



UNITED STATES OF AMERICA
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
One Lafayette Centre
1120 20th Street, N.W. — 9th Floor
Washington, DC 20036-3419

PHONE:
COM (202) 606-5100
FTS (202) 606-6100

FAX:
COM (202) 606-5050
FTS (202) 606-5050

SECRETARY OF LABOR
Complainant,

v.

**SOUTHWESTERN BELL TELEPHONE
COMPANY,**

Respondent,

CWA OF AMERICA, LOCAL 6222
Authorized Employee
Representative.

**OSHRC DOCKET
NO. 92-2335**

**NOTICE OF DOCKETING
OF ADMINISTRATIVE LAW JUDGE'S DECISION**

The Administrative Law Judge's Report in the above referenced case was docketed with the Commission on May 4, 1994. The decision of the Judge will become a final order of the Commission on June 3, 1994 unless a Commission member directs review of the decision on or before that date. **ANY PARTY DESIRING REVIEW OF THE JUDGE'S DECISION BY THE COMMISSION MUST FILE A PETITION FOR DISCRETIONARY REVIEW.** Any such petition should be received by the Executive Secretary on or before May 24, 1994 in order to permit sufficient time for its review. See Commission Rule 91, 29 C.F.R. 2200.91.

All further pleadings or communications regarding this case shall be addressed to:

Executive Secretary
Occupational Safety and Health
Review Commission
1120 20th St. N.W., Suite 980
Washington, D.C. 20036-3419

Petitioning parties shall also mail a copy to:

Daniel J. Mick, Esq.
Counsel for Regional Trial Litigation
Office of the Solicitor, U.S. DOL
Room S4004
200 Constitution Avenue, N.W.
Washington, D.C. 20210

DOCKET NO. 92-2335

If a Direction for Review is issued by the Commission, then the Counsel for Regional Trial Litigation will represent the Department of Labor. Any party having questions about review rights may contact the Commission's Executive Secretary or call (202) 606-5400.

FOR THE COMMISSION

A handwritten signature in cursive script that reads "Ray H. Darling, Jr." followed by a flourish.

Ray H. Darling, Jr.
Executive Secretary

Date: May 4, 1994

DOCKET NO. 92-2335

NOTICE IS GIVEN TO THE FOLLOWING:

Daniel J. Mick, Esq.
Counsel for Regional Trial Litigation
Office of the Solicitor, U.S. DOL
Room S4004
200 Constitution Ave., N.W.
Washington, D.C. 20210

James E. White, Esq.
Regional Solicitor
Office of the Solicitor, U.S. DOL
525 Griffin Square Bldg., Suite 501
Griffin & Young Streets
Dallas, TX 75202

Karen L. Clark
Southwestern Bell Telephone Co.
6500 West Loop South
Zone 5.5
Bellaire, TX 77401

Robert W. Rickard, Esq.
Communications Workers Bldg.
1515 Jefferson
Houston, TX 77002

Robert David Krueger
1705 Rosewood
Houston, TX 77004

Louis G. LaVecchia
Administrative Law Judge
Occupational Safety and Health
Review Commission
Federal Building, Room 7B11
1100 Commerce Street
Dallas, TX 75242 0791

00109457523:06



UNITED STATES OF AMERICA
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
ROOM 7B11, FEDERAL BUILDING
1100 COMMERCE STREET
DALLAS, TEXAS 75242-0791

PHONE:
COM (214) 767-5271
FTS (214) 767-5271

FAX:
COM (214) 767-0350
FTS (214) 767-0350

SECRETARY OF LABOR,

Complainant,

v.

SOUTHWESTERN BELL
TELEPHONE COMPANY,

Respondent.

CWA OF AMERICA, LOCAL 6222,

Authorized Employee
Representative.

ROBERT DAVID KRUEGER,

Intervenor.

OSHRC DOCKET NO. 92-2335

DECISION AND ORDER

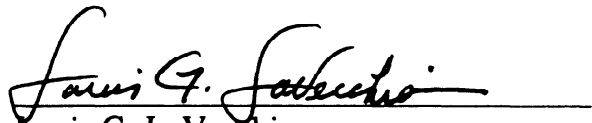
This is a proceeding brought before the Occupational Safety and Health Review Commission ("the Commission") pursuant to section 10 of the Occupational Safety and Health Act of 1970, 29 U.S.C. § 651 *et seq.* ("the Act").

My office is in receipt of a settlement agreement which has been executed by representatives of Complainant and Respondent. My office is also in receipt of a letter written by Robert Krueger, an intervenor in this matter, in which Mr. Krueger makes a

number of objections to the agreement.¹ In the letter transmitting the agreement, the Complainant states that the Communication Workers of America, Local 6222, the authorized employee representative in this case, has no objections to the agreement.

Commission precedent is well settled that although employees and their representatives have a role in the settlement process that role is limited due to the fact that prosecutorial discretion in the Act's enforcement is vested solely in the Secretary. It is also well settled that the Secretary may reach agreement with the employer despite the contrary views of employees or their representatives, and that the only objections employees or their representatives may make to a settlement agreement before the Commission is in regard to the reasonableness of the period set for abatement. *See Boise Cascade Corp.*, 14 BNA OSHC 1993, 1991 CCH OSHD ¶ 29,222 (Nos. 89-3087 & 89-3088, 1991); *National Steel & Shipbuilding Co.*, 14 BNA OSHC 1866, 1987-90 CCH OSHD ¶ 29,127 (Nos. 88-277 *et al.*, 1990); *General Elec. Co.*, 14 BNA OSHC 1763, 1987-90 CCH OSHD ¶ 29,072 (No. 88-2265, 1990); and cases cited therein.

It is clear from his letter that Mr. Krueger is not objecting to the reasonableness of the period set for abatement. The undersigned judge is therefore constrained to approve the agreement and has no authority to entertain any other objections; however, Mr. Krueger may petition for review of this matter according to the instructions in the cover letter to this decision if he so desires. The settlement agreement is hereby approved and incorporated herein by reference.


Louis G. LaVecchia
Administrative Law Judge

Date: APR 26 1994

¹Mr. Krueger, apparently the individual who filed the complaint which resulted in the inspection, has not worked for Respondent since fall of 1992.