INTERLOCUTORY, MODIFYING, VACATING, AND MISCELLANEOUS ORDERS

PHOEBE PUTNEY HEALTH SYSTEM, INC., PHOEBE PUTNEY MEMORIAL HOSPITAL, INC., PHOEBE NORTH, INC., HCA INC., PALMYRA PARK HOSPITAL, INC.,
AND
HOSPITAL AUTHORITY OF ALBANY-DOUGHERTY COUNTY

Docket No. D-9348. *Order, July 15, 2011*

Order granting Respondents' motion to stay the administrative proceedings under Commission Rule 3.22(a), pending the outcome of an appeal to the Eleventh Circuit in a collateral federal court action on the issue of state action immunity.

ORDER GRANTING RESPONDENTS' UNOPPOSED MOTION TO STAY PROCEEDING

On July 1, 2011, Respondents filed an unopposed Motion to Stay the proceedings in this matter under Commission Rule 3.22(a). On July 7, 2011, the Administrative Law Judge certified that motion to the Commission. For the reasons that follow, the Commission has determined to grant the Motion.

The administrative trial in this matter is scheduled to begin on September 19, 2011. Respondents assert that "there is no benefit to undergoing the burdens and expense of continuing this administrative proceeding given" the pendency of an appeal to the Eleventh Circuit in collateral federal court litigation on the "critical issue" in this proceeding, namely state action immunity. (Motion ¶ 8.) Respondents assert that if the Eleventh Circuit were to rule in the FTC's favor, these administrative "proceedings can resume with no prejudice." (*Id*.) Complaint Counsel does not oppose Respondents' Motion.

The Commission's Rules of Practice allow the Commission to stay the administrative proceedings while a collateral federal court proceeding is ongoing upon a showing of good cause. *See* Rule

3.41(f), 16 C.F.R. § 3.41(f) ("The pendency of a collateral federal court action that relates to the administrative adjudication shall not stay the proceeding unless a court of competent jurisdiction, or the Commission for good cause, so directs."). While the Commission has a strong interest in completing Part 3 proceedings expeditiously,[1] here the Commission finds good cause to grant a stay of this proceeding. The applicability of the state action doctrine is a key issue in this proceeding and will be addressed by the Eleventh Circuit on an expedited basis. The Eleventh Circuit's grant of an injunction pending appeal will help ensure that the status quo is preserved and the proposed acquisition is not consummated. Under these circumstances, staying these proceedings will avoid a waste of resources and will not prejudice either side.

Accordingly,

IT IS ORDERED that Respondents' Unopposed Motion to Stay be, and it hereby is, **GRANTED**.

By the Commission, Commissioner Rosch abstaining.

[1] *See* Rule 3.1, 16 C.F.R. § 3.1 ("[T]he Commission's policy is to conduct [adjudicative] proceedings expeditiously."); Rule 3.41(b), 16 C.F.R. § 3.41(b) ("Hearings shall proceed with all reasonable expedition . . . ."); Rules of Practice Amendments, 61 Fed. Reg. 50,640 (FTC Sept. 26, 1996) ("[A]djudicative proceedings shall be conducted expeditiously and … litigants shall make every effort to avoid delay at each stage of a proceeding.").

Interlocutory Orders, Etc.

UNIVERSAL COMPUTERS AND ELECTRONICS, INC,. D/B/A APPLIANCEBESTBUYS.COM AND D/B/A UNIVERSALLCDTV.COM

Docket No. D-9347. Order, August 4, 2011

Order granting parties' joint motion to withdraw the matter from adjudication to enable the Commission to consider a proposed consent agreement.

ORDER WITHDRAWING MATTER FROM ADJUDICATION FOR THE PURPOSE OF CONSIDERING A PROPOSED CONSENT AGREEMENT

Complaint Counsel and Respondents having jointly moved that this matter be withdrawn from adjudication to enable the Commission to consider a proposed Consent Agreement; and

Complaint Counsel and Respondents having submitted a proposed Consent Agreement containing a proposed Order, executed by the Respondents and by Complaint Counsel and approved by the Director of the Bureau of Consumer Protection which, if accepted by the Commission, would resolve this matter in its entirety;

IT IS ORDERED, pursuant to Rule 3.25(c) of the Commission Rules of Practice, 16 C. F.R. § 3.25(c) (2011), that this matter in its entirety be, and it hereby is, withdrawn from adjudication, and that all proceedings before the Administrative Law Judge be, and they hereby are, stayed pending a determination by the Commission with respect to the proposed Consent Agreement, pursuant to Rule 3.25(f), 16 C. F.R. § 3.25(f); and

IT IS FURTHER ORDERED, pursuant to Rule 3.25(b) of the Commission Rules of Practice, 16 C.F.R. § 3.25(b), that the proposed Consent Agreement shall not be placed on the public record unless and until it is accepted by the Commission.

By the Commission.