

posals, or the Commission may suspend a rate filing. In addition, the Commission may on its own motion institute an investigation into new or existing rates to determine their lawfulness. Also, complaints against an existing rate or practice may be filed by an affected party. In processing these cases, it is necessary to prepare and analyze cost data, cost studies, and formulas. Under other sections of the Interstate Commerce Act, carriers may seek relief from the provisions of the act under special circumstances by filing appropriate application, e.g., relief from those provisions of the act making it unlawful to charge more for a shorter than for a longer haul, or a greater compensation on a through rate than the aggregate of the intermediate rates.

In the operating rights area, applications for certificates or permits to conduct operations in for-hire motor carriage in interstate or foreign commerce as common or contract carriers, for licenses to conduct operations as brokers in arranging transportation by motor carriers in interstate or foreign commerce, to conduct operations as common or contract carriers by water, to operate as a freight forwarder in consolidating and distributing freight, to gain the benefit of certain exemptions from regulation provided for in the act, all are initiated by the filing of the interested party of an appropriate application. Also, formal complaints may be filed against carriers by persons alleging operations are unauthorized, or the Commission may institute an investigation proceeding on its own motion to determine the legality of a carrier's operations.

In the finance area, approval of the Commission is required for two or more carriers—rail, motor, or water—to consolidate or merge their properties and franchises into one company; for a carrier to purchase, lease, or operate the properties of another; for one carrier to acquire control of another through stock ownership; for a person to acquire control of two or more carriers; or for authority to abandon or extend lines of railroads. All such cases are initiated through the filing of appropriate applications by the carriers seeking this statutory approval. Additionally, formal complaints are filed charging unlawful control, i.e., realizing control without obtaining Commission approval, and investigations are instituted by the Commission where such unlawful control may be suspected. Train discontinuance proceedings are initiated by a railroad filing notices of its intent to discontinue or change its passenger operations or service and the Commission, in its discretion, may institute an investigation of such proposal. In connection with finance cases, accounting and financial analyses are prepared and considered in the disposition of proceedings. Issuance of securities by rail and motor carriers subject to the Commission's jurisdiction must be approved, and phases of the loan guarantee program are administered by the agency.

In all areas, rulemaking proceedings also are instituted and developed—either by the filing of appropriate petitions by interested persons or on the Commission's own initiative—looking toward the promulgation of a general rule applicable to a mode or group of carriers.

In adjudicating these proceedings before the Commission, two principal processing procedures are employed—oral hearing and modified procedure without oral hearing. At times a combination of the two procedures may be utilized. Whatever procedure is followed, the agency must insure adherence to the legal requirements of the Interstate Commerce Act and related statutes including the Administrative Procedure Act, all toward the end of promoting the public interest as dictated by the national transportation policy while, at the same time, protecting the rights of the individuals concerned.

If it is determined that an oral hearing is necessary, the proceeding is referred to a hearing examiner, appointed pursuant to the Administrative Procedure Act, who presides at the hearing in the matter. He governs the case during the course of the hearing, administers oaths to witnesses, makes rulings on evidence, receives exhibits, and generally is responsible for the compilation of the formal record upon which the agency's decision is based. A transcript of the record is made by a court reporter and all witnesses submit their evidence under oath. Both the proponents and opponents (applicants, protestants, complainants, defendants, respondents) are allowed to be represented by counsel at such oral hearings and each side is given an opportunity to adduce evidence through the direct and cross-examination of witnesses.

The hearing examiner functions as a trial judge, rules on the admissibility of evidence, and generally directs the course of the hearing. Subsequent to the close of the hearing and after the filing of briefs, if any, the hearing examiner reviews the record that has been compiled and based on such record issues his report in