

EXHIBIT B

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

EQUAL EMPLOYMENT OPPORTUNITY)
 COMMISSION,)
)
 JAMES D. HODGSON, Secretary of)
 Labor, United States Department)
 of Labor,)
)
 and)
)
 UNITED STATES OF AMERICA,)
)
 Plaintiffs,)
)
 vs.)
)
 AMERICAN TELEPHONE AND TELEGRAPH)
 COMPANY, et al.)
)
 Defendants.)

CIVIL ACTION NO. 73-149

FILED
 FEB 26 1973
 JOHN J. HARDING, Clerk
 By: *[Signature]* Dep. Clerk

AFFIDAVIT OF DAVID COPUS

DISTRICT OF COLUMBIA, ss:

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

1. My name is David Copus. I am an attorney in the Office of the General Counsel, Equal Employment Opportunity Commission, 1800 G Street, N.W., Washington, D. C. 20505 (hereinafter, EEOC).

2. Since October, 1970, I have directed the EEOC's litigation against the companies named as defendants in this action and referred to hereafter as the Bell System.

3. In October, 1970, American Telephone and Telegraph (hereinafter, AT&T) filed with the Federal Communications

4. On December 10, 1970, the EEOC filed with the FCC a petition to deny the requested rate increase because the Bell System engaged in "pervasive, system-wide and blatantly unlawful discrimination in employment against women, blacks, Spanish-surnamed Americans, and other minorities."

5. By memorandum opinion and order, on January 21, 1971, the FCC denied EEOC's request to reject the rate request but did order that the EEOC's allegations be fully adjudicated in a trial-type hearing; the FCC designated the matter for hearing under the caption FCC "Docket 19143". The following issues, among others, were designated for hearing:

"(A) Whether the existing employment practices of AT&T tend to impede equal employment opportunities in AT&T and its operating companies contrary to the purposes and requirements of the Commission's Rules and the Civil Rights Act of 1964?

(B) Whether AT&T has failed to inaugurate and maintain specific programs, pursuant to Commission Rules and Regulations, insuring against discriminatory practices in the recruiting, selection, hiring, placement and promotion of its employees?

(C) Whether AT&T has engaged in pervasive, system-

(D) Whether any of the employment practices of AT&T, if found to be discriminatory, affect the rates charged by that company for its services, and if so, in what ways is this reflected in the present rate structure?

(E) To determine, in light of the evidence adduced pursuant to the foregoing issues, what order, or requirements, if any, should be adopted by the Commission?"

6. By order dated April 8, 1971, the FCC ordered the Bell System joined as respondents in Docket 19143.

7. In March, 1971, I contacted the office of Joseph Beirne, President of the Communication Workers of America (hereinafter, CWA) and talked with his administrative assistant, Charles McDonald. We discussed among other things, FCC Docket 19143 and whether the CWA would join that proceeding as a party. Mr. McDonald said the CWA would not formally participate in Docket 19143 even though the issues designated for hearing covered the entire range of Bell System employment practices.

8. Between March, 1971, and December, 1971, I had numerous conversations with Mr. McDonald concerning Docket 19143 and the implication of that litigation vis-a-vis the CWA, particularly regarding the transfer and promotion practices of the

contained in bargaining agreements with the CWA, which would be required to bring the Bell System into compliance with Title VII of the Civil Rights Act of 1964.

9. Between March, 1971, and December, 1971, Mr. McDonald and I worked together developing a questionnaire to be sent by the CWA to a random sample of union members recently employed by the Bell System. In October, 1971, this questionnaire was mailed by the CWA and the results were later tabulated by the CWA for the EEOC. In November, 1971, Mr. McDonald agreed to testify for the EEOC in Docket 19143 as to the results of the questionnaire. On December 1, 1971, the EEOC filed with the FCC its direct case, in writing. As a part of its case, the EEOC filed the testimony of Mr. Charles McDonald, attached hereto as Exhibit A.

