 13 (1)—Appearance by persons not parties to record, n. 78, 3 Inters. Com. Act Ann., p. 1780, 7 id., p. 5429; Interventions, generally, n. 71, 3 id., p. 1776, 7 id., p. 5425.

III. COMPLAINTS

(a) [*Complaints either informal or formal.*] Complaints may be either informal or formal.

CROSS REFERENCES

Interstate Commerce Act.—Complaints to Commission, violation of law by carrier, § 13 (1). Motor Carrier Act, generally, § 204 (d), § 216 (e); contract carriers, § 218 (b). See also provisions of statutes as to particular duties and remedies.

Rules of practice.—Joinder of complainants and defendants, rule II (b) 3, (c), (d), (e), (f). Informal complaints, rule III (b), (c); Formal complaints, rule III (b) 1.

Notes of decisions.—§ 13 (1)—General nature of complaint proceedings, n. 1-12, 3 Inters. Com. Acts Ann., p. 1733-1740, 7 id., p. 5390-5392; Estoppel to complain, n. 26, 3 id., p. 1743, 7 id., p. 5393; n. 159, 7 id., p. 5453; Scope of power of Commission to investigate, n. 21-27, 3 id., p. 1740-1744, 7 id., p. 5392-5393. Parties to complaints, n. 30-42, 3 id., p. 1744-1755, 7 id., p. 5336-5403. Rules of pleading, n. 45-48, 3 id., p. 1755-1771, 7 id., p. 5404-5419; Form, n. 51, 3 id., p. 1771, 7 id., p. 5419. Consolidation of complaints, n. 53, 3 id., p. 1772, 7 id., p. 5422. § 15 (7)—Estoppel to complain, investigation and suspension proceedings, n. 53, 3 id., p. 1959, 7 id., p. 5553.

(b) [*Informal complaints.*] Informal complaints may be made by letter or other writing and as received are filed. Matters thus presented are, if their nature warrants it, taken up by correspondence with the carriers affected in an endeavor to bring about satisfaction of the complaint without formal hearing, and are given serial numbers on the informal docket. This informal procedure has been found efficacious in the great majority of cases and is recommended.

CROSS REFERENCES

Rules of practice.—Informal complaints, form and substance, rule III (c); Number of copies, rule III (c); Damages, definiteness, filing within statutory period of limitation, rule III (e); Filing formal complaint not precluded, rule III (d); Period for resubmission when informal disposition impossible, abandonment by not recommitting, rule III (g); Special docket application as equivalent of informal complaint, rule III (f).

Notes of decisions.—§ 13 (1)—Adversary character of informal proceedings, n. 4, 3 Inters. Com. Acts Ann., p. 1737, 7 id., p. 5391; § 16 (3) Informal complaints, broadening by formal complaints, limitation of actions, n. 52, 3 id., p. 2161, 7 id., p. 5629; Filing formal after informal proceedings closed, limitation of action, n. 54, 3 id., p. 2162, 7 id., p. 5632; Filing informal complaints, limitation of action, n. 34, 3 id., p. 2158, 7 id., p. 5624.

(c) [*Substance of informal complaint.*] No form of informal complaint is prescribed, but in substance the letter or other writing must contain the essential elements of a complaint, including name and address of the complainant, the name of the carrier or carriers against which complaint is made, a statement that the act has been violated by the carrier or carriers named, indicating when, where, and how, and a request for affirmative relief. It is desirable that the informal complaint be accompanied by copies in sufficient number to enable the Commission to transmit one to each carrier named, and it may be accompanied by supporting papers.

CROSS REFERENCES

Rules of practice.—Definiteness of informal complaints as to damages, rule III (e). Special docket application as equivalent, rule III (f). Damages sought, subscription, verification, rule III (e).
Notes of decisions.—Tolling the statute, matters to be shown, § 16 (3), n. 34, 3 Inters. Com. Acts Ann., p. 2158, 7 id., p. 5624; n. 50, 3 id., p. 2160, 7 id., p. 5628. § 13 (1)—Adversary character of proceedings, informal cases, n. 4, 3 id., p. 1737. Form, subscription, verification, n. 51, 3 id., p. 1771, 7 id., p. 5419.

(d) [Informal complainant may complain formally.] A proceeding thus instituted on the informal docket is without prejudice to complainant's right to file and prosecute a formal complaint, whereupon the proceeding on the informal docket will be discontinued.

CROSS REFERENCES

Rules of practice.—Period for resubmission after notice of failure of informal procedure, rule III (g).

Notes of decisions.—§ 16 (3)—Tolling statute of limitations, formal based on informal, n. 50, 3 Inters. Com. Acts Ann., p. 2160, 7 id., p. 5628; Broadening informal complaint, n. 52, 3 id., p. 2161, 7 id., p. 5629.

(e) [Statute of limitations, requisites of informal complaints as to damages.] Section 16 (3) of the act provides that all complaints for the recovery of damages shall be filed with the Commission within the statutory periods there specified, and not after. A complaint for the recovery of damages may be informal, but must be filed within the statutory period, and, if informal, should contain, in addition to the matters above indicated, such data³ as will serve to identify with reasonable definiteness the shipments or other transportation services in respect of which recovery is sought, the carriers participating, the kind and amount of injury sustained, when and by whom, and, if any recovery is sought on behalf of others than complainant, a statement of the capacity or authority in or by which complaint is made in their behalf. Such a complaint must be subscribed and verified as is required in the case of formal complaints under paragraph (h) 2 of this rule. Notification to the Commission that a complaint may or will be filed later for the recovery of damages is not a filing of complaint within the meaning of the statute.

CROSS REFERENCES

Interstate Commerce Act.—Limitation of actions for recovery of damages, § 16 (3).

Notes of decisions.—§ 16 (3)—Informal complaint tolling statute, n. 34, 3 Inters. Com. Acts Ann., p. 2158, 7 id., p. 5624; Filing complaint on behalf of others, n. 60-68, 3 id., p. 2164-2167, 7 id., p. 5636, 5637; Formal complaints based on informal proceedings, n. 50-54, 3 id., p. 2160-2164, 7 id., p. 5628, 5632; Complaints, filing, what constitutes, as to statute of limitations, n. 30, 3 id., p. 2155, 7 id., p. 5623.

(f) [Special docket applications.] Carriers willing to pay damages for violations of the act should make application in the form prescribed by the Commission for authority to pay. Such applications will be filed on the special docket under serial number, and, if granted, orders to that effect will be entered on the special docket. Such application, when not made upon informal complaint filed with the Commission, must be filed within the statutory period and will be deemed the equivalent of an informal complaint and an answer thereto admitting the matters stated in the application. If a carrier is unable to file such application within the statutory period and the claim is not already protected from the operation of the statute by informal complaint, a statement setting forth the facts may be filed by the carrier within the statutory period. Such statement will be deemed the equivalent of an informal complaint filed on behalf of the shipper and sufficient to stay the operation of the statute.

³ Illustrative of pertinent data are, in case of shipments, their dates, origins, destinations, consignors, and consignees, dates of delivery or tender of delivery, car numbers and initials, if in carloads, routes of movement, if known, commodities transported, weight, charges assessed, at what rate, when and by whom paid, and by whom borne.

(See also Appendix 1, data found to be pertinent in cases submitted to the Commission.)

CROSS REFERENCES

Notes of decisions.—Special docket applications, § 16 (1), n. 9, 3 Inters. Com. Acts Ann., p. 2132, 7 id., p. 5611; Tolling statute of applications, § 16 (3), n. 26, 3 Inters. Com. Acts Ann., p. 2155, 7 id., p. 5623.

(g) [Six months' rule for resubmission on informal or formal docket.] If an informal complaint for recovery of damages cannot be disposed of informally, or is denied on the informal docket, or is by complainant withdrawn from further consideration, the parties affected will be so notified in writing by the Commission. In any such case the matter will not be reconsidered unless, within six months after the date of mailing such notice to complainant, it is resubmitted on the informal docket or formal complaint is filed. Such resubmission or filing will be deemed to relate back to the date of filing the informal complaint, but reference to that date and the Commission's file number covering the informal complaint must be made in such resubmission or in the formal complaint filed. If within such six months the matter is not so resubmitted or formal complaint filed, the complainant will be deemed to have abandoned the complaint, and no complaint for recovery of damages based on the same cause of action will thereafter be placed on file or considered unless itself filed within the statutory period.

CROSS REFERENCES

Interstate Commerce Act.—Limitation of time for actions for recovery of damages, § 16 (3).

Notes of decisions.—§ 16 (3)—Formal complaints brought on informal proceedings, n. 50, 3 Inters. Com. Acts Ann., p. 2160, 7 id., p. 5628; Broadening informal complaints, n. 52, 3 id., p. 2161, 7 id., p. 5629; Filing within six months after informal proceedings closed, n. 54, 3 id., p. 2162, 7 id., p. 5632; Laches, n. 8, 3 id., p. 2152, 7 id., p. 5621. § 8—Damage claims, n. 244, 3 id., p. 1647, 7 id., p. 5394, n. 121, 3 id., p. 1787, 7 id., p. 5436.

(h) 1. [Formal complaints, form and style.] Formal complaints must conform to the requirements of rule XXI. The names of all parties complainant and defendant must be stated in full without abbreviations, and the address of each complainant, with the name and address of his attorney, if any, must appear.

CROSS REFERENCES

See also cross reference to rule III (a).

Rules of practice.—Approved form of complaint, Appendix 2, form no. 1; Copies to be filed with Commission, rule III (h) 3; Informal proceedings, institution not prejudicing filing formal complaint, rule III (d)—reference to prior informal proceedings in formal, rule III (g); Period for filing, after informal proceedings closed, rule III (g); Power of attorney filed with complaint, when, rule III (h) 2; Service, rule VI (a); Verification, rule III (h) (2), form no. 1.

Notes of decisions.—§ 13 (1)—Form, subscription, verification, n. 51, 3 Inters. Com. Acts Ann., p. 1771, 7 id., p. 5419; Amendments n. 100-105, 3 id., p. 1781, 7 id., p. 5432; Adversary character, n. 5, 3 id., p. 1738, 7 id., p. 5391; Averments sufficient to put defendant on notice, n. 48, 3 id., p. 1765, 7 id., p. 5415; Inadequate pleading, effect, n. 47, 3 id., p. 1763, 7 id., p. 5413; Withdrawal of complaint, n. 54, 3 id., p. 1773, 7 id., p. 5422. § 2—Discrimination, sufficiency of averment, n. 131, 3 id., p. 1101. § 8—Damages, detailed statement of shipments, n. 213, 2 id., p. 1636, 7 id., p. 5350. § 16 (3)—Formal complaints based on informal proceedings, n. 50, 3 id., p. 2160, 7 id., p. 5628.

2. [Subscription and verification of complaints required.] Every formal complaint must be personally subscribed (1) by the complainant, or by one of the complainants if there be more than one, (2) by an officer of the complainant if it be a corporation or other organization authorized to make complaint under the Interstate Commerce Act, or (3) for the complainant, by an attorney or practitioner, duly authorized to practice before the Commission under rule I-B, thereunto duly authorized. In addition, the facts alleged must be verified under oath by a complainant, an officer of complainant, or by the attorney or practitioner for complainant. If the subscription and verification or either thereof be by anyone other than the complainant or an officer thereof as aforesaid, the reason it is so made must be stated, and the power of attorney or authority authorizing such affiant to prosecute the complaint or make this verification must be filed with the complaint.

CROSS REFERENCES

Interstate Commerce Act.—Applications for certificate, motor carriers, under oath, § 206 (b); For permits, § 209 (b); As to securities, rail carriers, § 20 a (4)—motor carriers, § 214; Complaints against contract carriers, rates, rules, etc., § 218 (b). Depositions, § 12 (5)—Motor Carrier Act, § 205 (e).

Other acts.—Air Mail Act, affidavit under, § 8 (d), (t. 39, § 469d (d) U. S. Code).

Bankruptcy Act, applications under proxy provisions, § 77 (p), (t. 11, § 205 (p) U. S. Code).

Rules of practice.—Subscription and verification, informal complaints for recovery of damages, rule III (e); Intervening petitions, rule II (1); Amendments, rule VII (b); Shortened procedure memoranda, rule X-A (j); Depositions, rule XI (d); Section 4 applications, rule XVIII (d) 2; Inland waterways applications, rule XVIII-A (b) 1. Approved form, Appendix 2, no. 1.

Notes of decisions.—Form, subscription, verification, § 13 (1), n. 51, 3 Inters. Com. Acts Ann., p. 1771, 7 id., p. 5419.

3. [Number of copies; service.] Each formal complaint must be accompanied by copies in sufficient number to enable the Commission to serve one upon each defendant and retain three for its own use. The Commission will serve the complaint upon each defendant by leaving a copy with its designated agent in Washington, D. C., or, if no such agent has been designated, by posting a copy in the office of the secretary of the Commission.

CROSS REFERENCES

Interstate Commerce Act.—Service: orders of Commission, on designated agent of carrier at Washington, or as provided by law, § 16 (5). Motor Carrier Act, § 221 (a), (d)—recommended orders, § 205 (a); Agent of carrier maintained in Washington, or service by posting, § 6 (t. 49, § 50 U. S. Code)—Motor Carrier Act, posting § 221 (a).

Other acts.—Clayton Antitrust Act, service, return of process, § 11 (t. 15, § 21 U. S. Code).

Bankruptcy Act, petition; service, process runs in any judicial district, § 77 (a), (t. 11, § 205 (a) U. S. Code).

Copies, generally, required by statute.—Agreements, traffic, § 6 (5)—motor carriers, § 220 (a); Bankruptcy Act of petition, § 77 (a)—plan, § 77 (d); Boiler inspection rules, instructions, § 5 (t. 45, § 28 U. S. Code); Annual reports, agreements, arrangements, classifications, contracts, records, schedules, etc., prima facie evidence, § 16 (13)—Motor Carrier Act, § 204 (f); Documents, maps, records, valuation, § 19a (e); Joint tariffs of rates, etc., bases of joint interchangeable mileage tickets, § 22 (1); Mail cars, inspector's report (t. 45, § 37 U. S. Code); Water carriers' schedules, rail carriers' agents to receive, § 25 (3).

Copies furnished by Commission.—Applications, certificates of convenience and necessity to Governors, § 1 (19); Commission's decisions, reports, § 14 (2)—Motor Carrier Act, § 204 (f)—recommended orders, § 205 (a); Securities, application for approval, to Governors, § 20a (6)—Motor Carrier Act, § 214.

Rules of practice.—Attorneys, service upon, deemed service upon party, rule VI (c); Service of complaints, cross, formal, supplemental, petitions in intervention, amended complaints, rule VI (a). Shortened procedure, X-A (b), (e).

(i) 1. [Statement of issues; joinder of causes of complaint.] Complaints should be so drawn as fully and completely to advise the parties defendant and the Commission wherein the provisions of the act have been or are violated by the acts or omissions complained of or will be violated by a continuance of such acts or omissions and should set forth briefly and in plain language the facts claimed to constitute such violation and the relief sought. Two or more grounds of complaint involving the same principle, subject, or state of facts may be included in one complaint, but should be separately stated and numbered.

CROSS REFERENCES

Interstate Commerce Act.—Joinder of parties to enforce reparation orders, § 16 (4).

Rules of practice.—Joinder of complainants who have similar causes of action, rule II (b) 3; Informal complaints, substance, rule III (c); As to damages, substance, rule III (e). Data (generally) found to be pertinent in cases submitted to the Commission, Appendix 1; Fourth section applications, content, rule XVIII (e), (f), (g), (h); Inland waterways, content, rule XVIII-A.

Notes of decisions.—§ 13 (1)—Complaint, form, n. 51, 3 Inters. Com. Acts Ann., p. 1771, 7 id., p. 5419; Consolidation for hearing and determination, n. 53, 3 id., p. 1772, 7 id., p. 5422; Joinder of cause of action, n. 52, 7 id., p. 5421; Scope of issues, n. 46-49, 3 id., p. 1756-1771, 7 id., p. 5405-5419; Variances, n. 158, 7 id., p. 5452; Withdrawal by complainants, n. 54, 3 id., p. 1773, 7 id., p. 5422.

2. [Tariff references.] The several rates, fares, charges, classifications, regulations, or practices complained of should be set out by specific reference to the tariffs in which they appear whenever that is practicable.

CROSS REFERENCES

Interstate Commerce Act.—Certified copies of extracts of tariffs prima facie evidence, § 16 (13)—Motor Carrier Act, § 204 (f); Notice of changes in, § 6 (3)—Motor Carriers Act, common carriers, § 217 (c)—contract carriers, § 218 (a); Compulsory production of schedules, § 12 (1)—Motor Carrier Act, § 205 (e); Water carriers' schedules, § 5 (21), § 25 (1).

Rules of practice.—Tariff reference, fourth section violations, rule III (o); Evidence, introduction of tariffs, rule XIII (c) 1; Reference to, in exhibits showing rates, fares, charges, routes, rule XIII (c) 2.

Notes of decisions.—Admissibility of schedules in evidence, § 13 (1), n. 107, 3 Inters. Com. Acts Ann., p. 1808, 7 id., p. 5454; Presumptions—acceptance for filing, approval not presumed, § 6 (1), n. 103, 2 id., p. 1440; Compliance with law presumed as to publishing and filing, § 6 (7), n. 263, 2 id., p. 1527, 6 id., p. 5276; Failure to collect tariff rates, § 6 (7), n. 216, 2 id., p. 1510; Knowledge of legal rate, § 6 (1), n. 151, 2 id., p. 1451, 6 id., p. 5203—Elkins Act, n. 89, 4 id., p. 2768, 7 id., p. 5392, n. 4, 4 id., p. 2790.

(j) [Violations of the several sections to be separately stated.] In case violation of two or more sections of the act is alleged, the facts claimed to constitute violation of one section should be stated separately from those in respect of any other section or sections wherever that can be done by reference or otherwise without undue repetition.

CROSS REFERENCES

Rules of practice.—Specifications of discrimination under § 2, rule III (1); of preference or prejudice under § 3, rule III (m); as to violation of § 4, rule III (o); as to intrastate rates, etc., rule III (n). Prayer necessary to support award of damages, rule III (g).

Notes of decisions.—§ 13 (1)—Complaints based on violations of particular sections of the act, n. 46, 3 Inters. Com. Acts Ann., p. 1760, 7 id., p. 5403; Averments sufficient to put defendant on notice, n. 48, 3 id., p. 1765, 7 id., p. 5415; Effect of fault or inadequate pleading, n. 47, 3 id., p. 1763, 7 id., p. 5413; Variance between proof and pleading, n. 158, 7 id., p. 5452.

