



FEDERAL ELECTION COMMISSION
Washington, DC 20463

July 26, 1991

CERTIFIED MAIL,
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1991-19

Gail L. Polivy
GTE Service Corporation
1850 M Street, N.W.
Washington, D.C. 20036

Dear Ms. Polivy:

This responds to your letter dated June 13, 1991, requesting an advisory opinion on behalf of GTE Corporation ("GTE") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to a proposed consolidation of the payroll deduction operations of two separate segregated funds.

You state that GTE has completed a merger with Contel Corporation ("CONTEL"). As a result of this merger, CONTEL is now a wholly-owned subsidiary of GTE. Prior to the merger, each corporation maintained its own separate segregated fund. GTE was the connected organization of the GTE Corporation Political Action Club ("GTE FED-PAC") while CONTEL was the connected organization of the Contel Political Action Committee ("CONTELPAC"). GTE is currently maintaining both separate segregated funds as affiliated committees. However, you state that GTE anticipates consolidating these committees into one committee, the GTE FED-PAC.

You state that both CONTEL and GTE have used voluntary payroll deductions to facilitate contributions of employees to their respective separate segregated funds, and both committees continue to receive contributions in this way.¹ GTE and CONTEL are in the process of combining payroll operations. This will affect individual employees who have requested payroll deductions for contributions to CONTELPAC. Previously authorized payroll deductions to CONTELPAC will now be remitted to GTE FED-PAC.

Before implementing the payroll deduction transfer, GTE plans to send a letter to each individual affected by the transfer. The letter will inform the employee that the change will occur

simultaneously with the transfer of that individual's payroll from CONTEL to GTE. You state that the letter will contain all appropriate notices pursuant to 11 CFR 114.5 including statements that all contributions are voluntary. You also state that all contributors will be notified of the merger of the two PACs.²

Commission regulations permit the use of a payroll deduction plan for soliciting and collecting voluntary contributions to a corporation's separate segregated fund. 11 CFR 114.5(k)(1). Since CONTEL is a wholly-owned subsidiary of GTE, GTE may administer a payroll deduction plan to facilitate contributions from eligible CONTEL employees to GTE FED-PAC. 11 CFR 114.5(g)(1). See also Advisory Opinion 1987-34. The permissibility of such a plan, however, is dependent upon compliance with the standard of voluntariness set out in 11 CFR 114.5(a)(1)-(5). See Advisory Opinions 1988-36 and 1987-34 and FEC v. National Education Association, 457 F. Supp. 1102 (D.D.C. 1978). See also 2 U.S.C. 441b(b)(3)(A), (B), and (C).

The Commission assumes that GTE will follow the rules for suggestion of guidelines for contributions and informing the contributor of the political purposes of GTE FED-PAC. 11 CFR 114.5(a)(2) and (3). The permissibility of payroll deduction plans, as well as any program involving prior authorization of periodic contributions, is conditioned upon the continuing right of the contributor to revoke the prior authorization without reprisal. 11 CFR 114.5(a)(4). Advisory Opinions 1991-1 and 1981-14. In addition to being sent in advance of the actual transfers of the deductions and reminding the contributors that contributions are voluntary, the notification should explicitly notify the contributors of the continuing right to revoke the authorization without reprisal.

This situation is different from the situation presented in Advisory Opinion 1989-16 where the Commission dealt with employees of a corporation who were in the payroll deduction plan for contributions to that company's SSF, but who later became employees of a spin-off corporation that had severed its ties with the first company. The Commission concluded that, in order for the new company to obtain participation of those employees in a payroll deduction plan for contributions to the new company's SSF, those employees would have to execute new authorizations. In the situation presented by you, however, CONTEL employees will be contributing to the SSF of an affiliated corporation and are, in fact, being shifted to the payroll of the affiliated corporation. For the purposes of limits on contributions to and from affiliated committees, and for treatment as multicandidate committees, affiliated committees are considered to act as one committee. 11 CFR 110.3(a)(1); Advisory Opinion 1986-42. Under these conditions, and as long as the requirements for voluntariness described above, including the continuing opportunity to revoke, are preserved, the CONTEL employees need not execute new authorizations.

If GTE's proposed consolidation of the payroll deduction operations of the two separate segregated funds complies with the above requirements, the Commission concludes that it is permitted under the Act and Commission regulations.

This response constitutes an advisory opinion concerning the application of the Act, or regulations 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

Enclosures (AOs 1991-1, 1989-16, 1988-36, 1987-34, 1986-42, and 1981-14)

1/ The Commission assumes that the employees who participate in the payroll deduction programs are executive or administrative personnel or stockholders since other classes of personnel are not eligible for participation in payroll deduction plans for the separate segregated funds of CONTEL and GTE. See 11 CFR 114.5(g)(1) and 114.6(e)(1).

2/ When you state that all contributors are to be informed of the merger of the two PACs, it is assumed that you mean either all those who are included in the payroll deduction program or all those included in the restricted class as set out in 11 CFR 114.5(g)(1).