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January 6, 1997

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Mr. William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D. C. 20554

In the Matter of:

Amendment of Rules Governing Procedures to Be Followed When Formal Complaints Are Filed Against Common Carriers	))))))	CC Docket No. 96-238

Dear Mr. Caton:

Enclosed are an original and nine copies plus two additional public copies of the Comments of Cincinnati Bell Telephone Company in the above referenced proceeding. A duplicate original copy of this letter and attached Comments is also provided. Please date stamp this as acknowledgment of its receipt and return it. Questions regarding these Comments may be directed to me at the above address or by telephone on (513) 397-1393.

Sincerely,

David L. Meier

David L. Meier

Enclosure

cc: International Transcription Services, Inc.
Commn Carrier Bureau, Enforcement Division (2 copies)
Anita Cheng, Common Carrier Bureau (paper copy and diskette)

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JAN 6 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Implementation of the Telecommunications Act of 1996	)	
Amendment of Rules Governing Procedures to Be Followed When Formal Complaints Are Filed Against Common Carriers	)	CC Docket No. 96-238

COMMENTS OF CINCINNATI BELL TELEPHONE COMPANY

INTRODUCTION

In this Notice of Proposed Rulemaking ("NPRM"), the Commission seeks comments on improving the speed and effectiveness of the FCC formal complaint process. The comments offered by Cincinnati Bell Telephone ("CBT") in response to this NPRM focus on the various proposed amendments to rules of practice and procedure. CBT urges the Commission to assure that the proposed rules not have the adverse impact on smaller companies, like CBT, of impeding their ability to adequately prepare their defenses. The burdens the proposed rules would place on smaller companies early in the process could impact the outcome of complaint cases. The Commission is proposing to limit the ability of and time for companies to develop evidence and issues. Thus, if companies cannot develop the information early on in the case, the opportunity may be lost. For smaller companies who possess limited resources, this could result in an unreasonable burden, which could cause inequitable results due to lack of time for adequate preparation, rather than because of the merits of the case. While "accelerated justice" might be more cost-effective, it will not necessarily produce a better or more equitable outcome.

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I. STATUTORY AUTHORITY FOR PROPOSED RULES

Cincinnati Bell Telephone ("CBT"), an independent, mid-size local exchange carrier ("LEC"), submits these comments in response to the Commission's November 26, 1996 Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceeding.[1] In its NPRM, the Commission discusses the implementation of certain complaint provisions contained in the 1996 Act and requests comments on how to improve generally the speed and effectiveness of its formal complaint process. The Commission, in the NPRM, notes that the 1996 Act prescribes deadlines ranging from 90 days to 5 months for the resolution of complaints against the Bell Operating Companies and other telecommunications carriers that are subject to the requirements of the Communications Act of 1934, as amended by the 1996 Act. The 1996 Act further directs the Commission to establish such procedures as are necessary for the review and resolution of such complaints within the statutory deadlines.

The Commission's goal of facilitating the complaint process is understandable. However, CBT submits that only sections 260(b), 271(d)(6)(B) and 275(c) call for the FCC to resolve complaints under those provisions within the respective 90 and 120 day time periods. Furthermore, section 271(d)(6)(B) pertains only to BOCs, so it should not drive a general rulemaking that would change complaint procedures for all telecommunications companies. There is no directive from Congress to implement new procedures governing generic section 208 proceedings. Section 208(b) was amended only to shorten the time for resolving those types of complaints from 12 months to 5 months.

Section 260 authorizes new procedures only for telemessaging service complaints. It

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[1] Implementation of the Telecommunications Act of 1996, CC Docket No. 96-238, Notice of Proposed Rulemaking, (FCC 96-460), released November 27, 1996.

does not authorize new procedures for any other kind of complaint. Likewise, section 275 deals with alarm monitoring service complaints and only authorizes new complaint rules pertinent to that kind of complaint, so as to resolve them within 120 days. Similarly, section 271 pertains to BOC provision of in-region interLATA services and only authorizes new procedures necessary to resolve those specific complaints within 90 days. CBT does not view this as authorization to write new rules for any other kind of complaint, and does not believe that it should be used to change complaint rules as to non-BOCs. The Commission should not use Sections 260, 271 and 275 as authorization to change the rules for section 208 complaints.