(k) [Rates increased since Jan. 1, 1910.] In case violation of section 1 of the act is alleged, the complaint should show whether the rates, fares, or charges assailed have been increased since January 1, 1910.

CROSS REFERENCES

Interstate Commerce Act.—Burden of proof, reasonableness of rates increased since Jan. 1, 1910, § 15 (7).

Notes of decisions.—Burden of proof, § 15 (7), n. 36, 3 Inters. Com. Acts Ann., p. 1970, 7 id., p. 5551.

(l) [Discrimination under sec. 2 to be specified.] In case unjust discrimination in violation of section 2 is alleged, the special rate, rebate, drawback, or other device and the manner in which thereby the greater or less compensation complained of has been charged, collected, or received, should be specified.

CROSS REFERENCES

Interstate Commerce Act.—Unjust discrimination defined, prohibited, § 2; Motor Carrier Act, prohibited, § 222 (c), § 216 (d)—Rate, fare, classification, regulation, etc., § 216 (e)—Rebates, § 217 (b). Aiding and abetting in securing penalty, § 10 (4)—Motor Carrier Act, § 222 (c). Drought, reduced rates for relief, not violating § 2, t. 49, § 59 U. S. Code. See also Elkins Act.

Rules of practice.—Separate statements in complaint, violation of different sections, rule III (j) and cross references; answers, rule IV (e); Damages, matters to be alleged, rule III (p).

Notes of decisions.—Damage, cause of action based on statute, § 8, n. 171, 2 Inters. Com. Acts Ann., p. 1620; Rates charged, rebates, proof and measure of damages, n. 172-174, 2 id., p. 1620-1623, 7 id., p. 5342-5343. § 13 (1)—Sufficiency of averments to raise issue of unjust discrimination, n. 48, 3 id., p. 1767, 7 id., 5415 (Compare sufficiency of averments in indictment for violation of § 2, n. 131, 2 id., p. 1101); Complaints based on violations of particular sections, n. 46, 3 id., p. 1760, 7 id., p. 5403; § 2—Drawback distinguished from unjust discrimination, n. 27, 2 id., p. 1073; Presumptions and burden of proof, n. 132, 2 id., p. 1102; Relation of § 2 to other requirements of act, n. 7, 2 id., p. 1058—to § 3 (1), n. 19, 2 id., p. 1119, 6 id., p. 5024; to Elkins Act, n. 8, 2 id., p. 1066, 6 id., p. 5003.

(m) [Preference or prejudice under sec. 3 to be specified.] In case undue or unreasonable preference or advantage, or undue or unreasonable prejudice or disadvantage, in violation of section 3 is alleged, the particular person, company, firm, corporation, locality, or description of traffic affected thereby, and the particular preference or advantage, or prejudice or disadvantage, relied upon as constituting such violation, should be clearly specified.

CROSS REFERENCES

Interstate Commerce Act.—Prohibited preferences and advantages, § 3 (1)—Motor Carrier Act, § 216 (a), (c), (d). Connecting lines, between, in distribution of unrouted traffic prohibited, § 3 (3). Drought, reduced rates for relief, not violating, provision against (t. 49, § 59 U. S. Code).

Rules of practice.—Separate statements in complaint, violations of different sections, rule III (j) and cross references. Answers, rule IV (e). Maps of localities, in briefs, rule XIV (b) 2. Damages, matters to be alleged, rule III (p).

Notes of decisions.—§ 13 (1)—Sufficiency of averments to raise issue, n. 48, 3 Inters. Com. Acts Ann., p. 1767, 7 id., p. 5417; Complaints based on particular sections of act, n. 46, 3 id., p. 1760, 7 id., p. 5402. § 3 (1)—Burden of proof of existence, n. 96, 2 id., p. 1175, 6 id., p. 5050; Preference construed, situations creating, notes to § 3 (1), 2 id., p. 1108, 6 id., p. 5022. § 8—Damages, measure of, proof, quantum and character of evidence, n. 177, 180, 181, 2 id., p. 1622-1624, 7 id., p. 5344-5346.

(n) [Complaints as to intrastate rates.] If the complaint brings in issue any rate, fare, charge, classification, regulation, or practice, made or imposed by authority of any State, or initiated by the President during the period of Federal control, as causing any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand and interstate or foreign commerce on the other hand, or any undue, unreasonable, or unjust discrimination against interstate or foreign commerce, which is forbidden and declared unlawful by section 13 of the act, the complaint should also contain appropriate allegations to present for decision the issue of the justness and reasonableness under section 1 of the rates, fares, charges, classifications, regulations, or practices complained of insofar as applicable to interstate or foreign commerce, and the issue as to what should be the rate, fare, or charge, or the maximum or minimum, or maximum and minimum thereafter to be charged, and the classification, regulation, or practice thereafter to be observed in order to remove such advantage, preference, prejudice, or discrimination. The facts should be stated with sufficient definiteness to disclose fully the contention made in respect of any tariff provision made or imposed by authority of any State or initiated by the President during the period of Federal control. The Commission, before proceeding to hear and dispose of such issue, must cause the State or States interested to be notified of the proceeding and must be furnished with copies of the complaint in sufficient number for that purpose.

CROSS REFERENCES

Interstate Commerce Act.—Investigations involving State rates, regulations, etc., cooperation and conference with State authorities, § 13 (3); Duty of Commission to remove unlawful preference, discrimination, by State rates, § 13 (4). Joint hearings, State and Federal commissions, § 13 (3)—Motor Carrier Act, § 205 (g)—joint board, hearing by, § 205 (d)—Jurisdiction and duties, § 205 (b). Classification, practices, just and reasonable, § 1 (6)—Motor Carrier Act, § 216 (b). Reasonable rates, § 1 (5)—Motor Carrier Act, common carriers, § 216 (a), (b). See also cross references to rule III (m).

Notes of decisions.—§ 13 (4)—Issue raised by complaint or by order of investigation, n. 55, 3 Inters. Com. Acts Ann., p. 1852, 7 id., p. 5487; Quantum and character of evidence, n. 58, 3 id., p. 1853, 7 id., p. 5488.

(o) [Violations of sec. 4, facts and tariff references to be specified.] In case violation of section 4 of the act is alleged, the facts as to compensation charged or received, the respects in which the section was thereby violated, and the tariff provisions applicable should be stated with particularity.

CROSS REFERENCES

Interstate Commerce Act.—Long-and-short-hauls, aggregate-of-intermediates, relief in special cases, § 4 (1).

Rules of practice.—Separate statements in complaint, violation of different sections, rule III (j) and cross references; Applications for relief, rule XVIII; Application or order protecting departure to be set forth by number in answer, rule IV (f).

Notes of decisions.—§ 13 (1)—Complaints sufficient to put defendants on notice, n. 48, 3 Inters. Com. Acts Ann., p. 1769, 7 id., p. 5415; Complaints based on particular sections of act, n. 46, 3 id., p. 1760, 7 id., p. 5408. § 8—Damages, proof, n. 185, 2 id., p. 1626, 7 id., p. 5347.

(p) [Complaints asking damages, matters to be alleged.] In case recovery of damages is sought, the complaint should contain appropriate allegations showing, in addition to the matters indicated above, such data as will serve to identify

with reasonable definiteness the shipments or other transportation services in respect of which recovery is sought, and stating (1) that complainant makes claim for reparation, (2) the name of each individual claimant asking reparation, (3) the names of defendants against which claim is made, (4) the commodities transported, the rate applied, the date when the transportation charges were paid, by whom paid, and by whom borne; (5) the period of time within which or the specific dates upon which the shipments were made, and the dates when they were delivered or tendered for delivery, (6) the points of origin and destination, either specifically or, where they are numerous, by definite indication of a defined territorial or rate group of the points of origin and destination, and, if known, the routes of movement, (7) the nature and amount of the injury sustained by each claimant, and (8) if any reparation is sought on behalf of others than the complainant, in what capacity or by what authority complaint is made in their behalf.

CROSS REFERENCES

Interstate Commerce Act.—Liability of common carrier in damages to persons injured by violation of law, § 8; Election of forum, § 9. Motor Carrier Act, loss or damage, subrogation, § 215. Accrual of cause of action, time, § 16 (3). Absence of direct damage not ground for dismissal of complaint, § 13 (2). Payment relieves carrier only to extent complained of, § 13 (1).

Other acts.—Bankruptcy Act, executory contract, unexpired lease rejected or not adopted, injured person creditor to extent of damage, § 77 (b), (t. 11, § 205 (b) U. S. Code). Suits or claims for damages under, caused by operation of trains, busses, § 77 (j).

Rules of practice.—Reparation must be prayed for, rule III (s); Requisites of informal complaints as to damages, rule III (e); Ascertainment of amount, record uncertain or shipments numerous, rule V, form 5. Damages pendente lite, rule III (q); Maps, with briefs showing situation involved, rule XIV (b) 2; Numerous shipments involved, rule III (r); Shortened procedure, proof, rule X-A (1); Rehearing asked, involving reparation, rule XV (e); Six months' rule, resubmission when complaint cannot be disposed of informally, rule III (g); Special docket applications, rule III (f); Through charge brought in issue, rule II (c).

Notes of decisions.—§ 8—Sufficiency of complaint, n. 211, 2 Inters. Com. Acts Ann., p. 1635; Detailed statement of shipments, n. 213, 2 id., p. 1636, 7 id., p. 5350; Prayer for reparation, n. 214, 2 id., p. 1636, 7 id., p. 5351; Damages pendente lite, n. 215, 2 id., p. 1637, 7 id., p. 5351; Necessity for through charge being in issue, n. 217, 2 id., p. 1638, 7 id., p. 5352; Reparation not sought in original complaint, n. 219, 2 id., p. 1639, 7 id., p. 5353; To whom right of action accrues, n. 17-53, 2 id., p. 1554-1573, 7 id., p. 5290-5306; Against whom liability accrues, n. 60-72, 2 id., p. 1573-1577, 7 id., p. 5307-5311; Findings in former cases, n. 93, 2 id., p. 1683, 7 id., p. 5312. § 13 (1)—Complaints seeking reparation, sufficiency, n. 48, 3 id., p. 1769, 7 id., p. 5418; Reparation not sought in original complaint, n. 77, 3 id., p. 1778, 7 id., p. 5427—n. 46, 3 id., p. 1761, 7 id., p. 5409; Stare decisis and res judicata, n. 185, 3 id., p. 1797, 7 id., p. 5442; § 16 (3)—Complaints filed by other parties, tolling statute of limitations, n. 60-68, 3 id., p. 2164-2166, 7 id., p. 5636-5637.

(q) [Sufficiency to toll statute of limitations; damages pendente lite.] The Commission will consider as in substantial compliance with the statute of limitations a complaint in which the complainant alleges that the matters complained of, if continued in the future, will constitute violations of the act in the particulars and to the extent indicated, and prays reparation accordingly on all shipments affected thereby which may move during the pendency of the proceeding and on which the transportation charges shall be paid and borne by the complainant.

CROSS REFERENCES

Interstate Commerce Act.—Limitation of actions for damages under the act, § 16 (3).

Rules of practice.—Formal complaints, filing within 6 months after informal closed, rule III (g); Informal complaints, filing within statutory period, rule III (e); Reparation, rule V statements, statute not tolled when shipments not covered by complaint, rule V (c) 2; Special docket applications, tolling statute, rule III (f); Supplemental complaints, tolling statute, rule III (u); Time, computation of period, rule XXII.

Notes of decisions.—Sufficiency of complaint to toll statute, shipments pendente lite, § 16 (3), n. 14, 3 Inters. Com. Acts Ann., p. 2153.

Complaints raising issue as to shipments pendente lite, § 13 (1), n. 46, 3 id., p. 1762, 7 id., p. 5413; § 8, n. 215, 2 id., p. 1637, 7 id., p. 5351; n. 231, 2 id., p. 1646.

(r) [Proof of damage when shipments or rates numerous.] If a general rate adjustment is challenged in the complaint, or many shipments or points of origin and destination are

involved, it is the practice of the Commission to find and determine in its report the issues as to violation of the act, injury thereby to complainant, and right to reparation, and thereafter to afford the parties opportunity to agree or make proof respecting the shipments and amounts of reparation due under its findings before entering its order awarding reparation. (See rule V.) In such cases freight bills and other exhibits bearing on the details of shipments, and the amount of reparation on each, need not be produced at the hearing unless called for or needed to develop other pertinent facts.

CROSS REFERENCES

Rules of practice.—Reparation must be prayed for, rule III (s); Reparation statements, formal claims for reparation based on findings of the Commission, rule V—form 5; Retention of expense bills, shortened procedure cases, rule X-A (1); Order of proof at hearing, rule X (b); Stipulations, rule IX.

Notes of decisions.—Reparation, general adjustment involved, § 8, n. 126, 2 Inters. Com. Acts Ann., p. 1599, 7 id., p. 5322; n. 127, pp. 1601, 5325. Proof of damage, § 8, n. 221-231, 2 id., p. 1640-1646, 7 id., p. 5354-5365; n. 132, 2 id., p. 1605, 7 id., p. 5332; § 13 (1), n. 126, 3 id., p. 1790, 7 id., p. 5437. Stipulations, § 13 (1), n. 110, 3 id., p. 1786, 7 id., p. 5434. Splitting cause of action, § 9, n. 33, 2 id., p. 1657; § 13 (1), n. 122, 3 id., p. 1788, 7 id., p. 5346.

(s) [*Reparation must be prayed for.*] Except under unusual circumstances, and for good cause shown, reparation will not be awarded upon a complaint in which it is not specifically prayed for, or upon a new complaint by or for the same complainant which is based upon any finding in the original proceeding.

CROSS REFERENCES

Rules of practice.—Supplemental complaint seeking damages, filing within statutory period, rule III (u). Shipments pendente lite, rule III (q).

Notes of decisions.—Splitting cause of action, § 13 (1), n. 122, 3 Inters. Com. Acts Ann., p. 1788, 7 id., p. 5346; § 9, n. 33, 2 id., p. 1657; Prayer for reparation, § 8, n. 214, 2 id., p. 1637, 7 id., p. 5351; Awards of reparation when reparation not sought in original complaint, § 8, n. 219, 2 id., p. 1639, 7 id., p. 5353; § 13 (1), n. 46, 3 id., p. 1761, 7 id., p. 5409; Intervening petitions, § 13 (1), n. 77, 3 id., p. 1778, 7 id., p. 5427.

(t) [*Supplemental complaints.*] Supplemental complaints may be tendered for filing by the parties complainant against the parties defendant in the original complaint, setting forth any causes of action under the act alleged to have accrued in favor of the complainants and against the defendants since the filing of the original complaint, and, upon leave granted, will be filed and served by the Commission as provided for original complaints, and heard, considered, and disposed of therewith in the same proceeding, if practicable.

CROSS REFERENCES

Rules of practice.—Supplemental complaint seeking damages, filing within statutory period, rule III (u); service of supplemental complaints, rule VI (a).

Notes of decisions.—Splitting cause of action, § 9, n. 33, 2 Inters. Com. Acts Ann., p. 1657; § 13 (1), n. 122, 3 id., p. 1788, 7 id., p. 5346; Supplemental complaints seeking damages, tolling statute, § 16 (3), n. 40, 3 id., p. 2160; Supplemental pleadings and amendments, § 13 (1), n. 100, 3 id., p. 1781, 7 id., p. 5432.

(u) [*Limitation of action when damages sought by supplemental complaint.*] If recovery of damages is sought by supplemental complaint it must be filed with the Commission within the statutory period.

CROSS REFERENCES

Interstate Commerce Act.—Limitation of actions for damages under the act, § 16 (3).

Notes of decisions.—Supplemental complaints, barred claims, § 16 (3), n. 40, 3 Inters. Com. Acts Ann., p. 2160.

(v) *Cross complaints.* (See Rule IV (g) and (h).)

CROSS REFERENCES

Motor Carrier Act.—Loss or damage, subrogation, § 215.

Rules of practice.—Answers to cross-complaints, rule IV (c); Service, number of copies to be filed, rule VI (a); Counterclaims against shippers not within Commission's jurisdiction, rule IV (g).

Notes of decisions.—Counterclaims, § 9, n. 27, 2 Inters. Com. Acts Ann., p. 1656, 7 id., p. 5369; Set-off or counterclaim, § 16 (1), n. 11, 3 id., p. 2134, 7 id., p. 5612; Shipper's counterclaims and set-offs, in actions by carrier for charges, § 6 (7), n. 204, 2 id., p. 1527, 7 id., p. 5276.

IV. ANSWERS

(a) [*Form and style.*] Answers must conform to the requirements of Rule XXI.

CROSS REFERENCES

Interstate Commerce Act.—Defendant carrier required to satisfy or answer complaint, § 13 (1).

Bankruptcy Act.—To petitions, 77 (a), (t. 11, § 205 (a) U. S. Code).

Rules of practice.—Approved form of answer, Appendix 2, form no. 2; Time for filing, rule IV (b). Admissions or specific denials required, rule IV (d).

Notes of decisions.—§ 13 (1)—Answer, sufficiency, n. 65, 3 Inters. Com. Acts Ann., p. 1775, 7 id., p. 5423; Effect of failure to answer, n. 61, 3 id., p. 1774, 7 id., p. 5423, n. 89, p. 1781, 5423; Replication not required or allowed, n. 70, 3 id., p. 1776.

(b) [*Time of filing.*] Answers to formal complaints must be filed with the Commission within 20 days after the day on which the complaint was served. For defendants having general offices at or west of El Paso, Tex., Salt Lake City, Utah, or Butte and Helena, Mont., said period of 20 days is extended to 30 days. The periods so fixed may be shortened or extended by the Commission when it deems advisable. The answer must in the same period be served as provided in rule VI. Any defendant failing to file and serve answer within such period will be deemed in default, and issue as to such defendant will be thereby joined.

CROSS REFERENCES

Rules of practice.—Computation of time, Sunday or holiday involved, rule XXII; Service to be shown, rule VI (b); Approved form, certificate as to service, Appendix 2, form no. 2-A; Time for filing petitions in intervention and to cross complaint, rule IV (c), (h).

Notes of decisions.—Effect of failure to answer, § 13 (1), n. 61, 3 Inters. Com. Acts Ann., p. 1774, 7 id., p. 5423; Issue, when joined, n. 89, 3 id., p. 1781.

