Agenda Document #96-112-B

AGENDA ITEM For Meeting of: 11-14-96

Page 10, line 26 through Page 11, line 14.

Alternative Language if Nemeroff's approach is accepted:

Accordingly, Lucent PAC shall request the affirmative consent of each Lucent employee currently making contributions to Lucent PAC via payroll deduction in order to continue payroll deduction for their contributions. The Commission understands that Lucent PAC has already received contributions from one monthly payroll deduction, implemented in October, whereby amounts were deducted from the salary of those who did not send in termination forms. Moreover, in your letter dated November 6, you indicate that an immediate termination of the payroll deduction for approximately 2500 employees, coupled with a subsequent reinstatement of deductions for the requesting employees, will require many changes to employee records that will result in errors and confusion, as well as a significant amount of staff time for a payroll department still dealing with complex issues related to the separation from AT&T. Because of these difficulties, as well as the fact that Lucent's request for advice was made before the first deduction, Lucent may continue an employee's payroll deduction and retain the funds received from that employee prior to his or her affirmative consent under the following limited circumstances.

In the deduction authorization form to be signed by the contributing employee, the employee ~~should~~ must also be given an option to state (such as by marking a box) that he or she approves the deductions made up until that point (i.e., for October, November, and possibly December). In order for Lucent to be able to retain the prior deductions of an employee, it must receive his or her affirmative response within sixty days of your receipt of this opinion. After that, Lucent PAC must refund the deduction amount to the employee, and all payroll deductions for employees not giving affirmative consent for future deductions must be discontinued. Until Lucent receives such a reply, the PAC ~~should~~ must place the prior deductions made for the employee in a separate bank account (holding all those deductions) from which it will not make disbursements, or it ~~should~~ must maintain sufficient funds to make the refunds without using those amounts for other disbursements. See, by analogy, 11 CFR 103.3(b)(4).