regulations, or practices affecting such charges, except as specified in such schedule.

(d) Rejection or refusal

The Commission may reject and refuse to file any schedule entered for filing which does not provide and give lawful notice of its effective date. Any schedule so rejected by the Commission shall be void and its use shall be unlawful.

(e) Penalty for violations

In case of failure or refusal on the part of any carrier to comply with the provisions of this section or of any regulation or order made by the Commission thereunder, such carrier shall forfeit to the United States the sum of $6,000 for each such offense, and $300 for each and every day of the continuance of such offense.

(June 19, 1934, ch. 652, title II, §203, 48 Stat. 1070; Pub. L. 94–376, §1, Aug. 4, 1976, 90 Stat. 1080; Pub. L. 101–239, title III, §3002(b), Dec. 19, 1989, 103 Stat. 2131; Pub. L. 101–396, §7, Sept. 28, 1990, 104 Stat. 850.)

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–396 substituted ''one hundred and twenty days'' for ''ninety days'' in pars. (1) and (2).

1989—Subsec. (e). Pub. L. 101–239 substituted ''$6,000'' for ''$500'' and ''$300'' for ''$25''.

1976—Subsec. (b). Pub. L. 94–376 designated existing provisions as par. (1), substituted ''after ninety days notice'' for ''after thirty days' notice'', and struck out provision that the Commission may, in its discretion and for good cause shown, modify the requirements made by or under authority of this section in particular instances or by a general order applicable to special circumstances or conditions, and added par. (2).

§204. Hearings on new charges; suspension pending hearing; refunds; duration of hearing; appeal of order concluding hearing

(a)(1) Whenever there is filed with the Commission any new or revised charge, classification, regulation, or practice, the Commission may either upon complaint or upon its own initiative without complaint, upon reasonable notice, enter upon a hearing concerning the lawfulness thereof; and pending such hearing and the decision thereon the Commission, upon delivering to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such charge, classification, regulation, or practice, in whole or in part but not for a longer period than five months beyond the time when it would otherwise go into effect; and after full hearing the Commission may make such order with reference thereto as would be proper in a proceeding initiated after such charge, classification, regulation, or practice had become effective. If the proceeding has not been concluded and an order made within the period of the suspension, the proposed new or revised charge, classification, regulation, or practice shall go into effect at the end of such period; but in case of a proposed charge for a new service or a revised charge, the Commission may by order require the interested carrier or carriers to keep accurate account of all amounts received by reason of such charge for a new service or revised charge, specifying by whom and in whose behalf such amounts are paid, and upon completion of the hearing and decision may by further order require the interested carrier or carriers to refund, with interest, to the persons in whose behalf such amounts were paid, such portion of such charge for a new service or revised charges as by its decision shall be found not justified. At any hearing involving a new or revised charge, or a proposed new or revised charge, the burden of proof to show that the new or revised charge, or proposed charge, is just and reasonable shall be upon the carrier, and the Commission shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible.

(2)(A) Except as provided in subparagraph (B), the Commission shall, with respect to any hearing under this section, issue an order concluding such hearing within 5 months after the date that the charge, classification, regulation, or practice subject to the hearing becomes effective.

(B) The Commission shall, with respect to any such hearing initiated prior to November 3, 1988, issue an order concluding the hearing not later than 12 months after November 3, 1988.

(C) Any order concluding a hearing under this section shall be a final order and may be appealed under section 402(a) of this title.

(3) A local exchange carrier may file with the Commission a new or revised charge, classification, regulation, or practice on a streamlined basis. Any such charge, classification, regulation, or practice shall be deemed lawful and shall be effective 7 days (in the case of a reduction in rates) or 15 days (in the case of an increase in rates) after the date on which it is filed with the Commission unless the Commission takes action under paragraph (1) before the end of that 7-day or 15-day period, as is appropriate.

(b) Notwithstanding the provisions of subsection (a) of this section, the Commission may allow part of a charge, classification, regulation, or practice to go into effect, based upon a written showing by the carrier or carriers affected, and an opportunity for written comment thereon by affected persons, that such partial authorization is just, fair, and reasonable. Additionally, or in combination with a partial authorization, the Commission, upon a similar showing, may allow all or part of a charge, classification, regulation, or practice to go into effect on a temporary basis pending further order of the Commission. Authorizations of temporary new or increased charges may include an accounting order of the type provided for in subsection (a) of this section.

(June 19, 1934, ch. 652, title II, §204, 48 Stat. 1071; Pub. L. 94–376, §2, Aug. 4, 1976, 90 Stat. 1080; Pub. L. 100–594, §8(b), Nov. 3, 1988, 102 Stat. 3023; Pub. L. 102–538, title II, §203, Oct. 27, 1992, 106 Stat. 3542; Pub. L. 104–104, title IV, §402(b)(1)(A), Feb. 8, 1996, 110 Stat. 129.)

AMENDMENTS

1996—Subsec. (a)(2)(A). Pub. L. 104–104, §402(b)(1)(A)(i), (ii), substituted ''such hearing within 5 months'' for ''such hearing within 12 months'' and struck out before period at end '', or within 15 months after such date if the hearing raises questions of fact of such extraor-

dinary complexity that the questions cannot be resolved within 12 months''.

Subsec. (a)(3). Pub. L. 104–104, § 402(b)(1)(A)(iii), added par. (3).