(c) [*Answers to petitions in intervention, amended or cross complaints.*] Answers to petitions in intervention or amended complaints filed and served upon leave granted need not be separately made unless the defendants so elect, and their answers to the formal complaint will be deemed answers to the petition in intervention. Answers if separately made should be filed and served as promptly as possible and within the same period after service of petition in intervention as is above provided for answers after service of complaints. Answers to cross complaints filed and served upon leave granted must be filed and served within the same period after service of the cross complaint.

CROSS REFERENCES

Rules of practice.—Service to be shown, rule VI (b); Time of filing, rule IV (b); Computation of time, Sunday or holiday involved, rule XXII. Who may make intervening petition; contents, rule II (1). 1. Approved form, certificate as to service, Appendix 2, form no. 2-A.

Notes of decisions.—Sufficiency of answer, § 13 (1), n. 65, 3 Inters. Com. Acts Ann., p. 1775, 7 id., p. 5423.

(d) [*Answers to be full and complete.*] All answers should be so drawn as fully and completely to advise the parties and the Commission of the nature of the defense, and should admit or deny specifically and in detail each material allegation of the pleading answered.

CROSS REFERENCES

Rules of practice.—Approved form of answer, Appendix 2, form no. 3; Amended complaint, answer to complaint sufficient, rule IV (c); Defences, affirmative, separately stated and numbered, rule IV (g).

Notes of decisions.—Sufficiency of answer, § 13 (1), n. 65, 3 Inters. Com. Acts Ann., p. 1775, 7 id., p. 5423.

(e) [*Denials of violations of secs. 2 or 3.*] An answer denying that an alleged discrimination is unjust under section 2 of the act or that an alleged preference or prejudice is undue or unreasonable under section 3 of the act should state fully the grounds relied upon in making such denial.

CROSS REFERENCES

See also cross references to rule IV (d).

Notes of decisions.—Specific denial, § 13 (1), n. 65, 3 Inters. Com. Acts Ann., p. 1775, 7 id., p. 5423; Justification of discrimination, § 2, n. 25-36, 2 id., p. 1071-6, 6 id., p. 5011-2; Justification of preference or prejudice, § 3 (1), n. 65-97, 2 id., p. 1146-1176, 6

id., p. 5038-5051; Justification in particular situations, n. 100-148, 2 id., p. 1176-1215, 6 id., p. 5051-5069; Relation of § 2 to other requirements of act, and Elkins Act, n. 7, 8, 2 id., p. 1066, 6 id., p. 5009; Distinction between § 3 (1) and § 2, § 3 (1), n. 6, 2 id., p. 1110, 6 id., p. 5022; Relation of § 3 (1) to other sections of act, § 3 (1), n. 14-23, 2 id., p. 1116-1122, 6 id., p. 5023-5024.

(f) [Fourth-section departures.] Whenever it is apparent from the pleading answered, either by direct allegation or otherwise, that a departure from the requirements of section 4 (1) of the act is involved, the answer should set forth by number the particular application or order, if any, which protects such departure.

CROSS REFERENCE

Rules of practice.—Applications for relief under fourth section, rule XVIII. Reference to tariff provisions, in complaint, rule III (o).

(g) [Narrowing issues desired; affirmative defenses; counterclaim and set-offs.] It is desired that every effort be made to narrow the issues upon hearing. Matters alleged as affirmative defenses should be separately stated and numbered. Counterclaims and set-offs against shippers are not within the jurisdiction of the Commission.

CROSS REFERENCES

Notes of decisions.—Counterclaim, § 9, n. 27, 2 Inters. Com. Acts Ann., p. 1656, 7 id., p. 5369; Set-off or counterclaim, § 16 (1), n. 11, 3 id., p. 2134, 7 id., p. 5612; § 6 (7), n. 264, 2 id., p. 1475, 6 id., p. 5276. Undercharges, § 8, n. 194, 2 id., p. 1632, 7 id., p. 5349; Waiver of undercharge, § 16 (1), n. 7, 3 id., p. 2131; Narrowing claim originally made, complaints, § 13 (1), n. 46, 3 id., p. 1762, 7 id., p. 5412.

(h) [Cross complaints; filing and service; hearing and disposition.] Cross complaints alleging violations of the act by other carriers, parties to the proceeding, or seeking relief against them under the act, may be tendered for filing by defendants with their answers, and, upon leave granted, will be filed and served by the Commission in the manner provided in Rule III (h) 3 for complaints. In such cases the cross complaints will be heard, considered, and disposed of in connection with the issues tendered by the complaint in the same proceeding.

CROSS REFERENCES

Motor Carrier Act.—Carrier required to compensate for loss, damage, default, for which connecting motor common carrier is legally responsible subrogated to rights of shipper or consignee, § 215.

Rules of practice.—Service of cross complaints, number of copies furnished Commission for purpose, rule VI (a); time for filing and serving answers to cross complaints, rule IV (c); counterclaims and set-offs against shippers not within jurisdiction of Commission, rule IV (g).

Notes of decisions.—Contribution between carriers, misrouting, § 8, n. 153, 2 Inters. Com. Acts Ann., p. 1614, 7 id., p. 5338; Damages against whom liability accrues, n. 60-71, 2 id., p. 1573-1577, 7 id., p. 5307-5311.

(i) [Statements as to satisfaction of complaints.] If a defendant satisfies a formal complaint, either before or after answering, a statement to that effect signed by the opposing parties must be filed, setting forth when and how the complaint has been satisfied.

CROSS REFERENCES

Interstate Commerce Act.—Defendant carrier, to satisfy or answer complaint, § 13 (1).

Notes of decisions.—Effect of satisfaction of complaint, § 13 (1), n. 11, 3 Inters. Com. Acts Ann., p. 1739.

IV-A. PROTESTS OF TENTATIVE VALUATIONS

[Protests: form, style, matters to be stated.] Protests of tentative valuations must conform to the requirements of rule XXI. In addition to the usual caption each protest shall contain a concise statement of the essential elements of protest with particular reference to the matters in the tentative valuation concerning which protest is made and shall include a statement of the changes therein desired by protestant. When practicable each object of protest should be set up as a separate item in a separately numbered paragraph. Each item of protest against land values or areas must state the valuation section and zone on the Commission's maps in which the land is located. When protestant claims that property owned or used has been omitted, a full description of such property and its location must be included in the protest.

CROSS REFERENCES

Interstate Commerce Act.—Protests of tentative valuations, time for protest, effect when no protest filed, § 19a (h); Notice of protest, filing, hearing, § 19a (i). Motor Carrier Act, value not considered in determining rates, § 216 (h).

Rules of practice.—Amendment of protest may be directed, rule VII (c); Protestant's name and address to be shown, signature, rule XXI (e); Interventions in valuation cases, rule II (1) 1.

Notes of decisions.—Character of evidence to support protest, § 19a, n. 306, 3 Inters. Com. Acts Ann., p. 2491, 7 id., p. 5788; Failure to file within statutory period, § 19a, n. 292, 3 id., p. 2490; Hearings upon protest, n. 305, 3 id., p. 2491, 7 id., p. 5787; Procedure upon hearing, n. 307, 3 id., p. 2496, 7 id., p. 5788.

V. REPARATION STATEMENTS—FORMAL CLAIMS FOR REPARATION BASED UPON FINDINGS OF THE COMMISSION

(a) [Shipments not covered by complaint to be excluded; verification by carriers; certification; concurrence of non-defendants.] When the Commission finds that reparation is due, but that the amount cannot be ascertained upon the record before it, the complainant should immediately prepare a statement showing details of the shipments on which reparation is claimed, in accordance with form no. 5. (See Appendix 2.) The statement should not include any shipment not covered by the Commission's findings, or any shipment on which complaint was not filed with the Commission within the statutory period. (See rule III (d), (e), (f).) The statement, together with the paid freight bills on the shipments, or true copies thereof, should then be forwarded to the carrier which collected the charges for checking and certification as to its accuracy. The certificate must be signed in ink by a general accounting officer of the carrier and should cover all of the information shown in the statement. If the carrier which collected the charges is not a defendant in the case its certificate must be concurred in by like signature on behalf of a carrier defendant.

CROSS REFERENCES

Rules of practice.—Proof of damages when rates or shipments numerous, rule III (r); Errors, adjustment, rule V (d). Filing with Commission, rule V (c) 1; Statute not tolled when shipments not covered by complaint, rule V (c) 2. Over more than one route, separate statements, rule V (b). Approved form for reparation statement, Appendix 2, form no. 5. Reparation sought shortened procedure, rule X-A (1).

Notes of decisions.—Quantum and character of evidence to show damages, affidavits, § 8, n. 228, 2 Inters. Com. Acts Ann., p. 1643, 7 id., p. 5361; rule V statements, § 8, n. 230, 2 id., p. 1644, 7 id., p. 5361.

(b) [Shipments moving over more than one route; separate statements.] If the shipments moved over more than one route a separate statement should be prepared for each route, and separately numbered, except that shipments as to which the collecting carrier is in each instance the same may be listed in a single statement if grouped according to routes.

CROSS REFERENCE

See cross references, rule V (a).

(c) 1. [Filing with Commission, reparation orders.] Statements so prepared and certified shall be filed with the Commission, whereupon it will consider entry of an order for reparation.

See cross references, rule V (a).

2. [Statute not tolled when shipments not covered by complaint.] The filing of statements will not stop the running of the statute of limitations as to shipments not covered by complaint or supplemental complaint. (See rule III (d), (e), (f), (g), (u).)

CROSS REFERENCES

Interstate Commerce Act.—Orders of Commission for payment of damages § 16 (1); Limitation of actions, generally, § 16 (3).

Notes of decisions.—Acts sufficient to toll statute, in general, § 16 (3), n. 22, 3 Inters. Com. Acts Ann., p. 2154, 7 id., p. 5622; Special docket applications, tolling statute, n. 26, 3 id., p. 2155, 7 id., p. 5623.

(d) [Adjustment of errors, and agreed statements.] All discrepancies, duplicates, or other errors in the statements should be adjusted by the parties and correct agreed statements submitted to the Commission.

CROSS REFERENCES

Notes of decisions.—Rule V statements, corrections, etc., § 8, n. 230, 2 Inters. Com. Acts Ann., p. 1644, 7 id., p. 5361.

VI. SERVICE

(a) [*Service of complaints; number of copies.*] Formal complaints and, upon leave granted, petitions in intervention, supplemental complaints, cross complaints, and amended complaints will be served by the Commission, and copies of each must be furnished in sufficient number, as provided in Rule III (h) 3 in respect of complaints, and Rule II (1) 2, in respect of intervening petitions.

CROSS REFERENCES

Statute authorization for service.—Agent of carrier at Washington to be designated for service, § 6 (t. 49, § 50 U. S. Code); Motor Carrier Act, § 221.

Rules of practice.—Formal or cross complaints, service, copies, rule III (h) 3, IV (h); Informal, rule III (c); Supplemental, rule III (t); Intervening petitions, rule II (1) 2; Pleadings in valuation cases, rule VI (d); Briefs, number of copies to be filed, rule XIV (c).

Notes of decisions.—Obtaining jurisdiction over carrier by service of notice, § 13 (1), n. 60, 3 Inters. Com. Acts Ann., p. 1773, 7 id., p. 5422.

(b) [*Pleadings filed must show service; method of service.*] Except as otherwise provided in paragraphs (a) and (d) hereof, answers, petitions, motions, applications, notices, and all other papers, except depositions, in proceedings pending before the Commission upon its formal docket, must, when filed or tendered to the Commission for filing, show service thereof upon all parties to the proceeding. Such service shall be made by delivering in person or by mailing, properly addressed with postage prepaid, one copy to each party.

CROSS REFERENCES

Rules of practice.—Service on attorney, rule VI (c); service in valuation cases, rule VI (d). Designation of representatives of party to receive memoranda in shortened procedure cases, rule X-A (b). Deposition of witness, notice and order for taking, rule XI (c). Subpenas, rule XII (d). Exceptions to proposed report, rule XIV (d) 4. Petition for further hearing before final submission, rule XV (a).

Approved form, certificate as to service, Appendix 2, form no. 2-A.

(c) [*Service upon attorneys.*] When any party has appeared by attorney, service upon such attorney will be deemed service upon the party.

(d) [*Valuation proceedings, pleadings filed must show service; copies for use of Commission.*] In valuation proceedings, protests, motions, petitions, and briefs must, when filed or tendered for filing by the Commission, show service thereof upon all other parties named in the notice of service of the tentative valuation or who appeared at the hearing or on brief. Each protest, motion, petition, and brief in valuation cases must when filed be accompanied by 30 copies for the use of the Commission.

CROSS REFERENCES

See cross references, rule IV-A, Protests of tentative valuations.

VII. AMENDMENTS

(a) [*Allowance or refusal discretionary.*] Amendments to any pleading will be allowed or refused by the Commission in its discretion.

CROSS REFERENCES

Rules of practice.—Supplemental complaints, to bring in additional matter arising since original filed, rule III (t); Damages sought by supplemental complaint, rule III (u); Valuation protest, more detailed statement directed, by amendment, rule VII (c); Separate answers to amended complaints not necessary, exception, rule IV (c).

Notes of decisions.—§ 13 (1)—Amendments and supplementary pleadings, in general, n. 100, 3 Inters. Com. Acts Ann., p. 1781, 7 id., p. 5432; Allowance to conform to proof, n. 101, 3 id., p. 1782; To correct faulty pleading or omission, n. 102, 3 id., p. 1782, 7 id., p. 5432; Additional parties brought in by, n. 103, 3 id., p. 1782; Additional matter brought in, n. 104, 3 id., p. 1783, 7 id., p. 5433; Surprise of opposing party, n. 105, 3 id., p. 1785, 7 id., p. 5433. § 16 (3)—Limitation of actions, as affected by date of filing, n. 36, 3 id., p. 2158, 7 id., p. 5625.

(b) [*Subscription and verification.*] Whenever by these rules the principal pleading is required to be subscribed and verified, an amendment thereto must be similarly subscribed and verified.

Rules of practice.—Subscription and verification of complaints, rule III (h) 2; Intervening petition, rule II (1) 1; Memoranda in shortened procedure cases, rule X-A (j); Approved forms of verification, Appendix 2, form no. 1. Office and post-office address or signer shown, rule XXI (e).

(c) [*Directed, of valuation protests.*] In valuation cases, the Commission may direct a protestant to state by way of amendment his claim or protest more fully and in detail.

CROSS REFERENCE

Rules of practice.—Protests, requisites, definiteness, rule IV-A.

VIII. CONTINUANCES AND EXTENSIONS OF TIME

[*Cause; discretion in granting or denying.*] For cause shown, continuances and extensions of time will be granted or denied by the Commission in its discretion.

CROSS REFERENCES

Rules of practice.—Applications for extension of time for filing briefs, rule XIV (c); for filing briefs in reply to exceptions, rule XIV (d) 4.

Applications for further hearing, reopening, etc., rule XV (a); statement of nature and purposes of evidence to be adduced, rule XV (b).

Notes of decisions.—Duty to present case with diligence, § 13 (1), n. 121, 3 Inters. Com. Acts Ann., p. 1787, 7 id., p. 5436; Dilatory motions, proceedings brought to speedy issue, n. 80, 3 id., p. 1780.

IX. STIPULATIONS

[*How evidenced; agreement upon facts desirable.*] The parties may, by stipulation in writing filed with the Commission, or presented at the hearing, agree upon any facts involved in the proceeding. It is desired that the facts be thus agreed upon so far as and whenever practicable.

CROSS REFERENCES

Rules of practice.—Stipulation as to incorporation of record in other proceedings, by reference, rule XIII (b) 2 (3).

Notes of decisions.—Stipulations, generally, § 13 (1), n. 110, 3 Inters. Com. Acts Ann., p. 1786, 7 id., p. 5434.

Valuation proceedings, consideration of matter material and relevant to protest, § 19a, n. 305, 3 id., p. 2491, 7 id., p. 5787.

X. HEARINGS

(a) [*Assignment for hearing; examination of witnesses.*] When issue is joined upon formal complaint by service of answer, or by failure of defendant to answer, or upon a tentative valuation by filing of protest, the Commission will assign a time and place for hearing. Witnesses will be examined orally before the Commission, a commissioner, or one of its examiners, unless their testimony is taken by deposition or the facts are presented to the Commission in the manner provided for in rules IX and X-A.

CROSS REFERENCES

Interstate Commerce and Related Acts.—Requirements for notice, see cross references to rule 1; Attendance of witnesses, production of documentary evidence required, § 12 (2), § 12 (3)—Motor Carrier Act, § 205 (e). Attendance and testimony required by subpoena, § 12 (1), § 17 (1)—Motor Carrier Act, § 205 (e); (1).

Examination by special agents or examiners authorized, § 19a (a), § 20 (10), Motor Carrier Act, § 205 (e).

Rules of practice.—Notice of hearing, rule 1, and cross references; Answers, rule IV, and cross references; Protests of tentative valuations, rule IV-A, and cross references; Shortened procedure cases, assignment for hearing upon request, rule X-A (m). Subpenas to procure attendance of witnesses, rule XII (a). Application for further hearing, rule XV (a), (b).

Notes of decisions.—§ 13 (1)—Issue, when joined, n. 89, 3 Inters. Com. Acts Ann., p. 1781; Right to full hearing, n. 120, 3 id., p. 1786, 7 id., p. 5435; Necessity for notice and hearing before Commission, t. 28, § 47, n. 43, 4 id., p. 3155, 7 id., p. 6095.

(b) [*Order of procedure, various proceedings; when interveners heard.*] At hearings on formal complaint the complainant shall open and close. At hearings upon applications in finance cases or for relief from or under any provision of the act, the applicant shall open and close. At hearings of investigation and suspension proceedings the respondent shall open and close. At hearings of all other investigations on the motion of the Commission, the Commission shall open and close. At hearings of protest in valuation cases, the protestant shall open and close. The order of presentation above prescribed for the several kinds of hearings, respectively, shall be followed, except as the Commission may prescribe a different order or the presid-

ing commissioner or examiner may otherwise direct. In hearings of several proceedings upon a consolidated record the presiding commissioner or examiner shall designate who shall open and close. Interveners shall follow the party in whose behalf the intervention is made, and in all cases where the intervention is not in support of either original party the presiding commissioner or examiner shall designate at what stage such interveners shall be heard.

CROSS REFERENCES

Interstate Commerce Act.—Burden of proof, reasonableness of rates increased since Jan. 1, 1910, § 15 (7).

Applications authorized, see statutes listed following rule II (1). Investigations authorized, see statutes listed following rule II (g).

