

Feb. 23, 1977

STATEMENT BY COMMISSIONER ABBOTT WASHBURN ON DOCKET 19129
DECISION AND ORDER ADOPTED FEBRUARY 23, 1977, IN WHICH
COMMISSIONERS LEE, QUELLO AND WHITE JOIN

Considering the importance of the three major issues^{1/} which were the focal points in Phase II of this long proceeding, we are not satisfied that all three were in the end adequately probed. It is unfortunate that the voluminous record which we had to address was overblown in some of the rather tangential areas and inadequate in other more important areas (e.g. MTS).

On two of the lesser issues -- charitable contributions and advertising expenses (account 642) -- the majority took the view that reasonable expenditures in each category are to be anticipated in the normal course of modern business. The record before us did not indicate excessive amounts in either category.

The good corporate citizenship of any company, regulated or nonregulated, is part of its operating viability. How the company is perceived in the local community depends on participation by its employees and management personnel in the public service activities of the community -- and on its monetary contributions in support of civic activities and charities of importance to the citizens.

This type of participation has come to be regarded as a proper and progressive business practice. In our opinion it should not, in the

^{1/} Revenue requirements of the Bell System (rate base and expenses) for interstate and foreign communications; rate structure of the long distance message telephone service (MTS) contained in several specific rate filings; and the integrated corporate structure of the Bell System with particular reference to Western Electric.

case of Bell, be interfered with by government unless the Commission, upon review, should find the overall contribution figure to be excessive (which has not been the case to date).

Contrary to the Judge's Initial Decision, there is a clear benefit to the rate-payer in the viability of a well-thought-of company that is doing its part in the local community as opposed to one with a poor reputation due to non-participation. Recruitment of employees in the community is affected by the important element of good will, as are other areas of necessary cooperation between citizens and company.

The Judge's Initial Decision would have the Commission approve or disapprove each individual contribution on an ad hoc basis as beneficial or non-beneficial to rate-payers. Apart from the intolerable burden imposed on the Common Carrier Bureau, this procedure would constitute unnecessary regulatory intrusion of the very kind the Commission is currently trying its best to eliminate.

We do not agree with those who believe that contributions should simply be disallowed altogether. As mentioned above, contributions in reasonable amounts are today generally accepted as a proper and necessary cost of modern business. Bell should not be denied the opportunity to so participate.

In addition, Bell has come to be recognized as among the leadership firms in many communities throughout the country. Thus, drying up or diminution of its contributions in such communities could have an adverse affect going well beyond the particular loss of its contributions to the local

organizations involved. A prohibition of this kind by the FCC would be "very much in contradiction to the spirit of the times" - to use the words of the Federal Power Commission in its El Paso Natural Gas Company^{2/} action. The latter found such donations "properly a cost of service". Our Decision and Order, in paragraph 228, states that Bell's contributions charged to interstate expenses in 1972 amounted to \$3.6 million or 0.08 percent of total interstate expenses. This ratio is not unreasonable or excessive. The Commission will monitor the figure annually and take appropriate action should abuses arise.

Nor did the record in this proceeding reveal any abuses in the area of institutional advertising expenses. In the view of the majority it would be both difficult and unwise for the Commission to undertake to determine which advertising efforts are essentially institutional in character and thus disallowable and which ones are not. A particular television sequence will often build good will for the company as well as promote sales and provide the public with information on telephone service. So long as the amounts expended on good will advertising are reasonable and no abuses shown, there is little reason for the Commission to disallow institutional advertising or to try to regulate in this difficult, subjective area. Again, should abuses arise in the future, the Commission could consider appropriate corrective action.

^{2/} 90 P.U.R. 3d 462, 473 (1971).