For these reasons, there is no compelling need to apply the same procedures to all types of formal complaints. Complaints under sections 260, 271 and 275 involve very specialized subject matters, while section 208 complaints can involve virtually any aspect of telecommunications and may require more time to develop and resolve. CBT's view is that the Commission need only change its formal complaint procedures so as to accommodate the new 5 month deadline. Those particular types of complaints that have shorter resolution periods should have special rules. There is no need to impose the same tight deadlines on every case.

There are only two other places in the 1996 Act where complaints against telecommunications providers are mentioned, Sections 255 and 274. Section 255 does not create new complaint jurisdiction, but rather is a limitation on private rights of action. Any complaint pertaining to Section 255 would have to be pursued under section 208, and would only be subject to a resolution deadline if the complaint was one of the types listed under section 208(b), which has a 5 month deadline. Section 274 pertains only to BOC provision of electronic publishing services.

Rather than implement uniform rules expediting all complaint proceedings on the same basis, CBT believes that the Commission should only change its generic formal complaint rules so as to meet the 5 month deadline and should have special rules for section 260, 271 and 275 complaints in order to meet the shorter (90 or 120 day) deadlines applicable only to those kinds of cases.

II. COMMENTS ON PROPOSED AMENDMENTS TO RULES OF PRACTICE AND PROCEDURE

The NPRM proposes the implementation of a number of requirements the Commission believes may help to achieve resolution of complaints in a timely manner.[2] In the NPRM, the Commission seeks comment on the possible elimination and modification of certain pleading opportunities, as well as the discovery process. CBT acknowledges the need for some changes to meet the new 5 month deadline under section 208(b), but does not endorse wholesale changes to the forms of pleadings or the discovery process in order to do so.

A. Pre-filing Procedures and Activities

CBT supports the Commission's proposal to require complainants to make an effort to settle its complaint with the respondent prior to filing a formal complaint with the Commission. Giving the respondent advance notice of the claim and the opportunity to resolve it prior to a formal filing should reduce the number of complaint cases that must be filed. This would provide respondents with better notice of claims at a time that they may be easier to resolve informally. This requirement could be enforced by a rule requiring complainants to certify that they have presented their claim to the respondent and that the parties have been unable to settle

[2] NPRM at para. 22.

the matter.

In the NPRM, the Commission seeks comment on whether formal complaints could be effectively avoided with a committee of neutral industry members to address disputes over technical and other business disputes. CBT does not believe that the voluntary use of outside industry experts will aid materially in resolving complaint cases. For this procedure to not interfere with the 5 month complaint resolution deadline, it would most likely have to occur before the complaint is filed, at a time when the Commission would have no control over the dispute. Given the increasing complexity of the industry and the interwoven relationships between industry players, it may be difficult to find a panel with which all parties are comfortable. Moreover, since use of an industry panel is strictly voluntary, in those cases where the parties have opposing industry interests, it is unlikely that both sides could agree on the same neutral panel, or that both sides would agree to be bound by its decision. This approach has always been available to private parties to use or not use and it would be unlikely for it to be any more effective because it is recommended by the Commission.

B. Service

The 1996 Act does not require any change in the method by which complaints are served. The time periods stated for resolution of complaints should not commence to run until a defendant has been served with the complaint, so no time is lost by virtue of the time required to effect service. This is a reasonable interpretation of the statutory deadlines that the Commission could adopt by rulemaking. Nevertheless, CBT does not object to a rule allowing service of complaints, similar to the current federal court practice, whereby the complainant serves the complaint directly to the defendant. As a practical matter, however, the complaint will have

already had to be filed with the Commission in order to assign a case number and obtain the notice from the Commission instructing the Defendant to answer. The answer period should not begin to run until actual receipt of the complaint by the defendant. Otherwise, a defendant would be penalized by delays in the mail, or other delivery means, and lose valuable time necessary to prepare its response.

