sion, or failure of such carrier or user as well as that of the person.

(June 19, 1934, ch. 652, title II, § 217, 48 Stat. 1077.)

§ 218. Management of business; inquiries by Commission

The Commission may inquire into the management of the business of all carriers subject to this chapter, and shall keep itself informed as to the manner and method in which the same is conducted and as to technical developments and improvements in wire and radio communication and radio transmission of energy to the end that the benefits of new inventions and developments may be made available to the people of the United States. The Commission may obtain from such carriers and from persons directly or indirectly controlling or controlled by, or under direct or indirect common control with, such carriers full and complete information necessary to enable the Commission to perform the duties and carry out the objects for which it was created.

(June 19, 1934, ch. 652, title II, § 218, 48 Stat. 1077.)

§ 219. Reports by carriers; contents and requirements generally

(a) The Commission is authorized to require annual reports from all carriers subject to this chapter, and from persons directly or indirectly controlling or controlled by, or under direct or indirect common control with any such carrier, to prescribe the manner in which such reports shall be made, and to require from such persons specific answers to all questions upon which the Commission may need information. Except as otherwise required by the Commission, such annual reports shall show in detail the amount of capital stock issued, the amount and privileges of each class of stock, the amounts paid therefor, and the manner of payment for the same; the dividends paid and the surplus fund, if any; the number of stockholders (and the names of the thirty largest holders of each class of stock and the amount held by each); the funded and floating debts and the interest paid thereon; the cost and value of the carrier's property, franchises, and equipment; the number of employees and the salaries paid each class; the names of all officers and directors, and the amount of salary, bonus, and all other compensation paid to each; the amounts expended for improvements each year, how expended, and the character of such improvements; the earnings and receipts from each branch of business and from all sources; the operating and other expenses; the balances of profit and loss; and a complete exhibit of the financial operations of the carrier each year, including an annual balance sheet. Such reports shall also contain such information in relation to charges or regulations concerning charges, or agreements, arrangements, or contracts affecting the same, as the Commission may require.

(b) Such reports shall be for such twelve months' period as the Commission shall designate and shall be filed with the Commission at its office in Washington within three months after the close of the year for which the report is made, unless additional time is granted in any case by the Commission; and if any person subject to the provisions of this section shall fail to make and file said annual reports within the time above specified, or within the time extended by the Commission, for making and filing the same, or shall fail to make specific answer to any question authorized by the provisions of this section within thirty days from the time it is lawfully required so to do, such person shall forfeit to the United States the sum of $1,200 for each and every day it shall continue to be in default with respect thereto. The Commission may by general or special orders require any such carriers to file monthly reports of earnings and expenses and to file periodical and/or special reports concerning any matters with respect to which the Commission is authorized or required by law to act. If any such carrier shall fail to make and file any such periodical or special report within the time fixed by the Commission, it shall be subject to the forfeitures above provided.

(June 19, 1934, ch. 652, title II, § 219, 48 Stat. 1077; Aug. 2, 1956, ch. 874, § 2, 70 Stat. 931; Pub. L. 87–444, §§ 1, 2, Apr. 27, 1962, 76 Stat. 63; Pub. L. 101–239, title III, § 3002(e), Dec. 19, 1989, 103 Stat. 2131.)

AMENDMENTS

1989—Subsec. (b). Pub. L. 101–239 substituted ''$1,200'' for ''$100''.

1962—Subsec. (a). Pub. L. 87–444, § 1, struck out ''under oath'' after ''require annual report''.

Subsec. (b). Pub. L. 87–444, § 2, struck out provisions that the periodical or special reports be under oath whenever the Commission so required.

1956—Subsec. (a). Act Aug. 2, 1956, substituted ''Except as otherwise required by the Commission, such'' for ''Such'' at beginning of second sentence.

§ 220. Accounts, records, and memoranda

(a) Forms

(1) The Commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers subject to this chapter, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of moneys.

(2) The Commission shall, by rule, prescribe a uniform system of accounts for use by telephone companies. Such uniform system shall require that each common carrier shall maintain a system of accounting methods, procedures, and techniques (including accounts and supporting records and memoranda) which shall ensure a proper allocation of all costs to and among telecommunications services, facilities, and products (and to and among classes of such services, facilities, and products) which are developed, manufactured, or offered by such common carrier.

