

Docket 8955. Interlocutory Order, Apr. 2, 1974

Order denying motion of respondents to extent it requests a fixed schedule for proceedings, without prejudice to right of respondents to renew their motion in event of undue delay. Commission directs proceedings progress as expeditiously as is consistent with rights of parties to due process of law.

Appearances

For the Commission: *K. Keith Thurman, Gordon Youngwood, Donald E. Purcell, Daryl A. Nickel, John R. Hoagland, Robert E. Liedquist.*

For the respondents: *Paul, Weiss, Rifkind, Wharton & Garrison, New York City.*

ORDER DENYING MOTION
FOR FIXED SCHEDULE

In December, 1973, the British Oxygen Company, Limited (BOC), acquired 35 percent of the stock of Airco, Inc. for the sum of \$80 million. Following issuance of the complaint challenging this merger of Feb. 26, 1974, the Commission obtained a preliminary injunction on March 8, 1974, enjoining BOC from fully exercising the rights it obtained with said acquisition. In order that these restraints might be removed as quickly as possible, BOC moves for an expedited trial schedule with a

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Complaint

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hearing on the merits beginning no later than Apr. 1, 1974, and with all administrative proceedings, including the Commission's final decision concluding no later than July 1, 1974. Complaint counsel oppose this motion and, pursuant to Section 3.22 (a) of the Commission's Rules of Practice, the administrative law judge has certified it to the Commission by order filed March 18, 1974.

The Commission is cognizant of the need to expedite these proceedings as expressed in the order of the United States District Court for the District of Delaware, dated Mar. 8, 1974. However, the Commission does not believe that this need will best be served by imposing on the administrative law judge a fixed schedule incapable of responding to the vicissitudes of trial. This is especially true in view of the fact that both the administrative law judge and complaint counsel have indicated their willingness to cooperate with respondents in expediting this matter.

Accordingly,

It is ordered, That the aforesaid motion, to the extent that it requests a fixed schedule for these proceedings, be, and it hereby is, denied without prejudice to the right of respondents to renew their said motion in the event of undue delay.

It is further ordered, That these proceedings progress as expeditiously as is consistent with the rights of the parties to due process of law.

IN THE MATTER OF

M. B. JOHNSON DEVELOPMENT CO.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATIONS
OF THE TRUTH IN LENDING AND FEDERAL TRADE COMMISSION
ACTS