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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,)
)
JAMES D. HODGSON, Secretary of Labor,)
United States Department of Labor,)
)
and)
)
UNITED STATES OF AMERICA,)
)
Plaintiffs,)

v.)

CIVIL ACTION

AMERICAN TELEPHONE AND TELEGRAPH COMPANY,)
NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY,)
THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY,)
NEW YORK TELEPHONE COMPANY,)
NEW JERSEY BELL TELEPHONE COMPANY,)
THE BELL TELEPHONE COMPANY OF PENNSYLVANIA)
AND THE DIAMOND STATE TELEPHONE COMPANY,)
THE CHESAPEAKE AND POTOMAC TELEPHONE COMPANY,)
THE CHESAPEAKE AND POTOMAC TELEPHONE COMPANY)
OF MARYLAND,)
THE CHESAPEAKE AND POTOMAC TELEPHONE COMPANY)
OF VIRGINIA,)
THE CHESAPEAKE AND POTOMAC TELEPHONE COMPANY)
OF WEST VIRGINIA,)
SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY,)
SOUTH CENTRAL BELL TELEPHONE COMPANY,)
THE OHIO BELL TELEPHONE COMPANY,)
CINCINNATI BELL INC.,)
MICHIGAN BELL TELEPHONE COMPANY,)
INDIANA BELL TELEPHONE COMPANY, INCORPORATED,)
WISCONSIN TELEPHONE COMPANY,)
ILLINOIS BELL TELEPHONE COMPANY,)
NORTHWESTERN BELL TELEPHONE COMPANY,)
SOUTHWESTERN BELL TELEPHONE COMPANY,)
THE MOUNTAIN STATES TELEPHONE AND TELEGRAPH)
COMPANY,)
PACIFIC NORTHWEST BELL TELEPHONE COMPANY,)
THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY)
AND BELL TELEPHONE COMPANY OF NEVADA,)
)
Defendants.)

No. 73149

FILED

JAN 18 1973

JOHN J. HARDING, Clerk
By [Signature] Dep. Clerk

COMPLAINT

Count 1

James D. Hodgson, Secretary of Labor, brings this action to enjoin Defendants from violating the provisions of section 15(a)(2) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201 et seq.) (hereinafter referred to as the FLSA).

1. Jurisdiction is conferred upon the Court by section 17 of the FLSA.

2. Defendant, The Bell Telephone Company of Pennsylvania (hereinafter Bell of Pennsylvania), is a Pennsylvania corporation having a place of business and doing business at One Parkway, Philadelphia, Pennsylvania, within the jurisdiction of this Court, and elsewhere within the State of Pennsylvania, where the said Defendant is engaged in the operation of a telephone system.

3. Defendant, American Telephone and Telegraph Company (hereinafter AT&T), is a corporation organized and existing under the laws of the State of New York, and having an office and place of business at Wayne, Pennsylvania, within the jurisdiction of this Court. Defendant, Bell of Pennsylvania, is a wholly-owned subsidiary of the Defendant, AT&T.

4. The remaining named Defendants, New England Telephone and Telegraph Company, The Southern New England Telephone Company, New York Telephone Company, New Jersey Bell Telephone Company, The Diamond State Telephone Company, The Chesapeake and Potomac Telephone Company, The Chesapeake and Potomac Telephone Company of Maryland, The Chesapeake and Potomac Telephone Company of Virginia, The Chesapeake and Potomac Telephone Company of West Virginia, Southern Bell Telephone and Telegraph Company, South Central Bell Telephone Company, The Ohio Bell Telephone Company, Cincinnati Bell, Inc., Michigan Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Wisconsin Telephone Company, Illinois Bell Telephone Company, Northwestern Bell Telephone Company, Southwestern Bell Telephone Company, The Mountain States Telephone and Telegraph Company, Pacific Northwest Bell Telephone Company, and the Pacific Telephone and

Telegraph Company and Bell Telephone Company of Nevada, are organized and existing under the laws of various states and authorized to do business in the states within which they operate. Each of the Defendants, with the exception of Cincinnati Bell, Inc. and The Southern New England Telephone Company, is a subsidiary of Defendant, American Telephone and Telegraph Company or a subsidiary of one of the other subsidiary companies. All Defendants are subject to the jurisdiction of this Court.