(b) Depreciation charges

The Commission may prescribe, for such carriers as it determines to be appropriate, the classes of property for which depreciation charges may be properly included under operating expenses, and the percentages of depreciation which shall be charged with respect to each of such classes of property, classifying the car-

riers as it may deem proper for this purpose. The Commission may, when it deems necessary, modify the classes and percentages so prescribed. Such carriers shall not, after the Commission has prescribed the classes of property for which depreciation charges may be included, charge to operating expenses any depreciation charges on classes of property other than those prescribed by the Commission, or after the Commission has prescribed percentages of depreciation, charge with respect to any class of property a percentage of depreciation other than that prescribed therefor by the Commission. No such carrier shall in any case include in any form under its operating or other expenses any depreciation or other charge or expenditure included elsewhere as a depreciation charge or otherwise under its operating or other expenses.

(c) Access to information; burden of proof; use of independent auditors

The Commission shall at all times have access to and the right of inspection and examination of all accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing, and kept or required to be kept by such carriers, and the provisions of this section respecting the preservation and destruction of books, papers, and documents shall apply thereto. The burden of proof to justify every accounting entry questioned by the Commission shall be on the person making, authorizing, or requiring such entry and the Commission may suspend a charge or credit pending submission of proof by such person. Any provision of law prohibiting the disclosure of the contents of messages or communications shall not be deemed to prohibit the disclosure of any matter in accordance with the provisions of this section. The Commission may obtain the services of any person licensed to provide public accounting services under the law of any State to assist with, or conduct, audits under this section. While so employed or engaged in conducting an audit for the Commission under this section, any such person shall have the powers granted the Commission under this subsection and shall be subject to subsection (f) of this section in the same manner as if that person were an employee of the Commission.

(d) Penalty for failure to comply

In case of failure or refusal on the part of any such carrier to keep such accounts, records, and memoranda on the books and in the manner prescribed by the Commission, or to submit such accounts, records, memoranda, documents, papers, and correspondence as are kept to the inspection of the Commission or any of its authorized agents, such carrier shall forfeit to the United States the sum of $6,000 for each day of the continuance of each such offense.

(e) False entry; destruction; penalty

Any person who shall willfully make any false entry in the accounts of any book of accounts or in any record or memoranda kept by any such carrier, or who shall willfully destroy, mutilate, alter, or by any other means or device falsify any such account, record, or memoranda, or who shall willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of the carrier, shall be deemed guilty of a misdemeanor, and shall be subject, upon conviction, to a fine of not less than $1,000 nor more than $5,000 or imprisonment for a term of not less than one year nor more than three years, or both such fine and imprisonment: *Provided*, That the Commission may in its discretion issue orders specifying such operating, accounting, or financial papers, records, books, blanks, or documents which may, after a reasonable time, be destroyed, and prescribing the length of time such books, papers, or documents shall be preserved.

(f) Confidentiality of information

No member, officer, or employee of the Commission shall divulge any fact or information which may come to his knowledge during the course of examination of books or other accounts, as hereinbefore provided, except insofar as he may be directed by the Commission or by a court.

(g) Use of other forms; alterations in prescribed forms

After the Commission has prescribed the forms and manner of keeping of accounts, records, and memoranda to be kept by any person as herein provided, it shall be unlawful for such person to keep any other accounts, records, or memoranda than those so prescribed or such as may be approved by the Commission or to keep the accounts in any other manner than that prescribed or approved by the Commission. Notice of alterations by the Commission in the required manner or form of keeping accounts shall be given to such persons by the Commission at least six months before the same are to take effect.

(h) Exemption; regulation by State commission

The Commission may classify carriers subject to this chapter and prescribe different requirements under this section for different classes of carriers, and may, if it deems such action consistent with the public interest, except the carriers of any particular class or classes in any State from any of the requirements under this section in cases where such carriers are subject to State commission regulation with respect to matters to which this section relates.

(i) Consultation with State commissions

The Commission, before prescribing any requirements as to accounts, records, or memoranda, shall notify each State commission having jurisdiction with respect to any carrier involved, and shall give reasonable opportunity to each such commission to present its views, and shall receive and consider such views and recommendations.

(j) Report to Congress on need for further legislation

The Commission shall investigate and report to Congress as to the need for legislation to define further or harmonize the powers of the Commission and of State commissions with respect to matters to which this section relates.

(June 19, 1934, ch. 652, title II, §220, 48 Stat. 1078; Pub. L. 101–239, title III, §3002(f), Dec. 19, 1989,

103 Stat. 2131; Pub. L. 103–414, title III, §§ 303(a)(7), (8), 304(a)(5), Oct. 25, 1994, 108 Stat. 4294, 4296; Pub. L. 104–104, title IV, § 403(d), (e), Feb. 8, 1996, 110 Stat. 130.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–104, § 403(d), substituted ''may prescribe, for such carriers as it determines to be appropriate,'' for ''shall prescribe for such carriers''.