In regards to the Commission's proposal to maintain a directory of agents authorized to serve process, CBT finds this to be a practical solution, provided the FCC takes into account the potential for certain types of errors. For example, if the electronic directory contained an error in the identity or address of a service agent, not the fault of the defendant company, service upon the incorrect agent or address should not begin the answer period. The time for answering must be keyed to actual receipt of a complaint by the authorized agent. Carriers must also have the opportunity to effect changes in their authorized agents and the FCC will have to accept the responsibility of maintaining updates to make sure that the electronic directory reflects the current agents. Service should not be deemed effective until and unless the agent actually receives a communication containing every item required by the FCC's rules. Service by e-mail should not be permitted because it is difficult to verify and has potential technical difficulties. If the Commission does permit such service, the sending of an e-mail should not qualify as service until it is actually received and read by the agent and the e-mail should contain everything that is required to be included with a paper copy of the complaint. In any event, e-mail service should be followed by service of a paper copy.

CBT agrees with the FCC's proposal to require complainants to submit a completed intake form with any formal complaint. This will help to classify complaints and assure that they meet the minimum requirements of a formal complaint. Additionally, the Commission proposes

that, after the service of the complaint on the defendant, parties should be required to serve all subsequent pleadings via overnight delivery or by facsimile to be followed by mail delivery. CBT finds it unclear whether the Commission intends that mail delivery must follow both overnight and fax delivery, or only fax delivery.[3] It seems redundant to require both overnight and regular mail delivery when receipt of overnight delivery can be verified but regular mail cannot.

C. Format and Content Requirements

In regards to the Commission's proposed changes in format and content requirements, CBT objects to the proposal to require defendants to fully support their answers with documentation and affidavits in the limited time allowed for answering. Perhaps affirmative factual allegations contained in answers could be supported with such evidence, but it is unnecessary and often impossible to provide affidavits to support denials, which may be made due to lack of information at the time of answering, as specifically permitted by the rules. The time for providing this information is in discovery or in the briefing on the merits. Additionally, in the NPRM, the Commission seeks comment on the benefits, if any, of allowing factual assertions based on information and belief. CBT believes that allegations based on information and belief should remain available in answers because of the limited time in which to gather information.

CBT opposes the requirement to include with answers the identity of individuals with discoverable information or a description of all of the relevant documents. Despite Civil Rule 26(a)(1), calling for such initial disclosures in civil litigation, many federal district courts,

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[3] NPRM at para. 34.

including the Southern District of Ohio, which is the location of CBT's principal place of business, have opted out of compliance with the Rule. This requirement is very burdensome and often unnecessary. In CBT's view, it is more efficient to respond to narrowly framed discovery requests than it is to identify and gather the universe of information that may be available and that might have some bearing on a case.

Furthermore, CBT believes that the proposed requirement to include proposed findings of fact and conclusions of law with motions should be limited to certain types of motions. The requirement would be appropriate for motions for summary judgment and for briefs on the merits, but most other motions do not lend themselves to such an analysis.

CBT does not object to a requirement to provide filings in electronic and paper form. However, the Commission ought to broaden the formats for electronic filing beyond WordPerfect 5.1, to accommodate those who do not use that particular word processor. CBT would suggest the Commission also include Microsoft Word, ASCII and perhaps other prevalent word processing formats.

D. Answer Time

In the NPRM, the Commission proposes to reduce the permissible time for a defendant to file an answer to a complaint from 30 to 20 days after service or receipt of the complaint.[4] The 20 day answer period is consistent with what is provided by the Federal Rules of Civil Procedure, as long as it only commences on the date the complaint is actually received by the defendant, not the date it is sent. However, if the answer period is shortened, this is yet another reason not to require supporting documentation be filed with an answer, because the time to

[4] NPRM at para. 47.

gather such information would be dramatically shortened.