5. At all times hereinafter mentioned, Defendants have employed and are employing substantial numbers of employees in and about their places of business in the Eastern District of Pennsylvania, and elsewhere throughout the United States, in the transmission and receipt of communications between their places of business and places outside the states in which they operate. By reason of their activities, as aforesaid, Defendants are instrumentalities of commerce and their said employees are engaged in commerce or in the production of goods for commerce within the meaning of the FLSA.

6. At all times hereinafter mentioned, each separate Defendant's aforesaid activities were, and they are, related and performed through unified operation or common control for a common business purpose, thus constituting a separate enterprise within the meaning of section 3(r) of the FLSA.

7. Since January 18, 1970, each of the said enterprises has had and does have an annual gross volume of sales made or business done of not less than \$250,000 exclusive of excise taxes at the retail level which are separately stated, and has employees, as aforesaid, engaged in commerce or in the production of goods for commerce, including employees handling or otherwise

working on goods that have been moved in or produced for commerce by any person, within the meaning of the FLSA. Therefore, said enterprises are enterprises engaged in commerce or in the production of goods for commerce within the meaning of section 3(s)(1) of the FLSA.

8. Defendants, employers subject to the provisions of the FLSA, have repeatedly and willfully violated and are willfully violating the provisions of section 6(d) and 15(a)(2) of the Act by discriminating, within their aforesaid establishments at Philadelphia County, Pennsylvania, and elsewhere throughout the United States, in which such employees have been and are being employed, between employees on the basis of sex by paying wages to employees in such establishments at rates less than the rates at which they pay wages to employees of the opposite sex in such establishment for equal work on jobs, the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, to wit:

- (a) The wage or salary of any employee of Defendants who is promoted from one non-management position to another non-management position with a higher basic maximum rate of pay is determined with reference to the employee's wage or salary in the position from which the employee is promoted. Since women employees predominate in positions which are paid at rates which are lower than the rates paid for positions in which men predominate, this promotion pay procedure results in women and men of the same length of service with the company occupying the same position following transfer or promotion but with the

women employees compensated at a lower rate of pay than the men.

- (b) Certain women employees of Defendants occupying the position of Complex Line Assigner are paid at lower rates than men employees in the same position. These women employees have been promoted from Simple Line Assigner and their salary is limited by the promotion pay procedure described in subparagraph (a) above, although their experience in the Simple Line Assigner position is relevant to the duties of the Complex Line Assigner position.
- (c) Switchroom Helper is a position at Defendant Michigan Bell Telephone Company which has substantially the same duties as the Frameman position at other Defendant companies. The Switchroom Helper position, occupied exclusively by women, is paid at a rate substantially lower than the rate paid to Framemen, which is predominantly occupied by men.

9. Since on or about January 18, 1970, the Defendants have repeatedly and willfully violated, and are willfully violating, the aforesaid provisions of the FLSA. A judgment enjoining and restraining the violations hereinabove alleged is expressly authorized by section 17 of the FLSA.

PRAYER

WHEREFORE, Plaintiff, James D. Hodgson, prays that this Court permanently enjoin and restrain Defendants, their officers, agents, servants, employees and those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise, from violating the provisions of section 15(a)(2) of the FLSA, and for such other and further relief as may be necessary and appropriate, including the restraint of any withholding of payment of wages found by the Court to be due those employees identified in paragraph 5 above under the FLSA, with interest from the dates such wages were due and payable until paid, and costs.

Count 2.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451, 1343, 1345. This is an action authorized and instituted pursuant to sections 706(f)(1) and (3) and 707(e) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, et seq., as amended by Public Law 92-261, The Equal Employment Opportunity Act of 1972, (March 24, 1972) (hereinafter referred to as Title VII).

2. This action is brought by the Equal Employment Opportunity Commission (hereinafter EEOC) to redress the deprivation of rights to equal employment opportunities secured by Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, et seq.