10. Between August 11, 1971, and January 25, 1972, under my direction, the EEOC and representatives of AT&T met on many occasions in an attempt voluntarily to resolve the issues designated for hearing in Docket 19143. These negotiations did not produce a settlement and the hearing in Docket 19143 commenced on January 31, 1972.

11. During the first week of April, 1972, I received a draft copy of the Bell System's recently developed Model Affirmative Action Plan and Model Upgrade and Transfer Plan.

Transfer Plan. The major topic at that meeting was the effect of the Bell System's proposals on the collective bargaining agreements between the CWA and the various Bell Companies. I indicated to Mr. Hackler that the EEOC's position was that AT&T's proposed plans did not go far enough to rectify past discrimination against females and minority males. He indicated that whatever plan AT&T proposed, the CWA would grieve and arbitrate any proposed changes in existing collective bargaining agreements. Mr. Hackler expressed no interest in formally participating in Docket 19143 as a party nor did he submit any substantive proposals for EEOC consideration.

13. On August 1, 1972, the Bell System filed with the FCC its responsive case, in writing, in Docket 19143. A major portion of the Bell System's defense consisted of a commitment to implement the model Affirmative Action Plan and Upgrade and Transfer Plan at each Bell System Company.

14. On September 13, 1972, I received a telegram from Leonard Sprague, Chairman of the Negotiation Committee, International Brotherhood of Electrical Workers, Boston, Massachusetts (hereinafter, IBEW). Mr. Sprague requested a meeting with the EEOC to discuss the effect of the Bell System's Model Affirmative Action Plan and Upgrade and Transfer Plan on the collective bargaining agreements between the IBEW and New England Telephone and Telegraph Company.

15. On September 15, 1972, I met with Mr. Sprague and other IBEW representatives; we discussed the impact that the Bell System's model plan would have on the IBEW's contract as well as the impact of the further relief being sought by the EEOC in Docket 19143. Mr. Sprague offered to develop a proposal in writing.

16. On September 20, 1972, the General Services Administration, (GSA), acting as the contract compliance agency enforcing Executive Order 11246, approved, with certain modifications, the Bell System's Model Affirmative Action Plan and Transfer and Upgrade Plan as meeting the requirements of Revised Order No. 4 of the Office of Federal Contract Compliance.

17. On September 29, 1972, the IBEW filed a motion with the FCC seeking to intervene as a plaintiff in Docket 19143.

18. On October 6, 1972, I met with Mr. Sprague and other IBEW representatives. They presented to me and we discussed a written proposal to modify the Bell System's Model Affirmative Action Plan and Upgrade and Transfer Plan, as it applied to New England Telephone and Telegraph Company. We also discussed the EEOC's views concerning the inadequacies of the Plans as modified and approved by GSA. We again discussed the potential impact on the IBEW's contract of the further relief (beyond that achieved in the GSA-approved package) being sought

20. On October 17, 1972, I received a letter from AT&T requesting that negotiations to settle Docket 19143 be resumed.

21. On October 17, 1972, I telephoned Mr. John Morgan, assistant to Joseph Beirne, and informed him that further negotiations with AT&T were imminent. I informed Mr. Morgan that negotiations would concern modification of the Bell System plans approved by GSA. By letter dated October 17, 1972, I transmitted to Mr. Morgan a copy of a document, written by me, entitled "EEOC Analysis of Bell System Plans Approved by GSA", copy attached as Exhibit B.

22. In my telephone conversation with Mr. Morgan on October 17, 1972, we discussed how the EEOC's views on remedy would require modification of both the GSA plan and the current Bell System transfer and promotion practices, including those contained in agreements with the CWA. I further informed Mr. Morgan that the IBEW had petitioned the FCC to intervene in Docket 19143 and had submitted a written proposal to modify the Bell System Model Plans as they affect New England Telephone. Mr. Morgan indicated that the CWA was not inclined to participate as a party in Docket 19143 nor to submit to the EEOC any written proposals.

23. On October 18, 1972, negotiations began between EEOC, AT&T and the Department of Labor to resolve the issues raised in Docket 19143, including those arising under Executive