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P.O. Box 19367  
Washington, D.C.  
19 January 1971

The Honorable Dean Burch  
Chairman  
Federal Communications Commission  
Washington, D.C. 20554

Re: Telephone Rate Increases  
(AT&T Transmittal 11027; Tariff FCC 263)

Dear Mr. Chairman:

Together with the tens of millions of other telephone service consumers, we rely on the Federal Communications Commission to prevent the abuse of monopoly power by the American Telephone and Telegraph Company and its subsidiaries in the Bell System. Among other things, the Commission has the legal duty to regulate charges for interstate telephone service to protect the interests of the public. It has come as a stunning disappointment, therefore, to learn that by its recent actions soliciting and approving highly inflationary, and unwarranted telephone rate increases which will amount to billions of dollars in coming years, the Commission has abandoned all pretense of meeting its responsibilities to the public.

As you know, the massive rate increases now proposed and scheduled to take effect this week represent a "compromise" between the demands of the telephone company and the demands of the law. Only recently was the FCC forced to conclude that a rate of return substantially equivalent to that now being sought by AT&T was "unjust and unreasonable," and therefore illegal. Wholly outside the framework of accepted administrative procedures, the Commission has now announced a sudden reversal of position which will permit AT&T to increase its long distance rates by a quarter of a billion dollars annually. Certainly this action is inconsistent with the announced desires of the Administration to assert reasonable restraints on inflationary price increases.

The procedures followed in this case raise serious questions about the true motivation and integrity of the Commission's actions. First, the Commission and its staff have consistently indulged in secret meetings and other off-the-record contacts with AT&T and its lobbyists, while excluding consumer representatives, the public, the press and even other government agencies, including the Department

of Defense, over their vehement protests. The Commission's sudden reversal of its earlier rulings on the legality of telephone rates at the higher levels came entirely without public notice and with no opportunity for a presentation of views by those supposed to be protected by the agency. As the U.S. Court of Appeals for the District of Columbia recently noted, "Congress requires public participation in making rates because it is the public who pays them."

Normally increases in tariffs of such magnitude require no less than 60 days before they may become effective; in this case, however, the Commission has already indicated to AT&T that the increases may go into effect on as little as seven days notice. If unusual and severe conditions exist which would warrant such a procedure to protect the Bell System from immediate financial distress--conditions which would certainly require full disclosure to the public--no such justification for short circuiting normal procedures has been set forth either by AT&T or the FCC. This appears to be a direct violation of the Commission's own regulations, 47 CFR 61.151, 61.153, which permit a short notice filing only when adequate justification is spelled out. Moreover, it is clear that granting enormous telephone rate increases at this time undermines the ongoing Commission investigations regarding the rate structure in Docket 18128. In addition, anyone concerned with the conduct of important regulatory proceedings in a manner consonant with elementary principles of administrative due process must object to your agency's unorthodox procedures of ratemaking by press release rather than through the public hearing route required by law.

Nor is there substantive justification for imposing this \$250 million burden on telephone users. Secretary of Defense Melvin Laird, on behalf of the Defense Department and all other federal executive agencies, has argued vigorously against any rate increases at this time, noting that "even the most casual look at AT&T's reasons for the proposed increases reveal that they are clearly faulty and without merit." It should be noted, in this light, that one of the principal justifications advanced by AT&T for increasing its net revenue, initially set forth in Transmittal No. 10989, is that the cost of long term debt capital has risen "to a level of nearly 9 percent in 1970." It is incredible that AT&T would expect the Commission to rely on such a distorted

claim when, on January 12, the day before its present tariff filing, the American Banker noted that the successful underwriting of New York Telephone Company's \$200 million debenture issue priced to yield 7.6% "provided the frosting on the cake for jubilant Wall Streeters."

At a time when telephone users across the nation are experiencing a serious decline in the quality of their telephone service, it would be unconscionable for the Commission to grant the present rate increases, regardless of any informal promises it may have made to AT&T. The Commission, at a minimum, must ascertain that AT&T's revenue needs do not arise from its own managerial deficiencies and that the public interest requires the rate increases. In this regard, the Commission appears to have disregarded the admonition of the federal Court of Appeals for this circuit that "there is more to rate-making than providing carriers with sufficient revenue to meet their obligations to their creditors and to their stockholders." Both the company and the FCC, indeed, appear to recognize that the rate increase will necessarily reduce the public's use and enjoyment of interstate telephone facilities; the obvious question that should be explored by the Commission is whether AT&T's asserted need for higher profits might not be better met by reducing telephone rates, consistent with the purposes of the Communications Act of 1934.

For the foregoing reasons, we urge the Commission to demonstrate that it can be a responsible guardian of the public interest, by suspending the proposed rates for the maximum period pending a meaningful investigation into the economic justification of any such rate increase as well as the efficiency and prudence of AT&T management. If, at the end of such maximum period the Commission is unable to make an affirmative finding of lawfulness, the rates should be declared unlawful and rejected, subject to possible future reinstatement at the completion of the hearings if AT&T is then able to sustain its burden of proof as to the reasonableness of the proposed tariff revision. Any pro forma suspension without a bona fide investigation of these rates prior to their institution would be a hollow gesture not consistent with the Act. In addition we respectfully urge the Commission to make a prompt and full disclosure of all ex parte contacts between FCC personnel and AT&T, and to assure the public that henceforth FCC proceedings will be conducted in accordance

The Honorable Dean Burch,

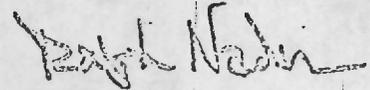
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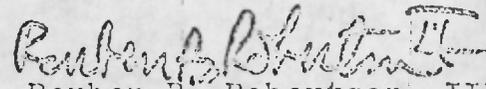
with the procedural requirements of the law.

We request that this communication be treated as a petition for suspension of rates pursuant to 47 CFR 1.773. A copy of this letter is being provided to the appropriate official of AT&T.

Sincerely,



Ralph Nader



Reuben B. Robertson, II

cc: Mr. W.E. Albert, AT&T