Subsec. (c). Pub. L. 104–104, § 403(e), inserted at end ''The Commission may obtain the services of any person licensed to provide public accounting services under the law of any State to assist with, or conduct, audits under this section. While so employed or engaged in conducting an audit for the Commission under this section, any such person shall have the powers granted the Commission under this subsection and shall be subject to subsection (f) of this section in the same manner as if that person were an employee of the Commission.''

1994—Subsec. (a). Pub. L. 103–414, § 303(a)(7), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 103–414, § 304(a)(5), struck out '', as soon as practicable,'' after ''The Commission shall''.

Pub. L. 103–414, § 303(a)(8), substituted ''classes'' for ''clasess'' after ''prescribed the'' in third sentence.

1989—Subsec. (d). Pub. L. 101–239 substituted ''$6,000'' for ''$500''.

§ 221. Consolidations and mergers of telephone companies

(a) Repealed. Pub. L. 104–104, title VI, § 601(b)(2), Feb. 8, 1996, 110 Stat. 143

(b) State jurisdiction over services

Subject to the provisions of sections 225 and 301 of this title, nothing in this chapter shall be construed to apply, or to give the Commission jurisdiction, with respect to charges, classifications, practices, services, facilities, or regulations for or in connection with wire, mobile, or point-to-point radio telephone exchange service, or any combination thereof, even though a portion of such exchange service constitutes interstate or foreign communication, in any case where such matters are subject to regulation by a State commission or by local governmental authority.

(c) Determination of property used in interstate toll service

For the purpose of administering this chapter as to carriers engaged in wire telephone communication, the Commission may classify the property of any such carrier used for wire telephone communication, and determine what property of said carrier shall be considered as used in interstate or foreign telephone toll service. Such classification shall be made after hearing, upon notice to the carrier, the State commission (or the Governor, if the State has no State commission) of any State in which the property of said carrier is located, and such other persons as the Commission may prescribe.

(d) Valuation of property

In making a valuation of the property of any wire telephone carrier the Commission, after making the classification authorized in this section, may in its discretion value only that part of the property of such carrier determined to be used in interstate or foreign telephone toll service.

(June 19, 1934, ch. 652, title II, § 221, 48 Stat. 1080; Apr. 27, 1954, ch. 175, § 4, 68 Stat. 64; Aug. 2, 1956, ch. 874, § 3, 70 Stat. 932; Pub. L. 101–336, title IV, § 401(b)(2), July 26, 1990, 104 Stat. 369; Pub. L. 104–104, title VI, § 601(b)(2), Feb. 8, 1996, 110 Stat. 143.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–104 struck out subsec. (a) relating to notification of State Governor and State commission, public hearing, and certification.

1990—Subsec. (b). Pub. L. 101–336 substituted ''sections 225 and 301'' for ''section 301''.

1956—Subsec. (a). Act Aug. 2, 1956, inserted provisions relating to submission of comments by parties and required a public hearing upon request, in lieu of former provisions requiring hearing upon application.

1954—Subsec. (b). Act Apr. 27, 1954, included mobile or point-to-point radio telephone exchange service within exclusions provided for in such subsection, where it is subject to regulation by a State commission or by local governmental authority, and made it clear that the Commission retains its licensing authority over the radio stations that might be involved in such service.

§ 222. Privacy of customer information

(a) In general

Every telecommunications carrier has a duty to protect the confidentiality of proprietary information of, and relating to, other telecommunication carriers, equipment manufacturers, and customers, including telecommunication carriers reselling telecommunications services provided by a telecommunications carrier.

(b) Confidentiality of carrier information

A telecommunications carrier that receives or obtains proprietary information from another carrier for purposes of providing any telecommunications service shall use such information only for such purpose, and shall not use such information for its own marketing efforts.

(c) Confidentiality of customer proprietary network information

(1) Privacy requirements for telecommunications carriers

Except as required by law or with the approval of the customer, a telecommunications carrier that receives or obtains customer proprietary network information by virtue of its provision of a telecommunications service shall only use, disclose, or permit access to individually identifiable customer proprietary network information in its provision of (A) the telecommunications service from which such information is derived, or (B) services necessary to, or used in, the provision of such telecommunications service, including the publishing of directories.

(2) Disclosure on request by customers

A telecommunications carrier shall disclose customer proprietary network information, upon affirmative written request by the customer, to any person designated by the customer.

(3) Aggregate customer information

A telecommunications carrier that receives or obtains customer proprietary network information by virtue of its provision of a tele-