



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

October 5, 1981

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1981-39

Herbert P. Wiedemann  
Foley & Lardner  
First Wisconsin Center  
777 East Wisconsin Avenue  
Milwaukee, Wisconsin 53202

Dear Mr. Wiedemann:

This responds to your letter dated August 19, 1981, requesting an advisory opinion on behalf of Square D Company, ("the Company"), regarding the application of the Federal Election Campaign Act of 1971, as amended ("the Act") and Commission regulations to certain proposed activity by the Company.

You indicate that the Company is engaged in collective bargaining with various labor organizations which represent the Company's employees. In the course of the bargaining, the labor organizations have asked the Company to institute a program "whereby the employees they represent may voluntarily contribute, by payroll deduction, to political action committees established by the unions." Square D maintains a political action committee for its management personnel and provides for contributions by payroll deduction without reimbursement for the costs of administering the program. With regard to the cost of administering the proposed payroll deduction plan for union members who are Company employees, you ask specifically whether it would be permissible under the Act and regulations for the unions and the Company to arrange for advance reimbursement of the Company for its administration costs. The administration costs would be estimated by the Company and that estimated figure would be incorporated into the wage and benefit package agreed upon through collective bargaining between the Company and the unions.

As you know, the Act provides that "any corporation... that utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available such method, on written request and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby, to a labor organization representing any members

working for such corporation..." 2 U.S.C. 441b(b)(6). This statutory provision is implemented by the regulations at 11 CFR 114.5(k). That section provides that any corporation that uses a method of soliciting voluntary contributions for its political fund from its stockholders or executive and administrative personnel and their families shall make that method available to a labor organization representing any members working for the corporation. The regulations further provide that the method shall be made available "at a cost sufficient only to reimburse the corporation for the expenses incurred thereby." 11 CFR 114.5(k). The request indicates the Company is willing to make the payroll deduction plan available to facilitate political contributions by union members employed by the Company.

With regard to the issue of reimbursement of the Company for the costs of administering the payroll deduction plan, the unions and the company are in agreement that the unions should bear the costs of administration. However, the unions propose an alternative to direct reimbursement. This alternative would involve establishing a "reasonable estimate" of administrative costs. That estimated figure would be incorporated into the total economic settlement package with the corporation so that reimbursement of the Company would be accomplished in advance of the commencement of the program.

The Commission considered a similar factual situation in Advisory Opinion 1979-21, copy enclosed. There, a union requested that a corporation establish a payroll deduction program to facilitate voluntary contributions from union members employed by the corporation to the union's political action committee. The union took the position that full reimbursement of administrative costs to the corporation was not required. The corporation, on the other hand, had a stated policy which required that the costs of administering such a program be billed to the union on a regular basis. Thus, it was clear that the corporation and the union were not in agreement with respect to the method and amount of reimbursement required by the Act.

The factual situation in AO 1979-21 is contrasted with the situation presented by this request. Here, Square D and the unions are in agreement that the unions should bear the cost of administering the payroll deduction plan for union members/ employees. The only issue then is whether the Act permits a method of advance payment instead of direct reimbursement of the corporation after the corporation has incurred the costs of making a payroll deduction plan available.

The Commission concludes that the method proposed for advance payment by the union of the costs that will be incurred to administer the payroll deduction program is permissible under the Act. This conclusion is based on Square D's stated agreement to use the described method to obtain payment from the union of the payroll deduction expenses incident to the corporation's administration of payroll deduction on behalf of the union's political fund. In reaching this conclusion, the Commission notes that a corporation necessarily administers any

payroll deduction program designed to facilitate voluntary contributions from union members, who are employees of the corporation, to their unions' separate segregated funds.

This response constitutes an advisory opinion concerning application of the Act, or regulation prescribed by the Commission, to the specific transaction or activity set forth in your request. See 2 U.S.C. 437f.

Sincerely,

(signed)

John Warren McGarry  
Chairman for the  
Federal Election Commission

Enclosure (AO 1979-21)