3. The unlawful employment practices alleged below, at all times material hereto, were and are being committed within the Eastern District of Pennsylvania and elsewhere, and each Defendant has been and is doing business within the Eastern District of Pennsylvania.

PARTIES

4. Plaintiff EEOC is an agency of the United States of America charged with the administration, interpretation and enforcement of Title VII and is expressly authorized to bring this action by sections 706(f)(1) and 707(e) of Title VII, 42 U.S.C. §§ 2000e-5(f)(1) and 2000e-6(e).

5. Defendant AT&T is currently doing business in the State of Pennsylvania through its Long Lines Department which is engaged in conjunction and concert with AT&T's twenty-four (24) associated operating companies in providing telephone and telegraph service to the public. AT&T is an employer within the meaning of sections 701(b) and 701(g) of Title VII, 42 U.S.C. §§ 2000e-(b) and 2000e-(g), in that it continually employs twenty-five (25) or more employees and is a person engaged in an industry affecting commerce. It maintains an office at 123 South Broad Street, Philadelphia, Pennsylvania.

6. Defendant Bell of Pennsylvania is a corporation currently doing business in the State of Pennsylvania and throughout most of the United States in conjunction and concert with AT&T Long Lines Department and the twenty-three (23) affiliated operating companies of AT&T between Pennsylvania and the various states of the United States, providing telephone and telegraph services to the public. Bell of Pennsylvania is an

CONDITIONS PRECEDENT

8. Persons aggrieved have filed charges with the EEOC more than thirty days prior to the institution of this suit alleging specific instances and patterns or practices by Defendants which are violative of rights protected by Title VII.

9. All conditions precedent to the institution of this action have been fulfilled.

VIOLATIONS ALLEGED

10. At times material hereto, some or all of the Defendants have discriminated on the basis of race, color, sex or national origin by failing to affirmatively recruit men, women and minorities for non-traditional jobs.

11. At times material hereto, some or all of the Defendants have discriminated on the basis of race, color, or national origin by failing to validate pre-employment tests, for non-management jobs, which have the impact of disqualifying a disproportionately high number of minority applicants as compared to Caucasian applicants.

12. At times material hereto, the following employee assignment and utilization practices and policies of some or all of the Defendants have resulted in discrimination on the basis of race, color, sex, or national origin:

- (a) Failing to affirmatively assign women, men and minorities in non-traditional job categories in order to correct prior discriminatory hiring and assignment practices.
- (b) Excluding women from their Initial Management Development Programs (IMDP).

13. At times material hereto, the following pay practices and policies of some or all of the Defendants have resulted in discrimination on the basis of race, color, sex or national origin:

- (a) The wage or salary of any employee of Defendants who is promoted from one non-management position to another non-management position with a higher basic maximum rate of pay is determined with reference to the employee's wage or salary in the position from which the employee is promoted. Since women and minority employees are concentrated in positions which are paid at rates which are lower than the rates paid for positions in which men and minorities predominate, this promotion pay procedure results in women and men and minorities and nonminorities of the same length of service with the company occupying the same position following transfer or promotion but with the women and minority employees compensated at a lower rate of pay than the men and nonminorities.
- (b) The allegations of subparagraphs (b) and (c) of paragraph 8. of Count 1 above are incorporated herein as fully as if they were realleged.

14. At times material hereto, the following employee promotion and transfer practices and policies of some or all of the Defendants have resulted in discrimination on the basis of race, color, sex or national origin:

- (a) Using vaguely-defined transfer and promotion procedures which are not made known to women and minority employees.
- (b) Placing women and minorities in job categories which have disproportionately limited opportunities for upward mobility and advancement as compared to jobs predominately staffed by Caucasian males.
- (c) Failing to provide women and minorities with equal opportunities for training as compared to Caucasian male employees.
- (d) Failing to promote women and minority employees within nonmanagement job categories at a rate comparable to that of Caucasian male employees.
- (e) Preferring new hires to current employees seeking to transfer to higher paying non-management jobs.
- (f) Failing to promote women and minorities into management positions at a rate comparable to that of Caucasian male employees.
- (g) Using "net credited service" to determine layoff and recall rights to the disadvantage of women and minority employees.