E. Discovery

CBT believes that the ability to conduct discovery should not be unduly restricted as this is the only stage of the proceeding where a defendant has the opportunity to seek information from the opposing side that was not included in the complaint. The right to conduct discovery should not be left to the discretion of the Commission's staff. Oversight of discovery can be accomplished by ruling upon objections, motions to compel or motions for protective orders. Without discovery, each party is completely dependent on the information available to it internally, or information otherwise disclosed in the opponent's pleadings. Even if the Commission adopts the proposed rule that requires each party to disclose its witnesses and documents in its initial pleading, discovery is necessary in order to obtain the information within the knowledge of the witnesses or to obtain the documents that are identified.

CBT agrees with the proposal to have the staff deal with the scope of discovery at the initial status conference, as long as the status conference is not held so early that the parties have not had a chance to develop their discovery requests. Given a reasonable time lag between the time initial discovery requests must be made and the status conference, it would expedite resolution of discovery disputes to discuss them before answers are due instead of after the fact. The traditional method of serving discovery, receiving responses and/or objections, and filing and briefing of a motion to compel, followed by Commission decision is often time consuming and wasteful. Some of these steps could be more efficiently handled at a status conference, if it is held at a time in the case when the parties have developed any discovery disputes to the point where they are ripe to be resolved. This could minimize the need for some motion practice, if the

staff "pre-rules" on objections and protective orders.

Eliminating mandatory discovery could actually increase the number of discovery motions the staff would have to handle. If the right to conduct discovery depended upon receiving Commission permission, more discovery matters would be required to come to the Commission's attention than do now. The Commission should make efforts to expedite resolution of discovery disputes, but should not eliminate discovery in order to do so.

In the NPRM, the Commission requests comments evaluating the need for and feasibility of limited, self-executing discovery, particularly in cases subject to one or more of the resolution deadlines mandated by the 1996 Act.[5] Reducing the number of allowable interrogatories may not have a material impact on the time required for resolution of cases. It is not the number of interrogatories, but their breadth and relevance to the case that causes delays. A larger number of well-crafted, narrowly focused questions are not as burdensome to answer as a few overly broad, vague, or all-inclusive questions. It certainly would be appropriate to require discovery to be relevant to allegations in the complaint or answer. If a matter is not alleged in either the complaint or answer, it is probably not a fact at issue and need not be the subject of discovery.

CBT opposes the Commission's proposal of requiring a description of all documents and identification of all individuals likely to have discoverable information at the time of answering.[6] CBT objects to placing this burden on a defendant who does not necessarily have sufficient time to assemble this information within the answer period. The complainant has up to two years to prepare and file its case and is much more likely to be able to assemble this information before filing the complaint.

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[5] NPRM at para. 51.
[6] NPRM at para. 53.

Nor does CBT see a logical reason to file copies of documents with the Commission. The amount of paper that would ensue, along with the burden on each party of producing the material, would be overwhelming. Moreover, CBT disagrees with the Commission's proposal to require that all documents be scanned and filed via computer disk because in routine cases scanning would be an unnecessary waste of resources.[7] Such a requirement may be appropriate where it is necessary for large volumes of documents to be filed with the Commission, but that should be an exceptional situation. However, the present rule, which prohibits the filing of discovery documents unless ordered by the staff, should be relaxed to allow parties to attach relevant documents to motions or briefs on the merits as supporting evidence for the party's position. This usually should be only a small subset of the available documentation.

The Commission seeks comment in the NPRM regarding the creation of discovery cost recovery mechanisms. CBT believes that it would not be productive to leave it to the parties to agree on how to cover costs of discovery. It is doubtful that a party planning to engage in "dilatory" discovery is going to voluntarily agree that the loser is responsible for the costs. However, in cases where one party is put to an extraordinary effort to comply with the other party's discovery requests, it would be appropriate to condition discovery responses on the receipt of reimbursement for the out-of-pocket costs of complying with the discovery.

