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ARTICLE 3. TRANSFER OF CERTIFICATES, PERMITS AND/OR PROPERTY

PART 31. GAS, ELECTRIC, STEAM, WATERWORKS, TELEGRAPH AND TELEPHONE CORPORATIONS

§ 31.1 Contents of petition

Applications under sections 70, 83, 89-h, or 99 of the Public Service Law, for approval of transfer or lease of consents, franchises, works or systems, or agreements affecting them shall be by joint or separate petitions, duly verified by all parties to the transfer or lease and shall show in detail the reasons for what is proposed, all of the facts warranting the same and that the transfer or lease is in the public interest. The petition shall state:

(a) In case of transfer, the facts called for in subdivisions (f)-(i) and (p) of section 3.1 of this Chapter applicable to property to be transferred.

(b) General description of the property to be transferred or leased.

(c) List of the franchises, consents and rights to be transferred or leased, including the name of the grantor, date when granted, date of approval by this commission and number of case in which approval was granted and copy of said franchises, consents and rights duly certified by the proper official.

(d) A certified copy of the approval of the municipality to the transfer or lease if any of the local consents or franchises involved required that they shall not be transferred or leased without the consent of the municipality granting the same.

(e) A copy of the proposed assignment, contract, lease or agreement to be approved.

(f) Inventory of the property proposed to be transferred or leased with the original cost of such property, original cost being the cost to the person first devoting the property to public service, and person being an individual, a corporation, a partnership, an association, a joint stock company, a business trust or any organized group of persons whether incorporated or not, or any receiver or trustee.

(g) In said inventory, the property shall be classified according to the requirements of the system of accounts prescribed by this commission applicable to the transferor or lessor.

(h) An estimate of the accrued depreciation in the property together with a statement of the method or methods used in arriving at such estimate.

(i) The cost of said property as shown upon the balance sheet of the transferor or lessor.

(j) The depreciation and amortization reserves applicable to said property, estimated if not ascertainable from books and records.

(k) A statement of contributions toward construction of said property, such contributions to be subdivided so as to show those subject to refund and those which are not.

(l) Statement of operating revenues, expenses and taxes for each of the three calendar years preceding the date of the petition relating to the property to be transferred or leased and balance sheet of the transferor or lessor and of the transferee or lessee of the latest available date.

§ 31.2 Evidence to be presented at hearing

At the hearing, the applicant shall be prepared to show by competent evidence the facts upon which it relies to establish that the transaction is in the public interest, proof of the ability of the petitioner to render adequate service and that the statements in the petition are true.

Note: As the Public Service Law prohibits the capitalization of franchises, consents or rights to engage in utility business except as provided in the Public Service Law, the commission will not approve a transfer or lease where it appears that the transferee or the lessee is paying for a franchise, consent or right to engage in utility business in excess of legitimate original cost less proper amortization. Where the amount authorized to be paid exceeds the original cost less accrued depreciation of the physical property transferred or leased, together with the unamortized portion of the actual cost incurred in securing said franchise, consent or right, the commission may refuse to approve the application unless the applicant will amortize immediately said excess through charges to surplus.

§ 31.3 Radio-telephone utilities, resellers of telephone services

Applications pursuant to section 99 of the Public Service Law by radio-telephone utilities or resellers of telephone services need contain only the information required by subdivisions (b)-(e) of section 31.1 of this Part.