

**(g) Time of hearing; procedure**

The court shall hear and determine the appeal upon the record before it in the manner prescribed by section 706 of title 5.

**(h) Remand**

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

**(i) Judgment for costs**

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

**(j) Finality of decision; review by Supreme Court**

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

(June 19, 1934, ch. 652, title IV, § 402, 48 Stat. 1093; May 20, 1937, ch. 229, §§ 11-13, 50 Stat. 197; May 24, 1949, ch. 139, § 132, 63 Stat. 108; July 16, 1952, ch. 879, § 14, 66 Stat. 718; Pub. L. 85-791, § 12, Aug. 28, 1958, 72 Stat. 945; Pub. L. 97-259, title I, §§ 121, 127(b), Sept. 13, 1982, 96 Stat. 1097, 1099; Pub. L. 98-620, title IV, § 402(50), Nov. 8, 1984, 98 Stat. 3361; Pub. L. 104-104, title I, § 151(b), Feb. 8, 1996, 110 Stat. 107; Pub. L. 111-260, title I, § 104(d), Oct. 8, 2010, 124 Stat. 2762.)

**Editorial Notes**

## REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

## AMENDMENTS

- 2010—Subsec. (b)(10). Pub. L. 111-260 added par. (10).  
 1996—Subsec. (b)(6). Pub. L. 104-104, § 151(b)(1), inserted reference to par. (9).  
 Subsec. (b)(9). Pub. L. 104-104, § 151(b)(2), added par. (9).  
 1984—Subsec. (g). Pub. L. 98-620 substituted "The" for "At the earliest convenient time the" and "706 of title 5" for "10(e) of the Administrative Procedure Act [former 5 U.S.C. 1009(e)]".  
 1982—Subsec. (a). Pub. L. 97-259, § 127(b), substituted "chapter 158 of title 28" for "Public Law 901, Eighty-first Congress, approved December 29, 1950".  
 Subsec. (d). Pub. L. 97-259, § 121, substituted "appellant" for "Commission", "filing of such notice" for "date of service upon it", struck out "and shall thereafter permit any such person to inspect and make copies of said notice and statement of reasons therefor at

the office of the Commission in the city of Washington" after "pendency of the same", and substituted "The" for "Within thirty days after the filing of an appeal, the" before "Commission shall file".

1958—Subsec. (d). Pub. L. 85-791 substituted "the record upon which the order complained of was entered, as provided in section 2112 of title 28," for "a copy of the order complained of, a full statement in writing of the facts and grounds relied upon by it in support of the order involved upon said appeal, and the originals or certified copies of all papers and evidence presented to and considered by it in entering said order" in second sentence.

1952—Act July 16, 1952, amended section generally to set up the procedure for the judicial review of the Commission's orders and decisions.

1949—Subsec. (a). Act May 24, 1949, substituted "Title 28 of the United States Code" for "the Act of October 22, 1913 (38 Stat. 219)", and "such Title 28" in lieu of "that Act".

1937—Subsec. (a). Act May 20, 1937, § 11, inserted ", or suspending a radio operator's license" after "or for modifications of an existing radio station license".

Subsec. (b)(3). Act May 20, 1937, § 12, added par. (3) relating to appeal from decisions in case of any radio operator whose license has been suspended by the Commission.

Subsec. (c). Act May 20, 1937, § 13, inserted in last sentence "or order" after "upon the application".

**Statutory Notes and Related Subsidiaries**

## CHANGE OF NAME

Act June 7, 1934, ch. 426, 48 Stat. 926, changed name of "Court of Appeals of the District of Columbia" to "United States Court of Appeals for the District of Columbia".

## EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as a note under section 1657 of Title 28, Judiciary and Judicial Procedure.

## EFFECTIVE DATE OF 1952 AMENDMENT

Section 19(2) of act July 16, 1952, provided that: "The amendments made by this Act to section 402 of the Communications Act of 1934 [this section] (relating to judicial review of orders and decisions of the Commission) shall not apply with respect to any action or appeal which is pending before any court on the date of enactment of this Act [July 16, 1952]."

## ADMINISTRATIVE ORDERS REVIEW ACT

Court of appeals exclusive jurisdiction respecting final orders of Federal Communications Commission made reviewable by subsec. (a) of this section, see section 2342 of Title 28, Judiciary and Judicial Procedure.

**§ 403. Inquiry by Commission on its own motion**

The Commission shall have full authority and power at any time to institute an inquiry, on its own motion, in any case and as to any matter or thing concerning which complaint is authorized to be made, to or before the Commission by any provision of this chapter, or concerning which any question may arise under any of the provisions of this chapter, or relating to the enforcement of any of the provisions of this chapter. The Commission shall have the same powers and authority to proceed with any inquiry instituted on its own motion as though it had been appealed to by complaint or petition under any of the provisions of this chapter, including the power to make and enforce any order or orders in the case, or relating to the matter or thing

concerning which the inquiry is had, excepting orders for the payment of money.

