

ATTACHMENT I

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
UNITED STATES DEPARTMENT OF LABOR
UNITED STATES DEPARTMENT OF JUSTICE

May 6, 1975

Charles Ryan, Esquire
General Attorney
American Telephone and
Telegraph Company
195 Broadway
New York, New York 10007

Re: Conflict between affirmative action override and
collective bargaining agreements

Dear Mr. Ryan:

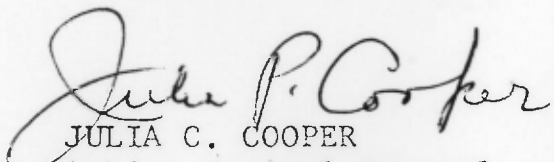
In a March 6, 1974 letter to the Government Coordinat-
ing Committee you requested a response to the following
question:


Do Title VII, as amended, Executive Order 11246,
as amended, and the Consent Decree of January 18,
1973, require AT & T and the 23 Bell System
operating companies to override conflicting pro-
visions of collective bargaining agreements in
cases where hiring and promotion shares are not
being met due to the application of collective
bargaining agreements?

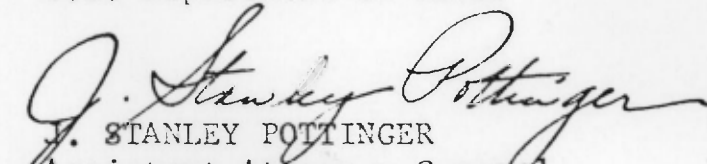
The Consent Decree of January 18, 1973 provides for
the application of an affirmative action override in cases
where intermediate targets are not being achieved in any
non-management job classification for a particular race,
sex or ethnic group. The operation of this override pro-
cedure is as follows. The company will evaluate candidates
for promotion and hiring on the basis of applicable selec-
tion criteria provided in collective bargaining agreements
or pursuant to Bell System Operating Company practices.
However, to the extent any Bell System Operating Company is
unable to meet its intermediate targets in job classifica-
tions 5-15 using these criteria, the Decree requires that,

except for situations in job classifications 9 and 10 governed by Part A, Section III, A, of the Decree, selections be made from among any at least basically qualified candidates for promotion and hiring of the group or groups for which the intermediate targets are not being met and in accordance with any applicable selection criteria in a collective bargaining agreement or pursuant to Bell System Company practices as among such candidates.

The application of the affirmative action override under the circumstances of this case is required by Title VII, Executive Order 11246, and the Consent Decree and where it conflicts with a provision of a collective bargaining agreement, the affirmative action override prevails.


JULIA C. COOPER
Acting General Counsel
Equal Employment
Opportunity Commission


WILLIAM J. KILBERG
Solicitor
U.S. Department of Labor


J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division

ATTACHMENT II

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

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
JOHN T. DUNLOP, Secretary of)
Labor,)
United States Department of)
Labor,)
)
and)
)
UNITED STATES OF AMERICA,)
)
Plaintiffs,)
)
v.)
)
AMERICAN TELEPHONE AND TELE-)
GRAPH COMPANY, et al.,)
)
Defendants,)
)
and)
)
COMMUNICATION WORKERS OF)
AMERICA,)
)
Intervenor Defendants.)
_____)

CIVIL ACTION
NO. 73-149

AFFIDAVIT OF DAVID A. COPUS

DISTRICT OF COLUMBIA, SS:

David A. Copus, being first duly sworn, on
oath deposes and says that:

1. I am Acting Chief of the National
Programs Division, Office of Compliance, Equal
Employment Opportunity Commission, 2401 E St.,
N.W., Washington, D.C. 20506 (hereafter EEOC).

2. From October, 1970, to February, 1973
I directed the EEOC's litigation before the Federal
Communications Commission against the companies

named as defendants in this action and referred to hereafter as the Bell System.

3. During the course of these proceedings, over 8000 pages of testimony and records were introduced into evidence relating to the alleged discriminatory employment practices of the Bell System Operating Companies. This evidence formed the basis of the allegations contained in the government's complaint in the instant action.

4. On October 18, 1972, negotiations began between EEOC, AT&T and the Department of Labor to resolve the alleged discriminatory practices of AT&T relating to race, sex and national origin, including those arising under Executive Order 11246 and the Equal Pay Act of 1963.

5. I represented EEOC in these negotiations and was a principal government negotiator.

6. On January 18, 1973, the EEOC, the Department of Labor, the Department of Justice and AT&T entered into the agreement which forms the basis of the Consent Decree entered in this case.

7. I have read Attachment I to this memorandum and it accurately interprets the intent of the parties and the actual provisions of the Consent Decree entered by this Court on January 18, 1973.

8. By negotiating this Consent Decree, it was the intent of the parties that the affirmative action override as described in Attachment I

to this memorandum, would be used in all non-management job classifications (5-15).

9. Although the parties intended the affirmative action override to apply to job classifications 5-15, the government believed it necessary to specifically delineate the application of the override for four classifications (6, 7, 9, 10).

10. The government delineated the application of the affirmative action override in job classes 6 and 7 in paragraph III B of the Consent Decree for two major reasons:

- a. by its terms, paragraph III B is an exception to the general requirements of the affirmative action override. The reason why the exception was made for these classifications was that the jobs included in classifications 6 and 7 are skilled craft occupations requiring training and experience in technical fields. The government therefor acquiesced in the Bell System's request that it be able to initially place the candidates with the highest qualifications. However, after this initial departure the override was to operate in these classifications in the same manner as in all others. As an exception to the mainspring

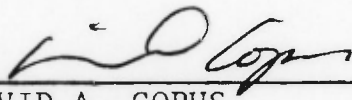
of the mechanisms for upward mobility established by the decree, caution dictated that the Bell System's obligations in these classifications be clearly and comprehensively set out;

b. The jobs included in job classifications 6 and 7 are the most desirable nonmanagement jobs in the Bell System. Because of their skilled nature they are more varied and interesting than other jobs, and the wage rates are also the highest. Furthermore, management employees are recruited in disproportionate numbers from these classifications. At the same time, the representation of protected groups was least in these classifications and in job classifications 9 and 10, which are immediately below in the line of progression.

11. The application of the affirmative action override to job classifications 9 and 10 was specified in the Consent Decree because the application of the override in those job classifications was different from its application in all other job classifications. The difference in the application of the override in job classifications 9 and 10 was predicated on their being primarily

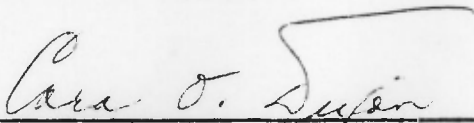
entry level positions and a special recruitment pool being established under the Consent Decree.

Further than this, deponent sayeth not.



DAVID A. COPUS

Subscribed and sworn to
before me this *12th* day
of May, 1975.



NOTARY PUBLIC

My Commission Expires: *9-14-76*