

High court to hear NW Bell case

Suit involving PUC could help define limits of federal racketeering law

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■ The Supreme Court agreed to decide whether an airline may be forced to reinstate workers after their strike. **Page 3D.**

The U.S. Supreme Court agreed Monday to hear arguments in a lawsuit charging that Northwestern Bell Telephone Co. violated federal racketeering laws by illegally influencing members of the Minnesota Public Utilities Commission (PUC).

ST/S *3-22-88*

significant because the Supreme Court could use it to define further the limits of the federal Racketeer Influenced and Corrupt Organizations Act (RICO). The law, passed by Congress in 1970 as a means to address multiple frauds in civil and criminal cases, has been used frequently in suits against corporations.

"The RICO act is the first time Congress has given both to the government and to private litigants a civil tool to redress multiple frauds," said

John Cochrane, one of the attorneys who filed the complaint. "One of its major aims was to reach organized crime, but the act is broad enough to reach the burglars who wear Brooks Brothers suits," he said yesterday.

A federal district judge and an appeals court had dismissed the suit earlier. Cochrane and the other plaintiffs are hoping the Supreme Court will order the U.S. District Court in Minneapolis to take another look.

The class-action suit was filed against Northwestern Bell in July 1986 by Cochrane and St. Paul attorney Mark Reinhardt, representing customers of Northwestern Bell. They accused the company of providing PUC members with "benefits, rewards, and consideration to which they were not legally entitled."

Among other things, the complaint charged that Northwestern Bell gave former Commissioner Roger Hanson illicit payments of \$30,000 in 1985. Most of the payments were made while Hanson was between terms on the commission, though he received

The Supreme Court's decision to hear the case does not reflect on whether the allegations are true. It simply means the high court will decide legal issues relating to the definition of racketeering.

Nevertheless, the case is potentially

Bell continued on page 4D

Bell Continued from page 1D

one after he resumed his seat. In addition, the company paid a total of \$106,000 to former Commissioner Juanita Satterlee after she left the PUC in 1983.

Northwestern Bell has denied any wrongdoing. It said the payments were for consulting work done while Hanson and Satterlee were no longer on the PUC. Hanson resigned from the commission after the payments became public in 1986.

The complaint also alleged that the company spent thousands of dollars to provide commissioners with free plane rides, tickets to entertainment events and many free meals while commissioners were deliberating on a Northwestern Bell rate case in 1983. The PUC subsequently voted to grant the company an increase.

In February 1987 a Ramsey County grand jury decided not to bring criminal charges against Northwestern Bell.

The civil complaint accuses Northwestern Bell of violating the RICO act by engaging in a "pattern of racketeering activity" to influence the commissioners. The principal question before the Supreme Court will be: Did the activities alleged in the complaint constitute a pattern as defined in the law?

"The Supreme Court is flooded with petitions on the question of pattern under RICO," said John French, the Minneapolis attorney representing Northwestern Bell in the case. "It has resulted in a variety of differing interpretations, and it may be the court has decided it's time for us to settle this question."

U.S. District Judge Harry McLaughlin ruled in November 1986 that the case did not meet the "pattern" standard. Even if true, the allegations against Northwestern Bell were "committed in furtherance of a single scheme to influence PUC commissioners," he said. "Plaintiffs do not

allege that the defendants have engaged in like wrongful activity in the past or are engaged in other wrongful activity elsewhere."

Last October the Eighth U.S. Circuit Court of Appeals upheld McLaughlin's decision, saying that "a single fraudulent effort or scheme is insufficient" grounds for a suit.

Attorneys in the case said the appeals court has taken an extremely narrow view of what constitutes a pattern of illegal activity. "The Eighth Circuit's threshold ... is tougher than most other circuits," French said.

The Supreme Court has not addressed the RICO act since 1985. In that case, it ruled that "Two isolated acts of racketeering activity do not constitute a pattern."

The Supreme Court is being asked to determine the limits of a racketeering pattern. The most expansive view would permit a RICO suit when there are two related acts designed to further a single scheme. A more restrictive view, like that of the Eighth Circuit, holds that a pattern exists only when there are multiple separate criminal schemes or episodes.

The date for arguments has not been set, but the case will be heard during the court's next term, which runs from October to May, Reinhardt said.

Meanwhile, the Minnesota Supreme Court Friday upheld a PUC decision relating to the 1983 rate case involving Northwestern Bell. A year ago, after redeliberating the case, the PUC ordered Northwestern Bell to refund approximately \$40 million to its customers.

The PUC took up the case again because it said the regulatory process had been abused by Northwestern Bell when it bought lunches and dinners for commissioners.

The Minnesota attorney general's office, which represents ratepayers before the PUC, said the average residential customer would receive a refund of about \$25.

However, state law does not give the PUC legal power to force Northwestern Bell to refund rates in this case. So the attorney general's office must try to obtain the refund by going forward with a suit against the company that is pending in Ramsey County District Court.