Rules of practice.—Order of filing briefs; proposed report cases, rule XIV (d) 2, 4; In "no proposed report cases", rule XIV (e) I; Proceedings in finance cases, rule XIX-A (a); Intervening petitions, who may make, contents, rule II (1).

Notes of decisions.—Consolidation for hearing and decision, § 13 (1), n. 53, 3 Inters. Com. Acts Ann., p. 1772, 7 id., p. 5422; Burden of proof, complaint cases, § 13 (1), n. 126, 3 id., p. 1790, 7 id., p. 5437; Damage cases, § 8, n. 222, 2 id., p. 1641, 7 id., p. 5355; Investigation and suspension proceedings, § 15 (7), n. 35-42, 3 id., p. 1969-1975, 7 id., p. 5550-5551; Introduction of evidence at hearing, § 13 (1), n. 180, 3 id., p. 1811.

Valuation, procedure upon hearing, § 19a, n. 307, 3 id., p. 2496, 7 id., p. 5788.

(c) [Calling for further evidence.] In any case, at or after the close of testimony or at any stage of the hearing the presiding commissioner or examiner or the commissioner in charge may call for further evidence upon any issue and require such evidence to be presented by any party concerned, or by a bureau of the Commission, either at that hearing or at a further hearing.

CROSS REFERENCES

Interstate Commerce Act.—Hearings on protest of tentative valuation, § 19a (1).

Rules of practice.—Documents not received after hearing, exceptions, rule XIII (f), (g); Further hearing, statement concerning additional evidence in application, rule XV (b); Records in other proceedings, introduction; rule XIII (b) 2; Valuation protests, fuller statement of claims directed, rule VII (c).

Notes of decisions.—Hearings upon protest of tentative valuations, § 19a, n. 305-311, 3 Inters. Com. Acts Ann., p. 2491-2500; 7 id., p. 5787-5790.

X-A. SHORTENED PROCEDURE

(a) [Selection of cases, and consent to reference and hearing, under shortened procedure.] As soon as practicable after service of a formal complaint the Commission will indicate whether the proceeding thereon should be conducted under the shortened procedure provided for by this rule. Such indication will be made by the Commission either upon its own initiative or upon its approval of a request therefor made by any party to the proceeding before assignment thereof for oral hearing under Rule X. The Commission will indicate in appropriate cases that the proceeding should be assigned or referred to an individual commissioner or a board consisting of an employe or employes of the Commission under the provisions of section 17 (6) of the act for the purposes therein specified. In any proceeding so selected the Commission will request all parties thereto to advise the Commission within a short time to be specified by it whether they consent to conduct thereof under such shortened procedure, and whether they consent to such assignment or reference to an individual commissioner or to a board, in the discretion of the Commission.

CROSS REFERENCES

See also pars. (b)—(m), this rule.

Notes of decisions.—Shortened procedure, § 13 (1), n. 210, 3 Inters. Com. Acts Ann., p. 1821; 7 id., p. 5464.

(b) [Designation of representatives to receive memoranda; joint representation desirable.] Each party consenting to shortened procedure must, at the time of consenting, advise the Commission to whom on its behalf the memoranda of the other parties shall be furnished. Whenever practicable the parties should arrange for such representation on each side as will limit each memorandum to the least possible number of copies.

(c) [Notice by Commission of application of rule.] After expiration of the time stated in paragraph (a), the Commis-

sion will notify all parties that the proceeding will or will not be conducted under this rule.

(d) [Declination to consent not prejudicial; oral hearing.] If all parties do not consent to shortened procedure, the proceeding will be assigned for oral hearing. (See Rule X.) Declination to consent will not affect or prejudice the rights or interests of any party.

(e) [Complainant's memorandum of facts and argument; copies; service.] If all parties consent to shortened procedure, each complainant or its representative should submit to the Commission, within 20 days after date of notice that the proceeding will be conducted under this rule, a memorandum of the facts, and, separately stated, of the argument, upon which it relies, together with copies thereof in sufficient number to enable the Commission to retain two copies, in addition to the original, for its own use, and to make service upon each party designated in said notice to receive copies.

CROSS REFERENCES

Rules of practice.—Appendix 1, data, generally, found pertinent. Computation of time, Sunday or holiday involved, rule XXII.

(f) [Defendant's answer memorandum; copies; service; default.] Within 30 days after date of service of complainant's memorandum, each defendant, or person designated by it to receive the memorandum, should serve upon complainant or its representative an answer memorandum of the facts, and, separately stated, of the argument upon which it relies. The original and two copies of this memorandum, accompanied by certificate of service, must be filed with the Commission within the same time. If, within the time prescribed, any particular defendant does not serve and file an answer memorandum and has not notified the other parties and the Commission that one will be filed, it will be understood that such defendant does not desire to submit an answer memorandum.

CROSS REFERENCES

Rules of practice.—Computation of time, Sunday or holiday involved, rule XXII.

Service to be shown when document tendered for filing, rule VI (b); approved form, certificate as to service, Appendix 2, form no. 2-A.

(g) [Complainant's reply memorandum; copies; service; default.] Within 15 days after date for filing the answer memorandum each complainant or its representative may serve a reply memorandum upon each defendant or person designated by it. The original and two copies of this memorandum, accompanied by certificate of service, must be filed with the Commission within the same time and the memorandum must be confined strictly to answering the facts and arguments set forth in the answer memorandum. If within the time prescribed any complainant does not serve and file a reply memorandum and has not notified the other parties and the Commission that one will be filed, it will be understood that such complainant does not desire to submit a reply memorandum.

CROSS REFERENCE

Rules of practice.—See cross references to par. (f), supra.

(h) [Intervening petitions; service of memoranda upon and by interveners.] Petitions in intervention may be filed in proceedings conducted under this rule. Service of all memoranda shall be made also upon interveners, or the persons designated by them, and interveners should file and serve memoranda in conformity with the provisions relating to the parties on whose behalf they intervene.

CROSS REFERENCES

Rules of practice.—Intervening petitions, rule II (1), and cross references. See also references under par. (f), supra.

(i) [Form and contents of memoranda; expense bills.] No form of memorandum is prescribed, but all memoranda must conform to the requirements of rule XXI, and each copy must be complete in itself. All pertinent data should be set forth fully and each memorandum should contain facts and argument similar to those in cases in which oral hearing is had and briefs are filed. (See Appendix 1.)¹ Reference in this rule to "memorandum" or "memoranda" includes any docu-

¹ See p. 642.

mentary evidence made a part thereof. If reparation is sought, the paid freight bills should accompany complainant's original memorandum when there are not more than 10 shipments, but otherwise should be retained.

CROSS REFERENCES

Rules of practice.—Proof of damage, when numerous shipments or general adjustment involved, rule III (r).

Notes of decisions.—Proof of damage, § 8, n. 221-231, 2 Inters. Com. Acts Ann., p. 1640-1646, 7 id., p. 5354-5365.

(j) [*Verification of memoranda; notation on copies.*] The facts stated in the memoranda must be sworn to by persons having knowledge thereof, which latter fact must affirmatively appear in the affidavit. Except under unusual circumstances, such persons should be those who would appear as witnesses if oral hearing were had, to testify as to the facts stated in the memoranda. The original of each memorandum must show the signature, capacity, and impression seal of the officer administering the oath and the date thereof. This original will be filed in the docket. The copies must bear notation that the original shows the data required in this respect.

CROSS REFERENCES

Rules of practice.—Approved forms of verifications, Appendix 2, form no. 1.

Notes of decisions.—Affidavits, competency, § 13 (1), n. 124, 3 Inters. Com. Acts Ann., p. 1790, 7 id., p. 5437; n. 148, p. 1802, 5448.

(k) [*Additional time for filing and service of memoranda.*] Parties or counsel at El Paso, Tex., Salt Lake City, Utah, Butte and Helena, Mont., or points west thereof, will be allowed five days' additional time for the filing and service of the memoranda herein provided for.

(l) [*Reply memorandum concludes evidence; subsequent procedure.*] Except as may be otherwise directed by the Commission, the filing of complainant's reply memorandum will conclude the presentation of evidence, and the case will be assigned to an examiner for preparation of a proposed report which will be served upon the parties. Thereafter the procedure will be the same as that in respect of proceedings in which oral hearing is had.

CROSS REFERENCE

Rules of practice.—Procedure in proposed report cases, rule XIV (d).

(m) [*Assignment for oral hearing.*] At the request of any party, the proceeding will be assigned for oral hearing as provided by rule X at any stage of the proceeding prior to service of the examiner's proposed report. The Commission may, in its discretion, set the proceeding for such hearing on its own motion at any stage thereof.

CROSS REFERENCE

Requirement of notice and hearing, see notes under rule I.

XI. DEPOSITIONS

(a) [*When permissible.*] Except in valuation cases, the testimony of any witness may be taken by deposition, at the instance of a party in any proceeding pending before the Commission, at any time after issue joined, or, if the Commission so orders, at any stage of the proceeding, pursuant to section 12 of the act, and in accordance with these Rules of Practice, but not otherwise.

CROSS REFERENCES

Interstate Commerce Act.—Taking of testimony by deposition at instance of party, order of Commission, § 12 (4); in foreign countries, § 12 (6). Fees for § 12 (7). Subscription by deponent, § 12 (5) Motor Carrier Act, provisions of Part I as to, applicable, § 205 (e).

Bankruptcy Act.—§ 12 Interstate Commerce Act applicable, § 77 (q).

Notes of decisions.—Depositions, in general, § 12 (4), n. I, 2 Inters. Com. Acts Ann., p. 1726; Competency, in evidence, n. 10, 2 id., p. 1727.

Proof of damages, depositions of parties, § 8, n. 229, 2 id., p. 1644, 7 id., p. 5361; Hearing, ex parte affidavits or depositions, § 13 (1), n. 124, 3 id., p. 1790, 7 id., p. 5437.

(b) [*Officer before whom taken; when taken in foreign country.*] Such depositions may be taken before an agent or examiner of the Commission, or any judge or commissioner of any court of the United States, or any clerk of a district

court, or any chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court or court of common pleas of any of the United States, or any notary public, not being of counsel or attorney to either of the parties nor interested in the event of the proceeding or investigation, according to such designation as the Commission may make in any order made by it in the premises, except that where such deposition is taken in a foreign country it may be taken before an officer or person designated by the Commission, or agreed upon by the parties by stipulation in writing to be filed with the Commission. The magistrate, person, or officer so designated will in this rule be referred to as the officer.

CROSS REFERENCES

Interstate Commerce Act.—Officers before whom depositions may be taken, notice, § 12 (4); officers in foreign country, § 12 (6); Motor Carrier Act, provisions of Part I applicable, § 205 (e).

Bankruptcy Act.—§ 12 Interstate Commerce Act applicable, § 77 (q).

Notes of decisions.—Taking depositions in foreign country, comity, § 12 (6), n. 1, 2 Inters. Com. Acts Ann., p. 1729.

(c) [*Notice of taking; service; order for taking.*] Reasonable notice of not less than 10 days, and when the deposition is taken in a foreign country, of not less than 15 days, must first be given in writing by the party or his attorney proposing to take such deposition to the opposite party, or his attorney of record, as either may be nearest, and to the Commission. In such notice shall be stated the name and post-office address of the witness, the subject matter or matters concerning which the witness is expected to testify, the time and place of taking the deposition, and the name and post-office address of the officer before whom it is desired that the deposition be taken. Thereupon the Commission will make and serve upon the parties or their attorneys an order wherein the Commission will name the witness whose deposition is to be taken and specify the time when, the place where, and the officer before whom the witness is to testify, but such time and place, and the officer before whom the deposition is to be taken, so specified in the Commission's order may or may not be the same as those named in said notice to the Commission.

CROSS REFERENCE

Interstate Commerce Act.—Notice of taking, and order, requisite, § 12 (4); Motor Carrier Act, § 205 (e).

(d) [*Oath; reduction to writing; filing and distribution.*] Every person whose deposition is so taken shall be cautioned and sworn (or affirmed, if he so requests) to testify the whole truth and nothing but the truth concerning the matter about which he shall testify, and shall be carefully examined. His testimony shall be reduced to typewriting by the officer before whom the deposition is taken, or under his direction, after which the deposition shall be subscribed by the witness and certified in usual form by the officer. After the deposition has been so subscribed and certified it shall, together with two copies thereof made by such officer or under his direction, be forwarded by such officer under seal in an envelope addressed to the Commission at its office in Washington, D. C. Upon receipt of the deposition and copies the Commission will file the deposition in the record in said proceeding and forward one copy to the party at whose instance the deposition has been taken, or his attorney, and the other copy to the opposite party, or his attorney, except that when the deposition is taken at the instance of more than one party, or there is more than one opposite party, the copies will be forwarded by the Commission to the parties or their attorneys designated for that purpose in advance.

CROSS REFERENCES

Interstate Commerce Act.—Reduction to writing, and oath or affirmation of deponent required, § 12 (5); Motor Carrier Act, provisions of Part I applicable, § 205 (e).

Bankruptcy Act.—§ 12 Interstate Commerce Act applicable, § 77 (q).

(e) [*Form and style.*] Such depositions must conform to the specifications of rule XXI.

(f) [*Limitation upon time for taking.*] Unless under special circumstances and for good cause shown, no such dep-

osition shall be taken within 10 days prior to the date of the hearing thereof assigned by the Commission, and when the deposition is taken in a foreign country it shall not be taken within 30 days prior to such date of hearing.

(g) [*Fees of officers and witnesses.*] Witnesses whose depositions are taken pursuant to these rules and the officer taking the same, unless he be an agent or examiner of the Commission, shall severally be entitled to the same fees as are paid for like service in the courts of the United States, which fees shall be paid by the party at whose instance the depositions are taken.

CROSS REFERENCES

Interstate Commerce Act.—Fees of witnesses whose depositions are taken and of magistrate, § 12 (7); Motor Carrier Act, provisions of Part I applicable, § 205 (e).

Fees of witnesses in courts of United States, per diem and mileage, t. 28, § 600a-600d; authorized, § 18 (1).

Bankruptcy Act.—§ 12 Interstate Commerce Act applicable, § 77 (q).

(h) [*Valuation proceedings.*] In valuation cases the Commission upon application of any party showing good cause therefor may permit the taking of depositions upon written interrogatories and cross-interrogatories before such persons as it may designate and under such conditions as it may prescribe. All expenses of taking such depositions shall be borne by the applicant.

XII. WITNESSES AND SUBPENAS

(a) [*Subpenas, who may issue.*] Subpenas requiring the attendance of witnesses from any place in the United States at any designated place of hearing may be issued by any member of the Commission.

CROSS REFERENCES

Interstate Commerce Act.—Authority of Commission to require attendance of witnesses, and production of documents, by subpoena, § 12 (1); members of Commission may sign subpenas, § 17 (1).

Motor Carrier Act.—Attendance of witnesses required, production of documents, by subpoena, § 205 (e); members of Commission may sign subpenas, § 17 (1) applicable, § 205 (1).

Other acts.—Subpenas in accident investigations, t. 45, § 40; in investigations under block signal resolution, t. 45, § 35; Bankruptcy Act, § 12 Interstate Commerce Act applicable, § 77 (q); Immunity of Witnesses Act, t. 49, § 48.

Rules of practice.—Applications for subpenas duces tecum, rule XIII (b); fees of witnesses, rule XII (c); return of subpoena, rule XII (d).

Notes of decisions.—Extent of power to subpoena, §-12 (2), n. 1, 2 Inters. Com. Acts Ann., p. 1720; aid of courts, n. 2, p. 1720.

(b) [*Subpenas duces tecum, written application, specificity.*] Subpenas for the production of books, papers, or documents, unless directed by the Commission upon its own motion, will issue only upon application in writing. Applications to compel witnesses who are not parties to the proceedings, or agents of such parties, to produce documentary evidence must be verified and must specify, as nearly as may be, the books, papers, or documents desired and the facts to be proved by them. Applications to compel a party to the proceedings to produce books, papers, or documents should set forth the books, papers, or documents sought, with a showing that they will be of service in the determination of the proceeding.

CROSS REFERENCE

Notes of decisions.—Application for subpoena, § 12 (1), n. 55, 2 Com. Acts Ann., p. 1718.

(c) [*Fees of witnesses.*] Witnesses who are summoned are entitled to the same fees as are paid for like service in the courts of the United States; such fees to be paid by the party at whose instance the testimony is taken.

CROSS REFERENCES

Interstate Commerce Act.—Fees of witnesses before Commission, § 18 (1). Fees those paid in courts of United States, see t. 28, § 600a-600d. Witnesses whose depositions taken, see notes to rule XI (g).

(d) [*Return of subpoena, manner of service.*] If service of subpoena is made by a United States marshal or his deputy such service shall be evidenced by his return thereon. If made by any other person, such person shall make affidavit thereof, describing the manner in which service is made,

and return such affidavit on or with the original subpoena in accordance with the form thereon. In case of failure to make service the reasons for the failure shall be stated on the original subpoena. In making service the original subpoena shall be exhibited to the person served, shall be read to him if he is unable to read, and a copy thereof shall be left with him. The original subpoena, bearing or accompanied by the required return, affidavit, or statement, shall be returned forthwith to the secretary of the Commission, or, if so directed on the subpoena, to the presiding commissioner or examiner before whom the person named in the subpoena is required to appear.

XIII. DOCUMENTARY EVIDENCE

(a) [*Relevant and material matter designated as offered; copies supplied.*] When relevant and material matter offered in evidence by any party is embraced in a book, paper, or document containing other matter, not material or relevant, the party must plainly designate the matter so offered. If the other matter is in such volume as would unnecessarily cumber the record, such book, paper, or document will not be received in evidence but may be marked for identification and, if properly authenticated, the relevant and material matter may be read into the record, or, if the presiding commissioner or examiner so directs, a true copy of such matter, in proper form, shall be received as an exhibit, and like copies delivered by the party offering the same to opposing parties or their attorneys appearing at the hearing, who shall be afforded opportunity to examine the book, paper, or document, and to offer in evidence in like manner other portions thereof if found to be material and relevant.

CROSS REFERENCES

Interstate Commerce Act.—Schedules, classifications, contracts, agreements, arrangements, statistics, figures, reports, extracts from, filed with Commission, certified, prima facie evidence, § 16 (13); Motor Carrier Act, § 16 (13) applicable, § 204 (f).

Published reports and decisions of Commission, competent evidence, § 14 (3); Motor Carrier Act, § 14 (3) applicable, § 204 (f).

Documents furnished, for valuation purposes, § 19a (e).