Referral for hearing of disputed fact issues that cannot be resolved on the written materials is also appropriate. Assuming that this means oral hearings with live witnesses, provisions should be written as to the location of these hearings. It would be inconvenient and burdensome on parties such as CBT, to require that hearings occur in Washington because all of

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[7] NPRM at para. 53.

the witnesses would have to travel. CBT's view is that hearings should occur where the services giving rise to the alleged violation were rendered.

F. Status Conferences

CBT believes that status conferences can be useful to narrow the issues to help resolve complaints, and in particular, discovery matters. The rules should provide out of town parties and counsel the option to attend via telephone, to reduce the burden and expense on the parties involved. CBT opposes the Commission's proposal that, within 24 hours after a status conference, the parties in attendance submit to the Commission a joint proposed order memorializing the oral rulings made during the conference. It would seem more efficient for the Commission staff to prepare orders memorializing oral rulings. Requiring the parties to agree on what the ruling was, especially within 24 hours, will lead to unnecessary argument about the language of the orders. Tape recording or using stenographers to memorialize the conferences is an unnecessary expense and the staff is in the best position to put what it meant into writing in the form of an order.

G. Damages

In the NPRM, the Commission states the goal of eliminating or minimizing the delay that is often inherent in resolving damages issues. CBT agrees that bifurcating the claims into liability and damage phases could relieve the time pressure to resolve complaints within 5 months. If the Commission allows this, there is less reason to compress the schedules or diminish discovery rights, because the scope of discovery and argument will be narrower in each phase of the case. Nevertheless, the showing of some injury is a necessary element to establish liability. The advantages of bifurcating cases are twofold: each phase of the case is simpler to

deal with and, therefore, more likely to be completed on time; and, if liability is not proven, the damage claim never needs to be addressed.

CBT agrees with the Commission that the complainant should be required to provide detailed support for damages claims.[8] However, CBT disagrees with the Commission's proposal of simply confirming a damage methodology without actually deciding upon an amount.[9] This would leave parties with another potential dispute regarding the correct figures to use in the formula and may result in the need to return to the Commission for resolution. The Commission should decide the appropriate damages amount on the evidence presented to it in the case.

CBT also opposes the proposal for defendants to post money after a liability award. The amount of damages would not even be known at that stage of the proceeding. Money damages alone can rarely suffice as the type of irreparable harm that would justify issuance of a preliminary injunction, so it would be inappropriate to require defendants to make payment at that point in the case. Since the damages phase must be resolved within 5 months of a complaint, complainant would not have to wait very long for the actual award. It is typical that complainants are compensated for this delay by inclusion of interest in the award.

H. Cross-Complaints and Counterclaims

In the NPRM, the Commission proposes to allow compulsory counterclaims, those arising out of the same transaction or occurrence that is the subject matter of the opposing party's claim, only if the defendant files them concurrently with the answer.[10] If such a rule is adopted, CBT suggests that a defendant not be required to provide the same level of evidentiary support

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[8] NPRM at para. 66.
[9] NPRM at para. 66.
[10] NPRM at para. 70.

for a compulsory counterclaim as is required of a complainant because there would be much less time for the defendant to gather that information before it must file the counterclaim than the complainant had in which to prepare the original complaint. This burden would be even greater on smaller LECs who have fewer resources to prepare a response and/or counterclaim in a diminished timeframe.

I. Motions

CBT opposes the Commission's proposal to shorten the deadline for filing oppositions to motions from 10 to 5 business days.[11] With respect to a complex motion, 5 days is a very short response. CBT would suggest that a more appropriate reduction would be to change the rule from 10 business days to 10 calendar days.

