

UNITED STATES DEPARTMENT OF LABOR  
WAGE AND HOUR DIVISION  
WASHINGTON, D. C.

NOTICE OF REVIEW OF DETERMINATION AND  
ORDER RE EMPLOYMENT OF LEARNERS IN THE  
INDEPENDENT BRANCH OF THE TELEPHONE  
INDUSTRY AT WAGE RATES LESS THAN THE  
APPLICABLE MINIMUM SPECIFIED IN SECTION  
6 OF THE FAIR LABOR STANDARDS ACT OF 1938

WHEREAS, the United States Independent Telephone Association, and sundry other parties, made application under Section 14 of the Fair Labor Standards Act of 1938, 52 Stat. 1060, and Regulations, Part 522, as amended (Regulations Applicable to the Employment of Learners Pursuant to Section 14 of the Fair Labor Standards Act - Title 29, Labor, Chapter V, Wage and Hour Division) issued by the Administrator thereunder, for permission to employ learners in the independent branch of the telephone industry at wages less than the applicable minimum wage specified in Section 6 of the Act; and

WHEREAS, a public hearing on said applications was held before Gustav Peck, the representative of the Administrator of the Wage and Hour Division duly authorized to conduct the hearing and to determine:

- (a) Whether the occupation of switchboard operator in the telephone industry requires a learning period, and if this occupation is found to require a learning period,
- (b) the factors which may have a bearing upon curtailment of opportunities for employment in the occupation of switchboard operator in the telephone industry, and,
- (c) under what limitations as to wages, time, number, proportion, and length of service special certificates may be issued for the employment of switchboard operators in the telephone industry.

As used in the Notice of Hearing, the term "switchboard operator in the telephone industry" was defined to mean "any switchboard operator employed in a public telephone exchange which has five hundred stations or more," and

WHEREAS, following said hearing the said Gustav Peck duly made his findings of fact and determined as follows:

"Definitions

- "1. The Independent Branch of the Telephone Industry as referred to herein includes only those companies which are engaged in the

commercial operation of telephone exchanges and which are not owned or controlled by the American Telephone and Telegraph Company (Bell System) or its subsidiaries.

"2. Learners are persons who have had less than 320 hours of employment in the Telephone Industry as commercial switchboard operators.

"3. Experienced commercial switchboard operators are persons who have had not less than 320 hours of employment in the Telephone Industry as commercial switchboard operators.

#### "Issue of Special Learner Certificates

"4. Special Learner Certificates shall be issued in the Independent Branch of the Telephone Industry upon approval by the Hearings Branch of the Wage and Hour Division of applications submitted on forms which will be furnished on request. Separate applications shall be submitted for separate exchanges.

"5. Approval of an application by the Hearings Branch shall depend upon the applicant showing that at the time of making application experienced commercial switchboard operators are not available to the employer in the community from which the exchange normally employs operators.

#### "Conditions of Employment of Learners Under Special Certificates

"6. The minimum hourly rate to be provided in the Special Certificate for learners during the learning period shall be not less than 25 cents per hour.

"7. The maximum learning period which may be provided under a Special Certificate issued in this industry shall not extend beyond the first 320 hours of employment in training for and in switchboard operation.

"8. Except under unusual circumstances, as stated in Paragraph 9 below, the number of learners which may be employed in an exchange at any one time at a subminimum hourly wage under a Special Certificate may not exceed:

One in exchanges employing up to 8 operators, or  
Two in exchanges employing 9-18 operators, or  
Three in exchanges employing 19-30 operators, or  
Four in exchanges employing 31-44 operators, or  
In exchanges employing 45 or more operators learners in addition to 4 may be employed at less than the minimum rate in the ratio of one learner for each additional 15 operators employed in the exchange.

"9. If the applicant is faced with circumstances unusual to regular operations or with other exceptional circumstances which it is believed require learners in excess of those provided in Paragraph 8 above, and if such facts are set forth as a part of an application, action shall be taken approving or denying that application in accordance with the facts shown therein.

"10. Learners may be employed under a Special Learner Certificate only if experienced commercial switchboard operators are not available for employment in the exchange covered by such Certificate.

"Termination and Use of Certificates

"11. No certificate shall be valid beyond December 31, 1940.

"12. No learner may be employed at less than the statutory minimum wage rate unless and until a certificate has been issued and a copy is posted and kept posted in the room in which the learner or learners are employed.

"13. Any special certificate issued pursuant to this Determination and Order may be cancelled as of the date of issue if it is found that such certificate was issued when experienced workers were available, or that the applicant knowingly made false or misleading statements in his application, and may be cancelled prospectively or as of the date of violation if it is found that any of its terms have been violated;" and

WHEREAS, said Findings and Determination were duly filed with the Administrator on March 30, 1940, and are now on file in Room 5144, Department of Labor Building, Washington, D. C., and are there available for examination by all interested parties; and

WHEREAS, on April 9, 1940 the Administrator caused to be published in the Federal Register (5 F.R. 1371) a notice which set forth the foregoing, and stated that pursuant to Section 522.13 of the aforesaid Regulations, petitions for review of the action of the said authorized representative might be filed by any person aggrieved by such action within 15 days thereafter, and

WHEREAS, a petition for review of said action was duly filed by the United States Independent Telephone Association, copies of which are available for inspection in Room 5144, United States Department of Labor Building, Washington, D. C.

NOW, THEREFORE, the petition is granted and notice is hereby given that Henry T. Hunt, Principal Hearings Examiner of the Wage and Hour Division, is authorized to review the aforementioned action, and to make

a final determination of the matters set forth in the second paragraph of this notice, and, for that purpose, briefs will be received by the Wage and Hour Division, either in support of or in opposition to the matters set forth in the aforementioned petition, provided such briefs are filed with the Wage and Hour Division prior to the close of business July 1, 1940. All briefs should be filed in triplicate and will be available for examination in Room 5144, United States Department of Labor Building, Washington, D. C.

Signed at Washington, D. C., this 13th day of June, 1940.



Philip B. Fleming, Administrator  
Wage and Hour Division  
Department of Labor

Published in Federal Register, June 15, 1940.