Other acts.—Accident reports to Commission inadmissible in damage suits, Boiler Inspection Act, t. 45, § 33; Accident Reports Act, t. 45 § 41; Compulsory Testimony Act, t. 49, § 46-47.

Rules of practice.—When production of report or document offered is not required, rule XIII (b) 1; as to reparation, rule III (r); Records in other proceedings, rule XIII (b) 1, 2; Tariff schedules, rule XIII (c) 1; copies—for counsel rule XIII (d), for use of Commission, rule XIII (1); Valuation proceedings, rule XIII (h). Filing after hearing, rule XIII (f).

Notes of decisions.—§ 13 (1)—Exhibits, generally, n. 170, 3 Inters. Com. Acts Ann., p. 1810, 7 id., p. 5455. Changes in exhibits agreed to, n. 171, 3 id., p. 1811. Writings held by adversary, n. 168, 3 id., p. 1809, 7 id., p. 5455.

(b) 1. [*Offers in evidence; Commission's files, except tariffs, production not required.*] In case any matter contained in a report or other document, not a tariff schedule, on file with the Commission is offered in evidence such report or other document need not be produced or marked for identification, but in other respects the provisions of the foregoing subdivision (a) of this rule will apply.

CROSS REFERENCES

Rules of Practice.—Valuation protests, reference to Commission's maps, rule IV-A.

Notes of decisions.—Judicial notice, § 13 (1), n. 140, 3 Inters. Com. Acts Ann., p. 1799, 7 id., p. 5446; Papers on file with the Commission, § 13 (1), n. 167, 3 id., p. 1808, 7 id., p. 5454.

2. [*Records in other proceedings; objections.*] In case any portion of the record before the Commission in any proceeding other than the one on hearing is offered in evidence a true copy of such portion shall be presented for the record in the form of an exhibit unless—

(1) The party offering the same agrees to supply such copy later at his own expense, if and when required by the Commission; and

(2) The portion is specified with particularity in such manner as to be readily identified; and

(3) The parties represented at the hearing stipulate upon the record that such portion may be incorporated by reference, and that any other portion offered by any other party may be incorporated by like reference subject to (1) and (2); and

(4) The presiding commissioner or examiner directs such incorporation.

Any portion so offered, whether in the form of an exhibit or by reference, shall be subject to objection.

CROSS REFERENCES

See also notes to rule XIII (a), supra.

Rules of practice.—Exhibits of documentary character offered, copies to opposing counsel, rule XIII (d); copies for Commission, rule XIII (i).

Notes of decisions.—§ 13 (1)—Evidence: proceedings, testimony, etc., before Commission, n. 166, 3 Inters. Com. Acts Ann., p. 1808, 7 id., p. 5454; Papers on file with Commission, n. 167, 3 id., p. 1808, 7 id., p. 5454; Judicial notice, n. 140, 3 id., p. 1799, 7 id., p. 5446; Copies for parties, n. 172, 3 id., p. 1811; Stipulations, n. 110, 3 id., p. 1876, 7 id., p. 5434; Incorporation of matter in record subsequent to closing, n. 125, 3 id., p. 1790, 7 id., p. 5437.

(c) 1. [*Tariffs; offer of matter contained in schedules.*] In case any matter contained in a tariff schedule on file with the Commission is offered in evidence, such tariff schedule need not be produced or marked for identification, but the matter so offered shall be specified with particularity in such manner as to be readily identified and may be received in evidence subject to check by reference to the original tariff schedules so on file.

CROSS REFERENCES

Interstate Commerce Act.—Tariffs required to be filed, § 6 (1); Motor Carrier Act, § 217 (a), § 218 (a).

Notes of decisions.—Tariffs on file with the Commission, § 13 (1), n. 167, 3 Inters. Com. Acts Ann., p. 1808, 7 id., p. 5454; Published tariffs, in force, have effect of statute, § 6 (7), n. 5, 2 id., p. 1477, 6 id., p. 5220; notwithstanding contract, § 6 (1), n. 137, 2 id., p. 1445, 6 id., p. 5207; Proof of lawful establishment of tariffs, § 6 (7), n. 261, 2 id., p. 1526; Acceptance for filing raises no presumption of approval, § 6 (1), n. 103, 2 id., p. 1440; Effect of filing, n. 102, 2 id., p. 1440, 6 id., p. 5204.

2. [*Reference in exhibits to tariff authority, routes, and distances.*] All exhibits showing rates, fares, charges, or other tariff provisions must, by appropriate Interstate Commerce Commission number reference, indicate the tariff authority therefor, and if distances are shown must also show the authority therefor and, by lines and junction points, the routes over which the distances are computed; except that the routes over which the distances are computed need not be shown when such distances are specifically published in a tariff schedule lawfully on file with the Commission, or are definitely ascertainable from a tariff schedule on file with the Commission showing rates prescribed by the Commission and based on short line distances, provided the exhibit makes specific reference to such tariff schedule as provided by this rule.

CROSS REFERENCE

Rules of practice.—Reference to, in fourth-section applications, rule XVIII (e) 2.

(a) [*Copies of exhibits furnished opposing counsel.*] When exhibits of a documentary character are to be offered in evidence copies must be furnished to opposing counsel, unless the presiding commissioner or examiner otherwise directs. Whenever practicable, the parties should interchange copies of exhibits before or at the commencement of the hearing.

CROSS REFERENCES

Rules of practice.—Copies for use of Commission, rule XIII (i).
Note of decisions.—Copies for other parties, § 13 (1), n. 172, 3 Inters. Com. Acts Ann., p. 1811.

(e) [*Size, form, and identification of exhibits; relevancy, materiality; not argumentative.*] All exhibits of a documentary character received in evidence are bound with the rest of the record in covers of uniform size. Whenever practicable they should be on one side only of sheets not exceeding 12½ inches from top to bottom by 22 inches in width, and a sufficient margin for binding, preferably 1½ inches, must be left blank on the left side of each sheet. They must be on paper of good quality and so prepared as to be plainly legible and durable, whether printed or typewritten. If typewritten they must in other respects conform to the requirements of Rule XXI (b). Whenever practicable the sheets of each exhibit and the lines of each sheet should be numbered, and, if the exhibit consists of five or more sheets, the first sheet

or title-page should be confined to a brief statement of what the exhibit purports to show, with reference by sheet and line to illustrative or typical examples contained in the exhibit and should bear an identifying number, letter, or short title which will readily distinguish the exhibit from the other exhibits of the same party. It is desirable that, whenever practicable, rate comparisons and other evidence should be condensed into tables. Exhibits should be limited to statements of fact relevant and material to the issue, which can be shown in that form better than by oral testimony. They should not be argumentative.

(f) [*Filing subsequent to hearing.*] When agreed upon by the parties at or after the hearing, the presiding commissioner or examiner, if he deems advisable, may receive specified documentary evidence as a part of the record within a time to be fixed by him, but which shall expire not less than 10 days before the date fixed for filing and serving briefs.

CROSS REFERENCES

Rules of practice.—Documents not received after hearing, except under this rule, or as expressly permitted, rule XIII (g).

Notes of decisions.—Incorporation of matter into record, subsequent to closing, § 13 (1), n. 125, 3 Inters. Com. Acts Ann., p. 1790, 7 id., p. 5437.

(g) [*Documents not received after hearing.*] Except as above provided, or as may be expressly permitted in particular instances, the Commission will not receive in evidence or consider as part of the record any documents, letters, or other writings submitted for consideration in connection with the proceeding after the close of the testimony, and will return the same to the sender.

CROSS REFERENCE

See notes to rule XIII (f).

(h) [*Exhibits in valuation cases.*] In valuation cases exhibits offered in evidence at a hearing shall not be made a part of the record until after opposing counsel shall have been afforded a full and fair opportunity to test their admissibility, and not then unless and except to the extent that after such test they are found to be relevant and material evidence and to have a bearing upon one or more of the issues joined in the case in which they are so offered.

CROSS REFERENCE

Rules of practice.—Number of copies to be furnished; for opposing parties, rule XIII (d); for use of Commission, rule XIII (i).

(i) [*Copies furnished for use of Commission.*] Unless the presiding commissioner or examiner shall otherwise direct, two copies of each exhibit of a documentary character must be furnished for the use of the Commission, except that in valuation cases four copies of such exhibits, when offered in evidence by a protestant or intervenor, must be so furnished.

CROSS REFERENCE

Rules of practice.—Copies for opposing parties to be furnished, rule XIII (d).

XIV. BRIEFS AND ORAL ARGUMENT

(a) [*Form and style of briefs; abstracts; requests for findings.*] Briefs must comply with the requirements of rule XXI. The date of each brief must appear on its front cover or title-page. Each brief should contain an abstract of the evidence relied upon by the party filing it, preferably assembled by subjects, with reference to the pages of the record or exhibit where the evidence appears. It should include requests for such specific findings as the party thinks the Commission should make.

CROSS REFERENCES

Rules of practice.—Briefs, arrangement, contents, rule XIV (b) 1, 2; Service, filing, extensions of time, rule XIV (c); Proposed report cases, rule XIV (d); "No proposed report" cases, rule XIV (e) 1; Finance and investigation and suspension proceedings, rule XIV (e) 3; Valuation proceedings, rule XIV (e) 4; Intervenor's brief, rule XIV (e) 5; Failure to file opening brief precludes reply, rule XIV (e) 6.

Oral arguments, rule XIV (e) 7, 8.

Memoranda in shortened procedure cases, rule X-A (1).

Computation of period of time, Sunday or holiday involved, rule XXII.

Notes of decisions.—Arguments, § 13 (1), n. 190, 3 Inters. Com. Acts Ann., 1817; n. 199, p. 1819.
Matters outside the record, § 13 (1), n. 196, 3 id., p. 1819; Exhibits, n. 170, 3 id., p. 1810, 7 id., p. 5455.

(b) 1. [*Contents; arrangement; exhibits; index and citations.*] Exhibits should not be reproduced in the brief, but may, if desired, be reproduced in an appendix to the brief. Analyses of such exhibits should be included in the abstract of evidence under the subjects to which they pertain. The abstract of evidence should follow the statement of the case and precede the argument. Every brief of more than 20 pages shall contain on its front flyleaves a subject index with page references, the subject index to be supplemented by a list of all cases cited, alphabetically arranged, with references to the pages where the citations appear.

2. [*Maps, when rate relation or misrouting involved.*] In proceedings upon complaint alleging misrouting or undue prejudice to or preference of any locality as contrasted with another locality or otherwise attacking rate relations, the complainant should insert in his brief opposite the statement of the case or in an appendix a small map or chart adequately showing the situation involved.

(c) [*Filing and service; copies for Commission; application for extension.*] Briefs not filed with the Commission and served on or before the dates fixed therefor will not be received except by special permission of the Commission. All briefs must be accompanied by notice showing service upon all other parties or their attorneys who appeared at the hearing or on brief, and 20 copies of each brief shall be furnished for the use of the Commission. Applications for extension of time in which to file briefs shall be by petition, in writing, stating the facts on which the application rests, which must be filed with the Commission at least seven days before the time fixed for filing such briefs, in cases where the parties and their attorneys are located east of El Paso, Tex., Salt Lake City, Utah, or Butte and Helena, Mont., and at least eight days before such time in cases where any of the parties or any of their attorneys are located at or west of the points named.

CROSS REFERENCES

Rules of practice.—Service to be shown on documents tendered for filing, rule VI (b); Approved form of certificate as to service, Appendix 2, form no. 2-A.

(d) [*Procedure in proposed report cases.*] For application in "proposed report" cases, which are all cases on the formal docket except those specified in paragraph (e), the following procedure will govern:

1. [*Oral argument at close of testimony.*] If oral argument before the presiding commissioner or examiner is desired, he should be so notified at or before the hearing and may arrange to hear the argument at the close of the testimony within such limits of time as he may determine, having regard to other assignments for hearing before him. Such argument will be transcribed and bound with the transcript of testimony, and will be available to the Commission for consideration in deciding the case. The making of such argument shall not preclude oral argument before the Commission, or a division thereof, and application therefor may be made as hereinafter provided.

CROSS REFERENCES

Rules of practice.—Oral arguments, applications for, proposed report cases, rule XIV (d) 4, no proposed report cases, rule XIV (e) 7, valuation cases, rule XIV (e) 8—granted or denied in Commission's discretion, rule XIV (f); oral hearing in shortened procedure cases, rule X-A (d), (m).

Notes of decisions.—Oral argument, § 13 (1), n. 191, 3 Inters. Com. Acts Ann., p. 1817; submission without argument, n. 199, 3 id., p. 1819.

2. [*Initial briefs; simultaneous time; reply not permitted.*] Only one initial brief shall be filed by each party. The presiding commissioner or examiner shall fix for all parties the same time within which to file their briefs. Reply briefs are not permitted at this stage.

3. [*Proposed report of examiner, service.*] After expiration of the time set for briefs the examiner will prepare his proposed report containing the statement of the issues and facts and the findings and conclusions which he thinks

should be made. This proposed report will be served by mailing copies to the parties or attorneys who appeared at the hearing or upon brief, except that in general investigations copies may also be mailed in the Commission's discretion to other parties whose appearances are noted of record.

Motor Carrier Act.—Recommended orders, by member or examiner; service; § 205 (a).

4. [*Exceptions to proposed report; briefs; request for oral argument.*] Within 20 days after service of the proposed report any party may file and serve, in the manner prescribed for briefs, exceptions to the examiner's proposed report and brief in support of the exceptions. Exceptions and brief should be contained in one print or document. Within 10 days after expiration of the time so fixed briefs in reply to the exception briefs may be filed and served, but will not be received later except under leave granted upon application therefor. Application for oral argument before the Commission or a division thereof may be made by any party filing exceptions or reply to exceptions and must accompany the exceptions or reply. Parties or attorneys at El Paso, Tex., Salt Lake City, Utah, Butte and Helena, Mont., or points west thereof, who appeared at the hearing or upon brief will be allowed five days' additional time for filing and serving exceptions, exception briefs, and reply briefs, respectively.

CROSS REFERENCES

Motor Carrier Act.—Exceptions to recommended orders, time for filing, § 205 (a).

Rules of practice.—Computation of time, Sunday or holiday involved, rule XXII.

Number of copies to be furnished for use of Commission, service to be shown, rule XIV (c), rule VI (b); Approved form of certificate as to service, Appendix 2, form no. 2-A; Privilege of oral argument, discretionary, rule XIV (f); Applications for extension of time, rule VIII, briefs, XIV (c).

Notes of decisions.—Exceptions, purpose, § 13 (1), n. 206, 207, 3 Inters. Com. Acts Ann., p. 1820, 7 id., p. 5463.

5. [*Exceptions to be specific; references to record.*] Exceptions to the examiner's proposed report either as to statements of fact or matters of law must be specific. If exception is taken to matters of law or conclusions, the points relied upon must be stated separately and clearly. If exception is taken to any statement of fact, reference must be made to the pages or parts of the record relied upon and a corrected statement incorporated in the exception brief.

CROSS REFERENCE

Notes of decisions.—Specificity of exceptions, § 13 (1), n. 207, 3 Inters. Com. Acts Ann., p. 1820.

6. [*Examiner's statement as basis for Commission's report.*] In the absence of exceptions that are sustained or of ascertained error the statement of the issues and of the facts by the examiner will ordinarily be taken by the Commission as the basis of its report.

CROSS REFERENCE

Notes of decisions.—Effect of omission to except, § 13 (1), n. 208, 3 Inters. Com. Acts Ann., p. 1821; Oral argument not substituted for exceptions, n. 191, 3 Inters. Com. Acts Ann., p. 1817.

(e) 1. [*Order of filing briefs in "no proposed report" cases.*] In cases designated in the notices setting them for hearing or at the hearing as "no proposed report" cases, briefs for the various parties shall be filed in the same order as governs in the taking of their testimony at hearings.

CROSS REFERENCE

Rules of practice.—Order of procedure at hearings, rule X (b), and cross-references.

2. [*Time for service and filing of briefs.*] At the close of the testimony in each case the presiding commissioner or examiner will fix the time for filing and service of the respective briefs as follows, unless good cause for variation therefrom is shown: for the opening brief, 30 days from close of testimony; for the brief of the opposing party, 15 days after the date fixed for the opening brief; for reply brief, 10 days after the date fixed for the brief of the opposing party.

CROSS REFERENCE

Rules of practice.—Computation of time, Sunday or holiday involved, rule XXII.

3. [Briefs in finance and investigation and suspension proceedings.] In finance cases and in investigation and suspension proceedings the presiding commissioner or examiner will fix the same time for filing and service of briefs by all parties. Reply briefs are not permitted, and it is desired that briefs be filed in these proceedings only when the size of the record or the importance of the principle warrants.

4. [Briefs in valuation cases.] In valuation cases the Commission's attorney shall have 30 days in which to file his brief after the time allowed for protestant's brief; and protestant shall have 15 days thereafter in which to file its reply brief.

CROSS REFERENCE

Rules of practice.—Computation of time, Sunday or holiday involved, rule XXII.

5. [Interveners' briefs.] Except as other time may be fixed by the presiding commissioner or examiner, briefs of interveners shall be filed and served within the time fixed for the brief of the party in whose behalf the intervention is made, except that in valuation cases briefs of parties other than protestants shall be served and filed at the time or times fixed for protestant's brief.

6. [Failure to file opening brief precludes reply.] Parties who fail to file an opening brief, as required by this rule, will not be permitted to file reply to the brief of an opposing party.

7. [Applications for oral argument, when made.] Except as provided in subdivision (d) of this rule, applications for oral argument before the Commission or a division thereof shall be made at the hearing or in writing within 10 days after the close of testimony, or, in valuation cases, within 20 days after the close of testimony.

CROSS REFERENCE

Rules of practice.—Allowance of oral argument discretionary with Commission, rule XIV (f).

8. [Oral arguments at close of testimony in valuation cases.] If the parties in valuation cases elect to make oral argument before the presiding commissioner or examiner at the close of testimony in lieu of argument before the Commission or a division thereof, the request for such argument should be made at the opening of the hearing.

(f) [Oral argument discretionary.] Applications for oral argument will be granted or denied in the discretion of the Commission or division.

CROSS REFERENCE

Notes of decisions.—Oral argument, § 13 (1), n. 191, 3 Inters. Com. Acts Ann., p. 1817; submission without argument, n. 199, 3 id., p. 1819.

