

GRABER MANUFACTURING COMPANY, INC., ET AL.

Docket 8038. Order, Oct. 15, 1964

Order that the proceeding in this case be suspended is herewith denied.

ORDER DENYING MOTION TO SUSPEND PROCEEDING

On August 4, 1964, respondents in the above-captioned proceeding made a motion to the hearing examiner that this proceeding be suspended. Two grounds were offered in support of the motion. The first is that the decision in a case now pending before a Federal Court of Appeals will, when rendered, cast great light on the issues of the present case. The second is, in effect, that the Commission should, concurrently with or alternatively to the continued prosecution of the present case, proceed against the buyer named in the complaint as a recipient of alleged discriminatory reductions in price.

The hearing examiner, pursuant to Section 3.6(a) of the Commission's Procedures and Rules of Practice (effective August 1, 1963), ruled that respondents' motion was one upon which he had no authority to rule, and accordingly, by order of August 27, 1964, he certified the motion to the Commission with his recommendation. Since respondents' motion to suspend is avowedly addressed to the Commission's administrative discretion and does not raise questions that are within the "adjudicative factfinding functions" (Section 8 of the Commission's Statement of Organization (effective August 1, 1963)) which have been delegated to the hearing examiners, the examiner's determination to certify was correct. *O. K. Rubber Welders, Inc.*, F.T.C. Docket 8571 (Order of October 17, 1963) [63 F.T.C. 2213]; *Drug Research Corp.*, F.T.C. Docket 7179 (Order of October 3, 1963) [63 F.T.C. 998]. The motion is therefore properly before the Commission for decision.

The complaint in this proceeding was issued on July 12, 1960, and completion of the evidentiary hearings before the hearing examiner has been delayed for several years due to a protracted collateral litigation which terminated only recently. It is the Commission's determination that at this time the public interest would be better served by expeditious completion of the hearings, rather than by such further delay as would be created by indefinitely suspending the proceeding. Accordingly,

It is ordered, That respondents' motion to suspend the proceeding be, and it hereby is, denied.

IN THE MATTER OF
MONTGOMERY WARD & CO., INC.

Docket 8617. Order, Oct. 15, 1964

Order denying permission to file an interlocutory appeal from hearing examiner's denial of offering additional documents in evidence.