15. At times material hereto, the following affirmative action deficiencies of some or all of the Defendants have resulted in continued discrimination on the basis of race, color, sex or national origin:

- (a) Failing to develop and implement affirmative action programs which include adequate goals and reasonable timetables to remedy the prior discrimination against and underutilization of women in traditionally male jobs.
- (b) Failing to develop and implement affirmative action programs which include adequate goals and reasonable timetables to remedy the prior discrimination against and underutilization of men in traditionally female jobs.
- (c) Failing to develop and implement affirmative action programs which include adequate goals and reasonable timetables to remedy the prior discrimination against and underutilization of minorities in jobs not traditionally held by minorities.

16. The effect of the policies and practices set forth in Count 2 has been to deprive women, men and minority employees and applicants for employment of equal employment opportunities and to otherwise adversely affect their status as past, present and prospective employees because of their race, color, sex or national origin.

PRAYER

WHEREFORE, Plaintiff EEOC prays that this Court:

1. Permanently enjoin Defendants, their officers, agents, employees, successors, assigns and all persons in active concert or participation with them from engaging in any employment practices which discriminate because of race, color, sex or national origin.
2. Order Defendants to institute and carry out policies, practices and affirmative action programs which provide equal employment opportunities regardless of race, color, sex or national origin and which eradicate the effects of Defendants' past and present unlawful employment practices.
3. Order Defendants to make whole those persons adversely affected by the practices and policies hereinabove described by providing appropriate back pay in an amount to be proved at trial and other affirmative relief necessary to eradicate the effects of Defendants' unlawful employment practices.
4. Retain jurisdiction over this action to assure full compliance by Defendants with the Court's decree.
5. Award Plaintiff its costs and disbursements in this action.
6. Grant such other and further relief as the Court deems necessary and proper.

Count 3

1. The United States of America by Richard G. Kleindienst, Attorney General, brings this action to enforce the contractual obligations imposed by Executive Order No. 11246 (30 C.F.R. 12319).

2. This Court has jurisdiction of this action under 28 U.S.C. §1345.

3. The allegations of paragraphs 2-4 of Count 1 above are incorporated herein as fully as if they were realleged.

4. At all times hereinafter mentioned, Defendants are now and have been engaged in various states of the United States in the transmission and receipt of communications for the United States government pursuant to published tariffs. Each of said Defendants is now and at all material times has been a government contractor subject to the requirements of Executive Order 11246 as amended and its implementing rules and regulations, including specifically 41 C.F.R. Part 60-2 in that it does employ and has continually employed at least 50 employees and does have and has had one or more government contracts of \$50,000 or more.

5. For purposes of enforcement of the Executive Order 11246, the allegations of paragraph 8 of Count 1 and of paragraphs 10-16 of Count 2 are incorporated herein as fully as if realleged.

6. The employment practices of each of the Defendants as specified in paragraph ⁵ of this Count constitute a failure to meet its contractual obligations under Executive Order 11246.

PRAYER

WHEREFORE, Plaintiff United States prays that this Court:

1. Permanently enjoin Defendants, their officers, agents, employees, successors, assigns and all persons in active concert or participation with them from engaging in any employment practices which discriminate because of race, color, sex or national origin.
2. Order Defendants to institute and carry out policies, practices and affirmative action programs required by Executive Order 11246 which provide equal employment opportunities regardless of race, color, sex or national origin and which eradicate the effects of Defendants' past and present unlawful employment practices.
3. Order Defendants to make whole those persons adversely affected by the practices and policies hereinabove described by providing appropriate back-pay in an amount to be proved at trial and other affirmative relief necessary to eradicate the effects of Defendants' unlawful employment practices.
4. Retain jurisdiction over this action to assure full compliance by Defendants with the Court's decree.
5. Award Plaintiff its costs and disbursements in this action.
6. Grant such other and further relief as the Court seems necessary and proper.

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