XV. APPLICATIONS FOR FURTHER HEARINGS, REHEARINGS, REARGUMENTS, RECONSIDERATION, OR MODIFICATION OF ORDERS

(a) [Petition requisite; filing; service.] An application for further hearing in a proceeding before final submission, for reopening a proceeding after final submission, or for rehearing, reargument, or reconsideration after decision, must be made by petition, stating specifically the grounds relied upon, filed with the Commission and served by the petitioner upon all parties or attorneys who appear at the hearing, or oral argument, or on brief.

CROSS REFERENCES

Interstate Commerce Act.—Rehearings may be granted by Commission, procedure governed by rules established by it, § 16a; Motor Carrier Act, § 204 (e).

Modification of orders, see notes to rule XV (c).

Rehearings of order, decision, or report of division of Commission, § 17 (4); Motor Carrier Act, § 17 (4) applicable, § 205 (1).

Decisions of individual commissioner or board of employees, § 17 (6); § 17 (6) applicable, Motor Carrier Act, § 205 (1).

Recommended orders, Motor Carrier Act, on exceptions, § 205 (a).

Reopening, consolidation of railroad proceedings, suspension, § 5 (12).

Rules of practice.—Petition to show service when tendered for filing, rule VI (b); new or further evidence involved, rule XV (b).

Approved form of application, Appendix 2, form no. 4; approved form of certificate as to service, Appendix 2, form no. 2-A.

Notes of decisions.—§ 16a—Grounds, n. 1, 3 Inters. Com. Acts Ann., p. 2204, 7 id., p. 5651; Available only to parties to former proceedings, n. 2, 3 id., p. 2205, 7 id., p. 5653; Applications to ac-

cord with rules of practice, n. 3, 3 id., p. 2205, 7 id., p. 5653; Extent of authority to rehear, n. 7, 3 id., p. 2207, 7 id., p. 5656; Procedure upon reopening, n. 5, 6, 3 id., p. 2206-7, 7 id., p. 5655-6; Reopening on Commission's own motion, n. 4, 3 id., p. 2306, 7 id., p. 5655; § 13 (1)—Reopening after argument, before decision, n. 203, 3 id., p. 1819, 7 id., p. 5462.

Necessity of application for rehearing, t. 23, § 47, n. 22, 4 id., p. 3148, 7 id., p. 6033.

(b) [Further hearing or reopening; statement as to new evidence.] If the application be for further hearing before final submission, or for reopening the proceeding to take further evidence, the nature and purpose of the evidence to be adduced must be briefly stated and it must appear not to be merely cumulative.

CROSS REFERENCES

See also cross references to par. (a), this rule.

Clayton Antitrust Act, modification on new or additional evidence, § 11 (t. 15, § 21, U. S. Code).

Notes of decisions.—Nature of further evidence, § 16a, n. 1, 3 Inters. Com. Acts Ann., p. 2204, 7 id., p. 5651; Applications to reopen, n. 203, 3 id., p. 1819, 7 id., p. 5462.

(c) [Rehearing, reargument, or reconsideration, specification of errors; justification of proposed substitute rates.] If the application be for rehearing, reargument, or reconsideration, the matters claimed to have been erroneously decided must be specified and the alleged errors briefly stated. If thereby any order of the Commission is sought to be vacated, reversed, or modified by reason of matters which have arisen since the hearing, or of consequences which would result from compliance therewith, the matters relied upon by the petitioner must be fully set forth in the petition. If vacation, reversal, or modification of any order is sought for the purpose of permitting the publication and filing of rates, fares, charges, classifications, regulations, or practices other than those required by the order, the application shall show clearly and with such particularity as is practicable the reasons or conditions relied upon as a basis for the application, and the changes proposed.

CROSS REFERENCES

Interstate Commerce Act.—Modification or suspension of orders authorized, § 16 (6); Motor Carrier Act, § 204 (e).

Of consolidation plan, § 5 (3); Motor Carrier Act, § 213 (a) (1).

Reversal, change, modification, § 16a.

Vacation or setting aside, see notes to rule XV (d).

Valuation of carriers' property, § 19a (j).

Other acts.—Bankruptcy Act, reorganization plan modified, § 77 (d) (t. 11, § 205 (d) U. S. Code).

Clayton Antitrust Act, § 11 (t. 15, § 21 U. S. Code).

Rules of practice.—Inland Waterways Act, suspension or modification of finding, rule XVIII-A (b) 7.

Notes of decisions.—Notes to § 16 (6) and § 16a, 3 Inters. Com. Acts Ann., p. 2179, 2204, 7 id., p. 5647, 5651; Certificate of convenience and necessity, § 1 (20), n. 12, 2 id., p. 1050.

(d) [Modification of effective date of order or of prescribed period or date.] Applications for modification of orders which seek only change in the date when they shall take effect, or in the period of notice or other period or date thereby prescribed, must be made by petition seasonably filed and served in like manner as other applications under this rule, except that in case of unforeseen emergency satisfactorily shown by the applicant, such relief may be sought informally, by telegram or otherwise, upon notice thereof to all parties or attorneys who appeared as aforesaid.

CROSS REFERENCES

Interstate Commerce Act.—Effective date, orders of Commission, § 15 (2).

Motor Carrier Act, order of member or examiner, § 205 (a); of Commission, continuance in effect until further order, suspension, modification, setting aside, § 221 (b).

Assignment of work or functions to individual commissioner or board of employees, effective date of orders of, § 17 (6); Motor Carrier Act, § 17 (6) applicable, § 205 (1).

Special periods of time for compliance with particular sections of the act, p. 1801, n. 1, editorial comment.

Orders to pay money (reparation) by day fixed, § 16 (1).

Rules of practice.—Computation of time, Sunday or holiday involved, rule XXII.

Notes of decisions.—Taking effect of orders, § 15 (2), n. 1, 3 Inters. Com. Acts Ann., p. 1801, 7 id., p. 5514; Reasonable minimum time, n. 2, pp. 1802, 5514.

(e) [Time of filing, as to reparation.] A petition for rehearing that part of any case relating to reparation must be filed within 60 days after service of the report therein.

CROSS REFERENCES

Rules of practice.—Computation of time, Sunday or holiday involved, rule XXII. Form of petition for rehearing, form no. 4.

Notes of decisions.—Computation of period, n. 1, 2, 4 Inters. Com. Acts Ann., p. 3475; Reopening on Commission's own motion, n. 3, p. 3475; Reopening on supplemental petition, n. 4, p. 3475; Application to accord with rules of practice, § 16a, n. 3, 3 id., p. 2205, 7 id., p. 5653; Reopening on Commission's own motion, § 16a, n. 4, 7 id., p. 5655.

(f) [Second applications upon same grounds, not entertained.] A second application under paragraph (a) of this rule, for rehearing, reargument, reconsideration, or for the vacation of any order, by the same party or parties, and upon the same grounds as a former petition or application, which has been considered and denied by the Commission, will not be entertained.

CROSS REFERENCE

Notes of decisions.—Application of principles of stare decisis and res judicata, § 13 (1), n. 135, 3 Inters. Com. Acts Ann., p. 1797, 7 id., p. 5442.

XV-A. NUMBER OF COPIES OF PETITIONS, MOTIONS, ETC., AND REPLIES THERETO

(a) [Number of copies for use of Commission.] Except as otherwise provided in these rules, 15 copies of each petition, motion, application, notice, or other paper in proceedings pending before the Commission on its formal docket filed and served as provided in Rule VI shall be furnished for the use of the Commission.

CROSS REFERENCES

Interstate Commerce Act.—Complaints, copies required, furnished, see statutes listed following rule III (h) 3.

Bankruptcy Act.—Petition by creditors, etc., copy, service, § 77 (a), (t. II, 205 (a); U. S. Code).

Rules of practice.—Number of copies required for use of Commission under particular rules; amended or cross complaints, answers to petitions in intervention, rule IV (c); Briefs, rule XIV (c); Complaints (formal), rule III (h) 3, (informal) rule III (c); Depositions, rule XI (d); Exhibits, rule XIII (1); Fourth section applications, rule XVIII (d) 1; Inland Waterways Act applications, rule XVIII-A (b) 2; Protests against tariff changes, rule XIX; Shortened procedure memoranda, rule X-A (e), (f), (g); Form and style of copies, rule XXI (a)-(c).

(b) [Replies to petitions, motions, etc., service, time for filing, copies.] Within 10 days after service of any paper specified in paragraph (a) of this rule, any adverse party may file and serve a reply thereto, furnishing a like number of copies for the use of the Commission. Parties or attorneys served at El Paso, Tex., Salt Lake City, Utah, and Butte and Helena, Mont., or points west thereof, will be allowed five days' additional time for filing and serving a reply. A reply to a reply is not permitted.

CROSS REFERENCES

Bankruptcy Act.—Answer to petition, § 77 (a), (t. 11, § 205 (a) U. S. Code).

Rules of Practice.—Computation of time, Sunday or holiday involved, rule XXII; Answers to petitions in intervention, amended or cross complaints, rule IV (c).

Notes of decisions.—Replication not required or allowed, § 13 (1), n. 70, 3 Inters. Com. Acts Ann., p. 1776.

XVI. TRANSCRIPT OF TESTIMONY

(a) [Free copies in complaint and investigation and suspension proceedings.] One copy of the transcript of testimony will be furnished by the Commission without charge for the use of the complainant and one copy for the use of the defendant. If two or more complainants or defendants have appeared at the hearing, such complainants or defendants must designate to whom the copy for their use shall be delivered. A similar course will be pursued in proceedings involving the suspension of tariffs.

CROSS REFERENCES

Bankruptcy Act.—Copy of, received by court, reference back to Commission when plan not approved, § 77 (e), (t. 11, § 205 (e) U. S. Code).

Rules of practice.—Transcript of oral argument before presiding commissioner or examiner in proposed report cases, included with transcript of testimony, rule XIV (d) 1.

Notes of decisions.—Transcript of testimony, § 13 (1), n. 181, 7 Inters. Com. Acts Ann., p. 5457; copies for parties, § 13 (1), n. 172, 3 id., p. 1811.

(b) [Copies not furnished by Commission in other cases.] In other cases and in proceedings instituted by the Commission on its own motion other than proceedings involving the suspension of tariffs, no copies of the transcript will be furnished by the Commission.

CROSS REFERENCE

See notes to rule II (g) as to investigations authorized by statute.

XVII. COMPLIANCE WITH ORDERS

[Notification to Commission; tariff references required.] When an order has been issued the defendants or respondents named therein must promptly notify the Commission on or before the date upon which such order becomes effective whether or not compliance has been made therewith. If a change in rates is required the notification must be given in addition to the filing of proper tariffs, and must specify the Interstate Commerce Commission numbers of the tariffs so filed.

CROSS REFERENCES

Interstate Commerce Act.—Duty of carriers to comply with orders, § 16 (7).

Car service, penalty for noncompliance, § 1 (17), § 1 (21).

Cease and desist, violations of act, § 15 (1).

Certificates, convenience and necessity, penalty for unauthorized construction, operation, abandonment, § 1 (20); Motor carriers, violation of term, condition, of certificate, permit, license, § 222 (a).

Motor carriers, brokers, compelling compliance with provisions and requirements, § 204 (d). Willful failure to comply, revocation of certificate, permit, license, § 212 (a).

Rehearing, application for, not excuse for noncompliance, rail lines, § 16a; Motor Carrier Act, § 204 (e).

Penalty for failure to comply with orders, generally, § 16 (8).

Reparation awards, § 16 (1).

Taking effect of order, see notes to rule XV (d).

Rules of practice.—Applications for vacation, reversal, or modification of order to permit new rates, etc., to be filed, rule XV (c). Satisfaction of complaint by defendant, statement by opposing party to be filed, rule IV (1).

Notes of decisions.—Duty of carriers to comply, § 15 (1), n. 100, 3 Inters. Com. Acts Ann., p. 1899; Extent of duty, n. 102, p. 1899; Compliance as affecting other violations of law, n. 104, 3 id., 1000; Evidence of compliance, n. 103, 3 id., p. 1900; Effective date of orders, notes to § 15 (2), 3 id., 1901, 7 id., p. 5514.

XVIII. APPLICATIONS UNDER FOURTH SECTION

(a) [Carriers may file application for relief; conformity with rules.] Any common carrier subject to the act may apply to the Commission, under the proviso clause of section 4 (1) of the act, for such authorization as it is empowered to grant thereunder. Such application must conform to the requirements of this rule, and of Rule XXI.

CROSS REFERENCES

Rules of practice.—Form of application for relief, Appendix 2, form no. 6.

Notes of decisions.—Applications for relief, § 4 (1), n. 167-171, 2 Inters. Com. Acts Ann., p. 1312-1314, 6 id., p. 5103.

(b) [Freight and passenger applications separate.] Separate applications shall be made for relief as to freight rates and passenger fares.

(c) [Long-and-short-haul and aggregate-of-intermediates applications separate.] Separate applications shall be made for relief under the long-and-short-haul provision and for relief from the aggregate-of-intermediates provisions of section 4 of the act.

CROSS REFERENCES

Notes of decisions.—Aggregate-of-intermediates clause, § 4 (1), n. 135-160. 2 Inters. Com. Acts Ann., p. 1303-1311, 6 id., p. 5098-5103; Relief from long-and-short-haul provision, § 4 (1), n. 165-176, 2 id., p. 1311-1314, 6 id., p. 5103-5105.

(d) 1. [Number of copies, signature, and verification.] Five copies of the application, including exhibits and maps, must be furnished.

2. The original application must be over the personal signature of an executive officer, a responsible traffic officer, or a duly authorized attorney or agent, specifying his title, and sworn to before a notary public or other officer authorized by law to administer oaths.

CROSS REFERENCE

Rules of practice.—Approved forms of verification, Appendix 2, form no. 1. Office and post-office addresses of signer shown, rule XXI (e).

(e) [Matters to be shown in applications.] All applications shall show:

1. The names of the carriers for or on whose behalf they are made, or, if made on behalf of all carriers parties to a particular tariff, the application may refer thereto by Interstate Commerce Commission number.

2. The Interstate Commerce Commission number of all tariffs in which rates, fares, or charges are published, to which reference is made in the application.

3. The rates, fares, or charges proposed to be established, and articles or classes upon which they are to apply, the points of origin and destination, and the routes between the said points over which the said rates, fares, or charges will be applicable. When relief is desired from "related" points or "group" points, the points or groups should be defined and indicated on the map hereinafter required to be furnished.

4. The intermediate points at which it is proposed to maintain rates, fares, or charges higher than those proposed between more distant points, and the rates, fares, or charges at such points.

5. A complete and accurate statement of the grounds relied upon in justification of the relief prayed.

(f) [Hearings upon applications; pertinent information required.] If a hearing is not desired, the application must so state. It is not to be understood that when such information is included in the application, hearings will not be held in all cases. It is the uniform practice of the Commission to hold hearings upon the request of any interested party. Applicants for relief from the long-and-short-haul provision of section 4 should be prepared to show at hearings in support of their application the information outlined below. If a hearing is desired, this information must be included in the application.

1. That the rates which it is desired to establish or maintain are compelled rates and lower than reasonable rates for application by way of the petitioning line or route, and not within its control.

2. That the lower rates for longer than shorter hauls over the same line or route are reasonably compensatory.⁴

3. A statement of rates at representative intermediate points at which rates exceed or would exceed the rates at competitive points, including rates at the highest and lowest rated intermediate points and the distances to and from all of the said intermediate points, together with a statement

⁴In *Transcontinental Cases of 1922*, 74 I. C. C. 48 (71), it was held that in the administration of the fourth section the words "reasonably compensatory" imply that a rate properly so described must (1) cover and more than cover the extra or additional expenses incurred in handling the traffic to which it applies; (2) be no lower than necessary to meet existing competition; (3) not be so low as to threaten the extinction of legitimate competition by other carriers; and (4) not impose an undue burden on other traffic or jeopardize the appropriate return on the value of carrier property generally, as contemplated in section 15a of the act [since amended]. It was also held that when carriers apply for relief from the long-and-short-haul clause of the fourth section and propose the application of rates which they designate as "reasonably compensatory" they should affirmatively show that the rates proposed conform to the criteria indicated. Carriers should not propose rates or rate structures for approval in a fourth section application which create infractions of other provisions of the Interstate Commerce Act.

The following information is considered pertinent in a showing as to the reasonably compensatory nature of rates:

(a) Statement of ton-mile, car-mile, and per-car earnings under the competitive rates. When a general adjustment is involved covering rates between numerous competitive points and applicable or to be applied by numerous routes, it will be sufficient, ordinarily, to give representative examples of rates throughout the territory yielding the lowest earnings for the longest and shortest hauls involved.

(b) Average revenue per ton-mile, car-mile, and per car on revenue freight traffic hauled over petitioning lines and average haul of revenue freight.

(c) Approximate average cost per ton-mile, car-mile, and per car of hauling revenue freight over petitioning lines.

(d) Approximate average cost per ton-mile, car-mile, and per car of hauling added traffic over petitioning lines.

(e) Traffic density.

of ton-mile, car-mile, and per-car earnings under the rates to and from such representative intermediate points.

4. That the higher rates for the shorter than for the longer hauls over the same line or route are reasonable. (The usual facts tending to show the reasonableness of rates should be presented.)

5. Whether there is a complaint pending as to the reasonableness of the rates at the intermediate points on the petitioning line or route.

CROSS REFERENCE

Notes of decisions.—Necessity for hearing, § 4 (1), n. 217, 2 Inters. Com. Acts Ann., p. 1327.

(g) [Additional matters to be shown.] In addition to the matters required in sections (e), (f), and (h) of this rule to be shown, the following should also be shown in applications based upon the grounds indicated.

1. Applications based on circuitry:

That the transportation of the competitive traffic by way of the petitioning route and the diversion of such traffic from the rate-making and other routes would not constitute wasteful transportation, considering the degree of circuitry and the respective financial conditions of the competing carriers. The following are considered pertinent facts: The financial condition of the petitioning line as compared with that of the competing lines; the traffic density on the petitioning line as compared with that of the competing lines; and the number of routes in operation between the competitive points.

The distances over the petitioning and rate-making lines or routes and the percentages of circuitry. If the petitioning route is a water-and-rail route, the prorating mileage of the water carrier or the rail mileage to which the water haul is equivalent should be given. If a general readjustment is involved covering rates between numerous competitive points over numerous routes, examples should be given of the degree of circuitry of the petitioning lines or routes at representative points throughout the territory involved, including the minimum and maximum degree of circuitry both in percentage and number of miles.

Whether the rates over the direct or rate-making line conform to the fourth section.

