

Order

85 F.T.C.

IN THE MATTER OF
EXXON CORPORATION, ET AL.*

Docket 8934. Order, Mar., 4, 1975

Denial of complaint counsel's motion for (1) major integrated procedural relief relative to discovery, (2) manual for complex litigation, (3) a second administrative law judge, and (4) a firm schedule for prehearing phase of the case. Also denial of respondents' suggestions for dismissal of the complaint.

ORDER DENYING MOTION FOR MAJOR INTEGRATED PROCEDURAL
RELIEF

By order of Oct. 23, 1974, the administrative law judge certified to the Commission complaint counsel's "Motion for Major Integrated Procedural Relief" requesting (1) with respect to this matter, substitution with minor modifications of the discovery rules of the Federal Rules of Civil Procedure for the Commission's discovery rules or, in the alternative, liberalization of the latter to facilitate the taking of depositions; (2) adoption of the Manual for Complex Litigation as a guide for this matter; (3) appointment of a second administrative law judge to rule upon all discovery related matters in this proceeding; and (4) adoption of a firm schedule for the prehearing phase of this case. In a joint answer, all respondents except Texaco oppose this motion in all respects. For its part, Texaco also opposes the motion and suggests that this matter be withdrawn from adjudication for further investigation. Finally, in a separate pleading, respondent, Shell Oil Company proposes that this complaint be dismissed and that the Commission confine its future activities in the field of energy to the gathering and analysis of data.

Upon consideration of the voluminous pleadings filed in connection with this matter, the Commission has determined to deny complaint counsel's motion in all respects. As for request (1), as a general principle the Commission does not favor tailoring special rules for individual cases. Complaint counsel have not convinced us that we should depart from this general principle. Furthermore, the Commission presently has under consideration a number of proposed rule changes including revisions of the Commission's discovery rules for adjudicative proceedings. The revisions dealing with discovery rules will be published in the near future in the *Federal Register* as proposals, and public comment will be invited as well as the views of the Commission's operating bureaus and administrative law judges. Respondents in this and any other pending adjudicative matters which

* For appearances see p. 91 herein.

may be affected by any such rule changes may, of course, also submit their views at that time.

Requests for the adoption of the "Manual for Complex Litigation" as a guide in this proceeding and a firm prehearing schedule and trial-commencement date are also denied. Although the Commission encourages consideration by the administrative law judge of many of the procedural devices included in the Manual, wholesale "adoption" of the Manual by Commission directive is unnecessary and unwarranted. These procedural devices and the question of prehearing schedules are best left to the administrative law judge to rule upon.¹ The question of the need for an additional administrative law judge is one that should be directed in the first instance to the chief administrative law judge who has authority to appoint an additional law judge or judges if he determines there is compelling need for them.

Finally, the Commission concludes that it would be contrary to the public interest to adopt respondents' suggestions that the complaint herein be dismissed and to the extent that such suggestions were intended to be motions, they are denied.

It is so ordered.