1992—Subsec. (a)(1). Pub. L. 102–538 substituted ''a revised charge'' for ''an increased charge'' after ''a proposed charge for a new service or'', ''or revised'' for ''or increased'' before ''charge, specifying by whom and in whose behalf'', ''revised charges'' for ''increased charges'' before ''as by its decision shall be found not justified'', ''new or revised charge, or a proposed new or revised charge'' for ''charge increased, or sought to be increased'' before '', burden of proof to show'', and ''new or revised charge'' for ''increased charge'' before '', or proposed charge, is just and reasonable''.

1988—Subsec. (a). Pub. L. 100–594 designated existing provisions as par. (1) and added par. (2).

1976—Subsec. (a). Pub. L. 94–376 designated existing provisions as subsec. (a), substituted ''any new or revised charge'' for ''any new charge'', ''in whole or in part but not for a longer period than five months'' for ''but not for a longer period than three months'', ''after such charge, classification, regulation, or practice had become effective'' for ''after it had become effective'', ''the proposed new or revised charge'' for ''the proposed change of charge'', ''but in case of a proposed charge for a new service or an increased charge'' for ''but in case of a proposed increased charge'', ''by reason of such charge for a new service or increased charge'' for ''by reason of such increase'', ''such portion of such charge for a new service or increased charges'' for ''such portion of such increased charges'', ''burden of proof to show that the increased charge, or proposed charge'' for ''burden of proof to show that the increased charge, or proposed increased charge'', and struck out ''after the organization of the Commission'' before ''the burden of proof.''

Subsec. (b). Pub. L. 94–376 added subsec. (b).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 402(b)(4) of Pub. L. 104–104 provided that: ''The amendments made by paragraph (1) of this subsection [amending this section and section 208 of this title] shall apply with respect to any charge, classification, regulation, or practice filed on or after one year after the date of enactment of this Act [Feb. 8, 1996].''

FORBEARANCE AUTHORITY NOT LIMITED

Section 402(b)(3) of Pub. L. 104–104 provided that: ''Nothing in this subsection [amending this section and section 208 of this title and enacting provisions set out as notes under this section and section 214 of this title] shall be construed to limit the authority of the Commission to waive, modify, or forbear from applying any of the requirements to which reference is made in paragraph (1) [amending this section and section 208 of this title] under any other provision of this Act [see Short Title of 1996 Amendment note set out under section 609 of this title] or other law.''

§ 205. Commission authorized to prescribe just and reasonable charges; penalties for violations

(a) Whenever, after full opportunity for hearing, upon a complaint or under an order for investigation and hearing made by the Commission on its own initiative, the Commission shall be of opinion that any charge, classification, regulation, or practice of any carrier or carriers is or will be in violation of any of the provisions of this chapter, the Commission is authorized and empowered to determine and prescribe what will be the just and reasonable charge or the maximum or minimum, or maximum and minimum, charge or charges to be thereafter observed, and what classification, regulation, or practice is or will be just, fair, and reasonable, to be thereafter followed, and to make an order that the carrier or carriers shall cease and desist from such violation to the extent that the Commission finds that the same does or will exist, and shall not thereafter publish, demand, or collect any charge other than the charge so prescribed, or in excess of the maximum or less than the minimum so prescribed, as the case may be, and shall adopt the classification and shall conform to and observe the regulation or practice so prescribed.

(b) Any carrier, any officer, representative, or agent of a carrier, or any receiver, trustee, lessee, or agent of either of them, who knowingly fails or neglects to obey any order made under the provisions of this section shall forfeit to the United States the sum of $12,000 for each offense. Every distinct violation shall be a separate offense, and in case of continuing violation each day shall be deemed a separate offense.

(June 19, 1934, ch. 652, title II, § 205, 48 Stat. 1072; Pub. L. 101–239, title III, § 3002(c), Dec. 19, 1989, 103 Stat. 2131.)

AMENDMENTS

1989—Subsec. (b). Pub. L. 101–239 substituted ''$12,000'' for ''$1,000''.

§ 206. Carriers' liability for damages

In case any common carrier shall do, or cause or permit to be done, any act, matter, or thing in this chapter prohibited or declared to be unlawful, or shall omit to do any act, matter, or thing in this chapter required to be done, such common carrier shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of any such violation of the provisions of this chapter, together with a reasonable counsel or attorney's fee, to be fixed by the court in every case of recovery, which attorney's fee shall be taxed and collected as part of the costs in the case.

(June 19, 1934, ch. 652, title II, § 206, 48 Stat. 1072.)

§ 207. Recovery of damages

Any person claiming to be damaged by any common carrier subject to the provisions of this chapter may either make complaint to the Commission as hereinafter provided for, or may bring suit for the recovery of the damages for which such common carrier may be liable under the provisions of this chapter, in any district court of the United States of competent jurisdiction; but such person shall not have the right to pursue both such remedies.

(June 19, 1934, ch. 652, title II, § 207, 48 Stat. 1073.)

§ 208. Complaints to Commission; investigations; duration of investigation; appeal of order concluding investigation

(a) Any person, any body politic, or municipal organization, or State commission, complaining of anything done or omitted to be done by any common carrier subject to this chapter, in contravention of the provisions thereof, may apply to said Commission by petition which shall briefly state the facts, whereupon a statement of the complaint thus made shall be forwarded by the Commission to such common carrier, who