CROSS REFERENCE

Notes of decisions.—Circuitry, § 4 (1), n. 203-207, 2 Inters. Com. Acts Ann., p. 1322-1325, 6 id., p. 5111-5116.

2. Applications based on water competition:

The names of the water lines and the number of steamers or vessels actually plying between the water points and their tonnage capacity or capacities.

The service over the water lines as compared with that over the petitioning rail lines, and whether the commodities as to which relief is sought are adapted to transportation by water.

The volume of the traffic involved moving over the water lines and also over the rail lines between the same points.

The charges over the water lines, including marine insurance, wharfage, handling, and other incidental charges.

3. Applications based on motor-truck competition:

The service over the motor-truck lines as compared with that over the petitioning rail lines, and whether the commodities as to which relief is sought are adapted to transportation by motor trucks.

The volume of traffic involved moving over the motor-truck lines and also over the rail lines between the same points.

The charges over the motor-truck lines, including incidental charges, if any.

4. Applications based on market competition:

The names of the competitive producing points.

The distances over the direct lines or routes from the various producing points to the common market and the names of the lines or routes over which such distances are made.

Whether the rates from the other producing points conform to the provisions of the fourth section.

The volume of traffic involved.

Whether similar competition is to be met at intermediate markets.

5. *Applications based upon the weak financial condition or high operating costs of the petitioning line:*

Financial statistics and operating conditions.

The same information as required in applications based on circuitry.

CROSS REFERENCE

Notes of decisions.—States of fact constituting cause for relief; Competition, § 4 (1), n. 185-196, 2 Inters. Com. Acts Ann., p. 1315-1319, 6 id., p. 5105-5111.

(h) [*Miscellaneous provisions.*] In addition to the above indicated information, applications should show:

1. Any other circumstances which are relied on as constituting a special case within the meaning of section 4 (1) of the act.

2. The relative location of the various lines or routes, the competitive points, and representative intermediate points at which higher rates are to be charged should be shown on a map, made a part of each application.

3. The fact that a point is a large producing or consuming market and that intermediate points are not consuming or producing points is not considered by the Commission to be a sufficient reason for relief from the fourth section. Rule 27 of tariff circular 20 was promulgated for the purpose of covering such situations and obviating the necessity of publishing "paper" rates from or to intermediate points.

4. Applications which upon analysis are found to contain incomplete and inaccurate or unreliable data will be denied forthwith without prejudice to the filing of a new application.

5. If the Commission denies an application and the carrier presents a new application based upon new or additional facts in justification of the proposed rates, fares, or charges, such facts should be clearly indicated as such, and the modified application must specifically refer to the previous application and the number of the order denying the same.

6. Applications should be in the approved form shown in Appendix 2 and should conform to the specifications contained in Rule XXI.

CROSS REFERENCE

Notes of decisions.—Special cases construed, § 4 (1), n. 176, 2 Inters. Com. Acts Ann., p. 1314, 6 id., p. 5104.

XVIII-A. APPLICATIONS UNDER THE INLAND WATERWAYS CORPORATION ACT

(a) [*Matters to be stated in application for certificate of convenience and necessity.*] Applications for certificates of public convenience and necessity for operation as a common carrier and for joint rates and through routes with rail carriers under section 3 of the Inland Waterways Corporation Act, as amended,⁵ shall set forth, in the order indicated, the following information:

1. Exact corporate name of the applicant, if a corporation.

2. Date of incorporation, and Government, State, or Territory under the laws of which the applicant was organized. If incorporated under the laws of, or authorized to operate in, several States, give the facts in regard thereto.

3. Amount of paid-up and authorized capital stock and list of principal stockholders, if a corporation.

4. Names of partners, if applicant is a partnership.

5. Names of waterways on which applicant will operate and the names of applicant's terminal ports and ports of call, and names of rail carriers serving such terminal ports of call with which joint rates and through routes are desired, and the names of the water carriers with which applicant will compete.

6. Each State through, within, or along which applicant will operate.

⁵ § 3 referred to is § 153, t. 49, U. S. Code, Act of June 3, 1924, c. 243, § 3, 43 Stat. L. 361, as amended by acts of May 29, 1928, c. 801, § 2, 45 Stat. L. 978, June 16, 1934, c. 545, 48 Stat. L. 968, and Aug. 29, 1935, c. 802, 49 Stat. L. 958, and now includes the Warrior, Mississippi, Columbia, Snake, Sacramento, San Joaquin, and Savannah Rivers. The rule was amended Sept. 13, 1934, to read as shown, omitting the words "upon the Warrior or Mississippi Rivers or their tributaries."

7. The reasons, briefly stated, why the present or future public convenience and necessity require or will require the proposed operation.

8. Name, title, and post-office address of counsel or official to whom correspondence in regard to application is to be addressed.

9. Whether the applicant desires a hearing upon the application.

CROSS REFERENCES

Notes of decisions.—Inland Waterways Corporation, certificates, § 1 (18), n. 151, 6 Inters. Com. Acts Ann., p. 4993; Notes to § 3, Inland Waterways Corp. Act, 4 Inters. Com. Acts Ann., p. 2957, 7 id., p. 5948.

(b) [*Procedure governing submission of application.*] The submission of such application shall be governed by the following procedure:

1. [*Subscription and verification of application.*] The original application shall be signed by an executive officer of the applicant having knowledge of the matters and things therein set forth, shall be verified under oath, which shall show, among other things, that the affiant has knowledge of the matters and things therein stated and is duly authorized by the applicant to verify and file the application.

2. [*Number of copies furnished; completeness.*] Applicant shall file with the original application 15 copies for the use of the Commission and 2 additional copies for each State in which applicant will operate, and shall furnish additional copies as directed by the Commission. Each copy shall bear the dates and signatures that appear in the original and shall be complete in itself; the signatures in the copies may be stamped or typed, and the notarial seal may be omitted.

3. [*Service upon States; publication of notice; questionnaire.*] Upon receipt of the application the Commission will: (1) serve notice on and file a copy thereof with the governor and the railroad or public-service commission of each State in which applicant will operate, accompanied by an inquiry as to whether the governor or other representative of the State desires to be heard in the matter; (2) transmit to the applicant a questionnaire, together with a notice of the filing of the application, which notice shall be published by the applicant at least once during each of three consecutive weeks in some newspaper of general circulation in each county in which applicant will operate.

4. [*Return to questionnaire; comments by other parties.*] Applicant's return to the questionnaire shall be filed with the Commission as soon as practicable, but not later than six weeks after receipt thereof. Copies of the return will be mailed by the Commission to each railroad with which applicant will directly connect and also to each water line with which applicant will compete. Such railroads and water lines will be permitted to file comments on the application and return to the questionnaire within six weeks unless the Commission shall fix a different time. Copies of the comments should be mailed by parties filing them to the applicant and other interested water lines and rail carriers, and the Commission should be advised that this has been done. Action will not be taken on the application, and a hearing thereon, if considered necessary by the Commission, will not be ordered until after the return to the questionnaire and the comments thereon shall have been received.

5. [*Copies of return and comments sent to States.*] The Commission will mail a copy of the return to the questionnaire and of the comments thereon to the governor and public service commission of each State in which applicant will operate.

6. [*Filing statements as to basis of divisions.*] If applicant and the connecting railroads are unable to agree upon equitable divisions of joint rates which may be established as a result of the application, the applicant and any interested railroad may file with the Commission statements indicating the basis of divisions which they seek with reasons in support thereof.

CROSS REFERENCE

Notes of decisions.—Divisions, n. 6, § 153 (e), Inland Waterways Corp. Act, 4 Inters. Com. Acts Ann., p. 2959, 7 id., p. 5953.

7. [Petitions for suspension or modification of findings.] Petitions for suspension or modification of the Commission's findings upon the application or complaint concerning the reasonableness or lawfulness of any through routes, joint rates, differentials, and divisions ordered by the Commission, and seeking a hearing thereon, shall conform to the general rules governing petitions and complaints and shall be served on such parties as the Commission may designate.

CROSS REFERENCE

Notes of decisions.—Hearings, § 153 (e), n. 8, 7 Inters. Com. Acts Ann., p. 5954; Review of findings and orders, n. 9, 7 id., p. 5956.

(c) [Specifications, form and style.] The application, return to questionnaire, and comments thereon shall conform with rule XXI, paragraphs (a) to (c), inclusive, of these rules.

XIX. SUSPENSIONS OF TARIFF SCHEDULES

[Time of protest; matters to be stated; number of copies.] Suspensions of tariff schedules under section 15 (7) of the act will not ordinarily be considered unless protest and application therefor is made in writing or by telegram at least 10 days before the effective date named in the schedule. Applications for suspensions must indicate the schedule affected by its Interstate Commerce Commission number and give specific reference to the items against which protest is made, together with a statement of the grounds thereof. If such application is made by telegram, it must be confirmed and followed by application in writing and should succinctly state the substance of the matters to be set forth in the written application. Seven copies of each written application must be furnished to the Commission.

CROSS REFERENCES

Interstate Commerce Act.—Suspension of new rates, and investigations by Commission, § 15 (7).

Rules of practice.—Suspension or modification of findings, Inland Waterways Corp. Act, rule XVIII-A (b) 7.

XIX-A. PROCEEDINGS IN FINANCE CASES

(a) [Finance cases defined; general rules applicable.] Proceedings under the following provisions of law, collectively referred to as "finance cases", will be governed by these rules of practice, as far as applicable: Interstate Commerce Act, section 1 (18)-(20), relating to the construction, operation, or abandonment of lines of railroad; section 5 (4), relating to the consolidation, merger, purchase, lease, contract for operation, or control through stock ownership of railroads; section 20a (1)-(11), relating to the issuance of securities or assumption of obligations by railroad companies; and section 20a (12), relating to the holding of positions with more than one carrier; National Industrial Recovery Act, section 203 (a) (4), title II [U. S. Code, t. 40, sec. 403], relating to the approval of railroad maintenance and equipment; Reconstruction Finance Corporation Act, section 5 [U. S. Code, t. 15, sec. 605], relating to the approval of loans to railroads; and section 77 [t. 11, sec. 205] Bankruptcy Act, as amended, relating to proceedings for the reorganization of a railroad.

CROSS REFERENCES

Motor Carrier Act.—Change, revocation, suspension of certificate, § 212 (a). Charter or special operations, authorized, § 207 (a). Terms and conditions of certificate, § 208 (a). Acquisition of control, lawful, when, § 213 (a); prior to June 1, 1935, saving clause, § 206 (a). Application for authorization to acquire, § 213 (a) (1)—except when 20 or less vehicles involved, § 213 (e). Securities provisions of § 20a (2) through (11) applicable to motor carriers, § 214.

Rules of practice.—Briefs in finance cases, filing and service, rule XIV (e) 3.

(b) [Special instructions.] Special instructions as to procedure under any of these subjects, supplementing these rules, will be furnished upon application to the secretary of the Commission, except as to procedure under section 5 [§ 605 U. S. Code] of the Reconstruction Finance Corporation Act, for which application should be made to the Reconstruction Finance Corporation.

XX. INFORMATION TO PARTIES

[Secretary to advise as to form.] The secretary of the Commission will, upon request, advise as to the form of complaint, answer, or other paper to be filed in any proceeding.

CROSS REFERENCE

Rules of practice.—Special instructions as to procedure furnished upon application, in finance cases, rule XIX-A (b).

XXI. SPECIFICATIONS AS TO COMPLAINTS, ANSWERS, PETITIONS, APPLICATIONS, BRIEFS, ETC.

(a) [Typewritten or printed only.] All papers to be filed under these rules must be typewritten or printed.

(b) [Size, acceptable copies, and legibility of typewritten papers.] If typewritten they must, unless otherwise specifically provided, be on paper not more than 8½ inches wide or 12 inches long, weighing not less than 16 pounds to the ream, folio base, 17 by 22 inches, with left-hand margin not less than 1½ inches wide. The impression must be on only one side of the paper and must be double-spaced, except that long quotations should be single-spaced and indented. Mimeographed, multigraphed, planographed, or photographed copies will be accepted as typewritten, but carbon copies, hectographed copies, white-line blue prints, or copies prepared by similar processes will not be so accepted. All copies must be clearly legible.

CROSS REFERENCES

Rules of practice.—Size of exhibits, rule XIII (e).

(c) [Size of printed papers.] If printed they must be in 10 or 12 point type, on good unglazed paper, 5½ inches wide by 9 inches long, with inside margin not less than 1 inch wide, and with double-leaded text and single-leaded citations.

(d) [Briefs, printed or typewritten.] All briefs must be printed, except that briefs of not more than 40 pages, including cover pages, indexes, and appendixes, may be typewritten.

CROSS REFERENCE

Rules of practice.—Briefs, arrangement of contents, exhibits, index, table of cases cited, rule XIV (b) 1; maps, rule XIV (b) 2.

(e) [Signature.] Complaints, answers, motions, petitions, applications, protests of tentative valuations, and notices must be signed in ink by the party, petitioner, or applicant, or by his or its duly authorized attorney, and must show the office and post-office address of the signer. Protests of tentative valuations must show the full name and post-office address of the protestant.

XXII. COMPUTATION OF TIME—SUNDAYS AND HOLIDAYS

[Extension of time to include following day.] When the time prescribed by these rules for doing any act expires on a Sunday or legal holiday, such time shall extend to and include the next succeeding day that is not a Sunday or legal holiday.

XXIII. OFFICE AND ADDRESS OF THE COMMISSION

(a) [Transmission of pleadings, etc.; office hours.] Pleadings and other papers required to be filed with the Commission may be transmitted by mail or express, or otherwise delivered, but must be received for filing at its office in Washington, D. C., within the time limit, if any, for such filing. That office is open from 9 a. m. to 4:30 p. m. of each business day except Saturday, upon which day it is open from 9 a. m. to 1 p. m. or as may specially be provided by statute or by executive order.

CROSS REFERENCES

Interstate Commerce Act.—Principal office of the Commission in Washington; sessions elsewhere within United States, § 19; Motor Carrier Act, sections, § 205 (d).

Rules of practice.—Computation of time, Sunday or holiday involved, rule XXII.

(b) [Address.] All communications to the Commission must be addressed to Washington, D. C., unless otherwise specifically directed.

APPENDIX 1

The list below illustrates in a general way data which have been found to be pertinent in cases submitted to the Commission.

- 1. Whether complainant is an individual, partnership, association, or corporation. If an individual, his or her residence; if a partnership, names of the partners. Complainant's business and principal place thereof.
2. Description of commodity (where classification rating is involved—form, packing, susceptibility to damage, liability to contaminate other freight, and value) and date, origin, destination, weight, consignor, and consignee of the shipments.
3. Rate charged, and minimum weight and any reconsignment or transit arrangements applicable, with tariff authority therefor; charges collected.
4. Route of movement of each shipment; routing instructions and by whom given; whether rate was inserted in bill of lading.
5. Date of delivery or tender of delivery of each shipment.
6. When the case has been filed previously on the informal docket, the papers therein should be stipulated into the record.
7. Distances, and how computed. If more than one route exists between the points involved, short-line, average, and long-line distances.
8. History of rate.
9. Rate comparisons, together with transportation and traffic conditions, movements under such rates, routes, mileage, etc.
10. Right of complainant to any refund which may be ordered. Whether goods were sold f. o. b. origin, destination, or elsewhere, by whom the charges were paid in the first instance, and how complainant was damaged.
11. Exact relief sought.
12. Facts and contentions to justify existence of lower rates between same points in opposite direction.
13. When unjust discrimination or undue prejudice or preference is alleged—whether complainant, his locality, or traffic, is discriminated against or prejudiced. How complainant was damaged by such discrimination.
14. When fourth-section departures exist, justification by defendants for such departures.

APPENDIX 2

APPROVED FORMS

[These forms may be used in cases to which they are applicable, with such alterations as the circumstances may render necessary]

No. 1. COMPLAINT

Before the Interstate Commerce Commission

COMPLAINT

THE _____ RAILROAD COMPANY
v.
_____ RAILWAY COMPANY
[Insert without abbreviation corporate title of carrier or carriers defendant]

The complaint of the above-named complainant respectfully shows:

- I. That [complainant should here state nature and place of business, also whether a corporation, firm, or partnership, and if a firm or partnership, the individual names of the parties composing the same.]
II. That the defendant above named is a common carrier engaged in the transportation of [passengers and] property, wholly by railroad [or, partly by railroad and partly by water], between points in the State of _____ and points in the State of _____, and as such common carrier is subject to the provisions of the Interstate Commerce Act.
III. That [state in this and subsequent paragraphs to be numbered IV, V, etc., the matter or matters intended to be complained of, naming every rate, fare, charge, classification, regulation, or practice the lawfulness of which is challenged, and also, if practicable, each point of origin and point of destination between which the rates, etc., complained of are applied. Where it is impracticable to designate each point, defined territorial or rate groups and typical points should be designated. Whenever practicable tariff references should be given.] See rule III.
[Where unlawful discrimination is charged, the facts constituting the basis of the charge should be clearly stated; that is, if the unlawful discrimination be under section 2, the person or persons claimed to be favored and the person or persons claimed to be

injured should be named, and the kind of service and kind of traffic, together with the claimed similarity of the circumstances and conditions of transportation, should be set forth. See rule III (1). If the discrimination be under section 3, the particular person, company, firm, corporation, locality, or traffic claimed to be accorded undue or unreasonable preference or advantage, or subjected to undue or unreasonable prejudice or disadvantage, should be stated. See rule III (m). If the discrimination be under section 4, the particular provision of the section claimed to be violated—that is, whether the long-and-short-haul provision or the aggregate-of-intermediate-rates provision—as well as the facts constituting such violation, should be stated.] See rule III (o).

X. That by reason of the facts stated in the foregoing paragraphs complainant has been subjected to the payment of rates [fares or charges, etc.] for transportation which were when exacted and still are (1) unjust and unreasonable in violation of section 1 of the Interstate Commerce Act, and (2) unjustly discriminatory in violation of section 2, and (3) unduly preferential or prejudicial in violation of section 3, and (4) in violation of the long-and-short-haul [or, aggregate of intermediate rates] provision of section 4 thereof. [Use one or more of the allegations numbered 1, 2, 3, 4, according to the facts as intended to be charged.] That complainant has been injured thereby to his damage in the sum of _____ dollars.