(June 19, 1934, ch. 652, title IV, § 403, 48 Stat. 1094.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

#### § 404. Reports of investigations

Whenever an investigation shall be made by the Commission it shall be its duty to make a report in writing in respect thereto, which shall state the conclusions of the Commission, together with its decision, order, or requirement in the premises; and in case damages are awarded such report shall include the findings of fact on which the award is made.

(June 19, 1934, ch. 652, title IV, § 404, 48 Stat. 1094.)

#### § 405. Petition for reconsideration; procedure; disposition; time of filing; additional evidence; time for disposition of petition for reconsideration of order concluding hearing or investigation; appeal of order

(a) After an order, decision, report, or action has been made or taken in any proceeding by the Commission, or by any designated authority within the Commission pursuant to a delegation under section 155(c)(1) of this title, any party thereto, or any other person aggrieved or whose interests are adversely affected thereby, may petition for reconsideration only to the authority making or taking the order, decision, report, or action; and it shall be lawful for such authority, whether it be the Commission or other authority designated under section 155(c)(1) of this title, in its discretion, to grant such a reconsideration if sufficient reason therefor be made to appear. A petition for reconsideration must be filed within thirty days from the date upon which public notice is given of the order, decision, report, or action complained of. No such application shall excuse any person from complying with or obeying any order, decision, report, or action of the Commission, or operate in any manner to stay or postpone the enforcement thereof, without the special order of the Commission. The filing of a petition for reconsideration shall not be a condition precedent to judicial review of any such order, decision, report, or action, except where the party seeking such review (1) was not a party to the proceedings resulting in such order, decision, report, or action, or (2) relies on questions of fact or law upon which the Commission, or designated authority within the Commission, has been afforded no opportunity to pass. The Commission, or designated authority within the Commission, shall enter an order, with a concise statement of the reasons therefor, denying a petition for reconsideration or granting such petition, in whole or in part, and ordering such further proceedings as

may be appropriate: *Provided*, That in any case where such petition relates to an instrument of authorization granted without a hearing, the Commission, or designated authority within the Commission, shall take such action within ninety days of the filing of such petition. Reconsiderations shall be governed by such general rules as the Commission may establish, except that no evidence other than newly discovered evidence, evidence which has become available only since the original taking of evidence, or evidence which the Commission or designated authority within the Commission believes should have been taken in the original proceeding shall be taken on any reconsideration. The time within which a petition for review must be filed in a proceeding to which section 402(a) of this title applies, or within which an appeal must be taken under section 402(b) of this title in any case, shall be computed from the date upon which the Commission gives public notice of the order, decision, report, or action complained of.

(b)(1) Within 90 days after receiving a petition for reconsideration of an order concluding a hearing under section 204(a) of this title or concluding an investigation under section 208(b) of this title, the Commission shall issue an order granting or denying such petition.

(2) Any order issued under paragraph (1) shall be a final order and may be appealed under section 402(a) of this title.

(June 19, 1934, ch. 652, title IV, § 405, 48 Stat. 1095; July 16, 1952, ch. 879, § 15, 66 Stat. 720; Pub. L. 86-752, § 4(c), Sept. 13, 1960, 74 Stat. 892; Pub. L. 87-192, § 3, Aug. 31, 1961, 75 Stat. 421; Pub. L. 97-259, title I, §§ 122, 127(c), Sept. 13, 1982, 96 Stat. 1097, 1099; Pub. L. 100-594, § 8(d), Nov. 3, 1988, 102 Stat. 3023.)

#### Editorial Notes

##### CODIFICATION

"Reconsiderations" substituted in text for "Rehearings" as the probable intent of Congress, in view of amendment by section 127(c)(1) of Pub. L. 97-259, which substituted "reconsideration" for "rehearing" wherever appearing in this section.

##### AMENDMENTS

1988—Pub. L. 100-594 designated existing provisions as subsec. (a), substituted "section 155(c)(1)" for "section 155(d)(1)" in two places, and added subsec. (b).

1982—Pub. L. 97-259 substituted "reconsideration" for "rehearing" wherever appearing and "the Commission gives public notice of the order, decision, report, or action complained of" for "public notice is given of orders disposing of all petitions for rehearing filed with the Commission in such proceeding or case, but any order, decision, report, or action made or taken after such rehearing reversing, changing, or modifying the original order shall be subject to the same provisions with respect to rehearing as an original order".

1961—Pub. L. 87-192 provided for petition for rehearing to the authority making or taking the order, decision, report, or action, substituted references to report and action for requirement, wherever else appearing, and inserted references to proceeding by any designated authority within the Commission, wherever appearing.

1960—Pub. L. 86-752 substituted "any party" for "and party" in first sentence, and inserted sentence dealing with disposition of petitions for rehearing.

1952—Act July 16, 1952, provided for taking of newly discovered evidence and evidence which should have been taken in original hearing.