Wherefore complainant prays that defendant may be required to answer the charges herein; that after due hearing and investigation an order to be made commanding said defendant [and each of them] to cease and desist from the aforesaid violations of said act, and establish and put in force and apply in future to the transportation of _____ between the origin and destination points named in paragraph _____ hereof, in lieu of the rates [fares, or charges, etc.] named in said paragraph, such other rates [fares, or charges, etc.] as the Commission may deem reasonable and just [and also pay to complainant by way of reparation for the unlawful charges hereinbefore alleged the sum of \$ _____, or such other sum as, in view of the evidence to be adduced herein, the Commission shall determine that complainant is entitled to as an award of damages under the provisions of said act for violation thereof], and that such other and further order or orders be made as the Commission may consider proper in the premises.

Dated at _____, 19____

(Complainant's signature)

(Office and post-office address)

(Signature of attorney or registered practitioner)

(Post-office address)

VERIFICATION

STATE OF _____
County of _____, ss:

_____, being duly sworn, deposes and says: that he is the complainant [or, one of the complainants; or, is the (insert title of the affiant if complainant is a corporation) of the _____ company, complainant] in the above entitled proceeding; that he has read the foregoing complaint, and knows the contents thereof; that the same are true as stated, except as to matters and things if any, stated on information and belief, and that as to those matters and things, he believes them to be true.

Subscribed in my presence, and sworn to before me, by the affiant above named, this _____ day of _____, 19____

[Use an impression seal.]

[L. S.]

(Title of officer)

Commission expires _____

If the verification is by an attorney or registered practitioner, the following:

STATE OF _____
County of _____, ss:

_____, being duly sworn, deposes and says: That he is the attorney [or, registered practitioner] for the complainant in the above-entitled proceeding; that he has read the foregoing complaint, subscribed by him, and knows the contents thereof: That the same are true as stated, of his own knowledge, except as to matters and things, if any, stated on information and belief, and that as to those matters and things, he believes them to be true. That the reason that this verification is made by affiant, instead of by complainant [or, by one of the complainants, or, by an officer of complainant] is that (here insert the reason relied upon); that affiant is duly authorized to prosecute this complaint, and that the power of attorney authorizing him to prosecute the complaint and make the verification, is filed with the complaint.

(Jurat of officer administering the oath, as in the preceding form.)

NOTE.—The foregoing suggested forms of verification, suitably modified, should be employed in complaints, amendments, and petitions for leave to intervene, when the rules require verification of such documents.

No. 2 ANSWER

Before the Interstate Commerce Commission

ANSWER

THE _____ RAILROAD COMPANY } DOCKET No. _____

The above-named defendant, for answer to the complaint in this proceeding, respectively state:

I. [Here follow appropriate and responsive admissions, denials, and averments, specifically answering the complaint paragraph by paragraph.]

Wherefore defendant pray that the complaint in this proceeding be dismissed.

Dated _____, 19____
The _____ RAILROAD COMPANY,
By _____

(Title of officer)
(Office and post-office address)
(Signature of attorney)
(Post-office address)

No. 2-A. CERTIFICATE OF SERVICE

[To be shown on the original when tendered for filing with the Commission, of every paper as specified in Rule VI (b).]

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding, by delivering a copy thereof in person to [here name persons served in person] and by mailing a copy thereof properly addressed to each other party [as the case may be].

Dated at _____, this _____ day of _____, 19____
[Signature]
Of Counsel for _____

No. 3. PETITION FOR LEAVE TO INTERVENE

Before the Interstate Commerce Commission

PETITION

_____ } DOCKET No. _____

Come now your petitioner, _____, and respectfully represents that he has an interest in the matters in

IMPORTANT.—Before making out statement, read rule V carefully

No. 5. FORM OF REPARATION STATEMENT UNDER RULE V

Claim No. ___ of Richard Roe under the decision of the Interstate Commerce Commission in Docket No. _____

Date of shipment	Date of delivery or tender of delivery	Date charges were paid	Car initials	Car number	Origin	Destination	Route	Commodity	Weight	As charged		Should be		Reparation on basis of the Commission's decision
										Rate	Amount	Rate	Amount	
Oct. 7, 1918	Oct. 20, 1918	Oct. 25, 1918	N. P.	41535	Pittsburgh, Pa.	Dallas, Tex.	B. & O., M., K. & T., M., K. & T. of Tex.	Jelly glasses	20,000	\$1.25	\$250.00	\$1.16	\$232.00	\$17.00
Oct. 10, 1918	Oct. 23, 1918	Oct. 23, 1918	I. O.	6709	do	do	do	do	33,000	1.25	412.50	1.16	382.80	29.70
Dec. 10, 1918	Dec. 23, 1918	Dec. 24, 1918	C. & E. I.	60238	do	do	do	do	32,000	1.25	400.00	1.16	371.20	28.80
Mar. 29, 1919	Apr. 13, 1919	Apr. 13, 1919	U. P.	10248	do	do	do	do	31,200	1.25	390.00	1.16	361.92	28.08
Total											1,453.75		1,427.72	26.03

The undersigned hereby certifies that this statement has been checked against the records of this company and found correct.
MARCH 30, 1920.

X. Y. Z. Ry. Co.,
Collecting Carrier, Defendant,
By JOHN SMITH, Auditor.
Concurred in:
A. B. C. Ry. Co., Defendant,
By WILLIAM JONES, Auditor.

RICHARD ROE, Claimant,
By JOHN DOE, Attorney,
_____ STREET, CHICAGO, ILL., March 15, 1920.

¹If not a defendant, strike out word "defendant." ²For concurring certificate in case collecting carrier is not a defendant.

No. 6. APPLICATION FOR RELIEF UNDER SECTION 4 (1) OF THE ACT
Interstate Commerce Commission

Fourth Section Application Commission's number _____
Carrier's number _____
The _____ Company, by _____, its
[official title], hereby petitions the Interstate Com-

controversy in the above-entitled proceeding and desires to intervene in and become a party to said proceeding, and for grounds of the proposed interventions says:

I. That [petitioner should here state nature and place of business, and whether a corporation, firm, or partnership, etc., as in form no. 1].

II. [Petitioner or petitioners should here set out specifically his position and interest in the above-entitled proceeding in accordance with rule II (c).]

III. [If affirmative relief is sought see paragraphs III and X and prayer in form no. 1.]

Wherefore said _____ prays leave to intervene and be treated as a party hereto with the right to have notice of and appear at the taking of testimony, produce and cross-examine witnesses, and be heard in person or by counsel upon brief and at the oral argument, if oral argument is granted.

[If affirmative relief is sought insert appropriate prayer here.]

Dated at _____, 19____
[To be subscribed and verified as in the case of complaints—see form no. 1, above.]

No. 4. PETITION FOR REHEARING OR REARGUMENT

Before the Interstate Commerce Commission

PETITION

_____ } DOCKET No. _____

Come now the complainant [or defendant] in the above-entitled proceeding and respectfully petitions the Commission to grant a rehearing [or reargument] therein, and in support of said petition respectfully shows:

I. [Here set out specifically the matters claimed to be erroneously decided, with a brief statement of the alleged errors, in conformity with Rule XV of the Rules of Practice.]

Wherefore petitioner prays that a rehearing [or reargument] be granted in the above-entitled case and that the Commission enter such further order or orders in the premises as to it may seem reasonable and just.

Dated at _____, 19____
(Petitioner's signature)
(Office and P. O. Address)

(Signature of attorney or registered practitioner)
(Office and P. O. Address)

[Add showing as to service—see form no. 2 A, supra]

merce Commission for authority to establish rates [or fares, or charges, or classifications] hereinafter set forth without observing the long-and-short-haul [or aggregate-of-intermediates] provision of section 4 (1) of the Interstate Commerce Act. [If rates, etc., are to apply over the lines of more than one carrier, the application should show that it is made for and on behalf of all such carriers, naming them, or if made for or on behalf of all carriers

parties to a particular tariff, reference may be made by Interstate Commerce Commission number to such tariff for the names of such carriers.]

I. [State fully the rates, fares, charges, etc., which it is desired to establish, the routes over, and the articles or classes upon which they are to apply, and names or descriptions of the points of origin and destination. See Note A, following.]

II. [State fully names or description of intermediate points at which it is desired to maintain higher rates, etc., and rates, etc., at such points or a sufficient number of such points to illustrate the situation, including the points at which the highest and lowest rates, etc., in excess of those at more distant points would apply. Distances between all points shown should be included in this statement. See Note A, following.]

III. This application is based upon the following facts which present all of the circumstances and conditions relied upon by your petitioner in justification of the relief herein prayed: [Make a complete and accurate statement as to the necessity for the proposed changes, and all of the circumstances and conditions relied upon as justifying the relief prayed. See Note A, following].

IV. [Give specific reference to any proceeding pending before or determined by the Commission, by docket number, and report citation, if any, which may have any bearing upon, or be in any wise related to the rates, etc., sought to be established. If none, state that fact.]

NOTE A.—When more convenient this information may be given in an exhibit or exhibits, and here-referred to: "As stated in exhibit attached to and made a part hereof." Information required under each numbered section, as above, should be shown in a separate exhibit.

By COMPANY, (Corporate title of petitioner) (Personal signature of officer) (Title of officer)

[To be verified as in the case of complaints—see form no. 1, above.]

No. 7-A. APPLICATION FOR ADMISSION TO PRACTICE BEFORE THE COMMISSION UNDER RULE I-B, PARAGRAPH (A)

I, hereby apply for admission to practice before the Interstate Commerce Commission under rule I-B, paragraph (a) of the Rules of Practice of the Commission, and submit the following:

1. I reside at (Street number) (City) County, State of My office address is (Street number) (City) County, State of

2. I was admitted to practice as an attorney at law by the Court of on the day of 1, and am now a member of the bar of that court; I have never been suspended or disbarred from practice before any court (state here any exception) (Signature of applicant)

STATE OF County of, ss:

being first duly sworn, on his oath deposes and says: I am the person named in the foregoing application for admission to practice before the Interstate Commerce Commission, and the statements of facts therein contained are true.

(Signature of applicant) Subscribed in my presence, and sworn to before me, this day of 19 [SEAL] My Commission expires (Title)

CERTIFICATE

I, clerk of the court of hereby certify that the above-named applicant for admission to practice before the Interstate Commerce Commission, is duly admitted to practice as an attorney at law by the said court, and is now in good standing as a member of the bar of said court.

Dated this day of 19 (Clerk of said court)

[SEAL]

CERTIFICATE

The undersigned, registered practitioners before the Interstate Commerce Commission, hereby certify that the above-named applicant for admission to practice before the Interstate Commerce Commission, possesses all the requisite qualifications under rule I-B, paragraph (a), of the Rules of Practice

before the Commission, and move and recommend his admission to practice under such rules.

Dated this day of 19

No. 7-B. APPLICATION FOR ADMISSION TO PRACTICE BEFORE THE COMMISSION UNDER RULE I-B, PARAGRAPH (B)

I, hereby apply for admission to practice before the Interstate Commerce Commission under rule I-B, paragraph (b), and submit the following:

1. I reside at (Street number) (City) County, State of My office address is (Street number) (City) County, State of

2. My occupation is My employment now is During the last five years my employment and my occupation have been as follows:

Here state any additional facts relied upon to show that applicant is possessed of the necessary legal and technical qualifications to render valuable service to parties before the Commission and competent to advise and assist them in proceedings before the Commission:

(Signature of applicant)

STATE OF County of, ss:

being first duly sworn, on his oath deposes and says: I am the person named in the foregoing application for admission to practice before the Interstate Commerce Commission, and that the statements of facts therein contained are true.

(Signature of applicant)

Subscribed in my presence and sworn to before me this day of 19

[SEAL] (Title) My Commission expires

CERTIFICATE

The undersigned, registered practitioners before the Interstate Commerce Commission, hereby certify that the above-named applicant for admission to practice before the Interstate Commerce Commission, possesses all the requisite qualifications under rule I-B, paragraph (b) of the rules of practice before the Commission, and move and recommend his admission to practice under such rules.

Dated this day of 19

No. 8. OATH TO BE TAKEN BY PRACTITIONERS UPON ADMISSION, TO BE FILED WITH THE COMMISSION

Interstate Commerce Commission

I, [Name in full, printed or typed] do solemnly swear (or affirm) that I will demean myself as a practitioner before this Commission, uprightly and according to law; and that I will support the Constitution of the United States.

(Signature) Subscribed and sworn to before me this day of A. D. 19, at (City or place) (State) [SEAL] (Title)

NOTE.—If the oath is taken before a notary public the date of expiration of his commission should be shown.

[SEAL] GEORGE B. MCGINTY, Secretary.

[F. R. Doc. 941—Filed, June 18, 1936; 3:31 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of June 1936.

[File No. 32-22]

IN THE MATTER OF THE DECLARATION OF SIOUX CITY GAS AND ELECTRIC COMPANY

ORDER AUTHORIZING HEARING AND DESIGNATING OFFICER TO CONDUCT PROCEEDINGS

A declaration having been duly filed with this Commission by Sioux City Gas and Electric Company, an Iowa corporation and a subsidiary of a registered holding company, pursuant to Section 7 of the Public Utility Holding Company Act of 1935, regarding the issue and sale of

(1) \$9,000,000 of its First Mortgage Bonds 4% Series due 1966 and

(2) \$1,500,000 of its Debenture Series A (maturing serially from July 1, 1937, to July 1, 1946; Debentures maturing July 1, 1937, to July 1, 1941, bear interest at 3% per annum; Debentures maturing thereafter bear interest at the rate of 5% per annum):

It is ordered, That the matter be set down for hearing on the 30th day of June, at 10 o'clock, in the forenoon of that day, at Room 1103, Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C.; and

It is further ordered, That John H. Small, an officer of the Commission, be and he hereby is designated to preside at such hearing, and authorized to adjourn said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered, That any interested state, state commission, state securities commission, municipality, or other political subdivision of a state, or any representative of interested consumers or security holders, or any other person desiring to be admitted as a party in this proceeding or to offer evidence in this matter, shall give notice of such intention to the commission, such notice to be received by the Commission not later than June 26th, 1936.

Upon the completion of the taking of testimony in this matter, the officer conducting said hearing is directed to close the hearing and make his report to the Commission. By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 953—Filed, June 19, 1936; 1:41 p. m.]

Tuesday, June 23, 1936

No. 72

PRESIDENT OF THE UNITED STATES.

BLACK WARRIOR NATIONAL FOREST—ALABAMA

By the President of the United States of America

A PROCLAMATION

WHEREAS certain lands within areas adjoining the Alabama National Forest in the State of Alabama have been acquired by the United States under authority of sections 6 and 7 of the act of March 1, 1911, ch. 186, 36 Stat. 961, as amended (U. S. C., title 16, secs. 515, 516); and

WHEREAS it appears that it would be in the public interest to add such lands and certain adjoining public lands within the areas hereinafter designated to the said National Forest; and

WHEREAS it further appears that it would be in the public interest to change the name of said Alabama National Forest, as established by proclamation of January 15, 1918, 40 Stat. 1740, to the Black Warrior National Forest:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, by virtue of the power vested in me by section 24 of the act of March 3, 1891, ch. 561, 26 Stat. 1095, 1103, as amended (U. S. C., title 16, sec. 471), the act of June 4, 1897, 30 Stat. 11, 34, 36, and section 11 of the said act of March 1, 1911, do proclaim that all

lands of the United States within the following-described areas are included in and reserved as part of the Black Warrior National Forest, and that all lands within such areas which may hereafter be acquired by the United States under the said act of March 1, 1911, as amended, shall upon acquisition of title thereto be reserved and administered as part of the Black Warrior National Forest:

HUNTSVILLE MERIDIAN

- T. 7 S., R. 6 W., section 31, S½ sections 32 to 34, inclusive;
- T. 7 S., R. 7 W., S½ section 19, sections 30 and 31, and S½ sections 32 to 36, inclusive;
- T. 7 S., R. 8 W., SW¼ section 13, S½ section 14, SE¼ section 22, section 23, W½ and SE¼ section 24, and sections 25 to 36, inclusive;
- T. 7 S., R. 9 W., W½ and SE¼ section 19, S½ section 20, section 25, W½ section 28, and sections 29 to 36, inclusive;
- T. 7 S., R. 10;
- T. 8 S., R. 6 W., SW¼ section 1, sections 2 to 11, inclusive, NW¼ section 12, and sections 14 to 36, inclusive;
- Tps. 8 S., Rs. 7, 8, 9, and 10 W.;
- Tps. 9 S., Rs. 6, 7, 8, 9, and 10 W.;
- Tps. 10 S., Rs. 6, 7, 8, 9, and 10 W.;
- Tps. 11 S., Rs. 6, 7, 8, 9, and 10 W.;
- T. 12 S., R. 6 W., All that part lying in Winston County;
- T. 12 S., R. 7 W., sections 1 to 18, inclusive;
- T. 12 S., R. 8 W., sections 1 to 18, inclusive;
- T. 12 S., R. 9 W., sections 1 to 18, inclusive;
- T. 12 S., R. 10 W., sections 1 to 18, inclusive.

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

DONE at the City of Washington this 19th day of June, in the year of our Lord nineteen hundred and thirty-six and of the Independence of the United States of America the one hundred and sixtieth.

FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL
Secretary of State.

[No. 21781]

[F. R. Doc. 962—Filed, June 22, 1936; 11:38 a. m.]

EXPORT OF ARMS, AMMUNITION, AND IMPLEMENTS OF WAR TO ETHIOPIA AND ITALY

By the President of the United States of America

A PROCLAMATION

WHEREAS by my proclamation of February 29, 1936,¹ issued pursuant to section 1 of the joint resolution of Congress approved on the same date, extending and amending the joint resolution of Congress approved August 31, 1935, I proclaimed that a state of war unhappily continued to exist between Ethiopia and the Kingdom of Italy.

AND WHEREAS all citizens of the United States or any of its possessions and all persons residing or being within the territory or jurisdiction of the United States or its possessions were thereby admonished to abstain from every violation of the provisions of the joint resolution, made effective and applicable by that proclamation to the export of arms, ammunition, and implements of war from any place in the United States or its possessions to Ethiopia or to the Kingdom of Italy, or to any Italian possession, or to any neutral port for transshipment to, or for the use of, Ethiopia or the Kingdom of Italy,

AND WHEREAS section 1 of the aforesaid joint resolution of Congress approved August 31, 1935, as extended and amended by the aforesaid joint resolution of Congress of February 29, 1936, provides in part as follows:

"When in the judgment of the President the conditions which have caused him to issue his proclamation have ceased to exist he shall revoke the same and the provisions hereof shall thereupon cease to apply",

AND WHEREAS the conditions which caused me to issue my aforesaid proclamation of February 29, 1936, have ceased to exist,

¹Proclamation No. 2159.