CBT also suggests an alternative to the Commission's proposal to prohibit amendment of complaints. The Commission could allow amended complaints on the condition that the 5 month clock begins all over again if the complaint is amended. Since the statute only requires a complaint to be resolved within five months, the Commission could treat the amended complaint as a new complaint restarting the resolution time period. The Commission should deem the old complaint resolved by virtue of the amendment and dismiss it.

J. Other Required Submissions

The Commission proposes to require the parties to submit a joint statement of stipulated facts and key legal issues five days after the answer is filed.[12] CBT believes this requirement would not be productive as the parties are unlikely to be able to agree on issues at that stage in

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[11] NPRM at para. 77.
[12] NPRM at para. 80.

the proceeding with respect to anything that has not already been admitted in the answer.

The Commission also seeks comments on prohibiting the filing of briefs in cases in which discovery is not conducted.[13] CBT asserts that the complaint and answer often do not fully explain the legal positions of the parties and further elaboration and citation is usually necessary. The briefing process is necessary for the parties to present their cases based on the maximum amount of information available at that time and should not be limited to the information available at the outset of the case. CBT opposes any requirement to include proposed findings of fact and conclusions of law in answers, as it may be too early in the case for such information to be meaningfully completed. It is also unclear how parties would be able to know at the time an answer is filed that no discovery would be conducted. It is appropriate to limit briefing to disputed issues, but to allow the staff to limit issues any further could prejudge the outcome without giving the parties a chance to be heard.

In the NPRM, the Commission seeks comment on the appropriate timetable for the submission of any briefs and reply briefs in formal complaint cases.[14] Other than with respect to the very few types of complaints that have 90 or 120 day completion deadlines, CBT asserts that there is no reason to overly shorten the time periods provided under the existing briefing rules. For complaint cases having no completion deadline, there is no need for an expedited briefing schedule, and briefing could either be set on an individual case basis by the staff or be tied to the completion of discovery. In cases having 5 month deadlines, if simultaneous briefing is used, filing briefs 90 days after the complaint is served would still leave 60 days in which to resolve the case. Thus, the proposed 90 day briefing schedule could be relaxed somewhat without

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[13] NPRM at para. 81.
[14] NPRM at para. 82.

prejudicing the ability to resolve the complaint in a timely manner. Whatever briefing schedule is adopted, the discovery rules would have to provide for a way of assuring that discovery is completed a reasonable time period in advance of this deadline. For cases under the shorter deadlines, the staff should issue briefing schedules in individual cases tailored to the particular circumstances. If the Commission adopts the proposed page limits on briefs, it should provide parties the opportunity to obtain leave to file longer briefs in complex cases or cases having numerous issues that cannot be described adequately in a limited number of pages.

K. Sanctions

The Commission seeks comments on what sanctions and/or remedies would be necessary or appropriate to ensure full compliance with and satisfaction of proposed rule requirements.[15] CBT agrees that appropriate sanctions for complainants failing to comply with filing requirements should include dismissal of the complaint or of specific claims within the complaint, depending upon the circumstances. Failure of a defendant to respond to a complaint could result in a default judgment. However, it would be unfair to penalize a defendant based upon "failure to respond fully and with specificity to a complainant's allegations," without giving the defendant an opportunity to be heard as to whether its response was adequate. Any party who might be sanctioned for non-compliance with a procedural rule should receive notice and have an opportunity to cure the problem before being sanctioned.

[15] NPRM at para. 85.

III. CONCLUSION

The FCC should not unnecessarily overhaul all of the complaint procedures in order to comply with the few changes mandated by the 1996 Act. Automatically accelerating every complaint case to meet the same short deadlines would result in taxing the Commission's ability to complete all of the cases on time and would unfairly handicap the ability of parties to fully and fairly develop their cases. Certainly, complaints having 90 and 120 day deadlines need special acceleration. However, those complaints for which there is no specific deadline do not need acceleration and ought not be placed on compressed schedules that would crowd the Commission's docket and/or preclude the parties from properly developing the case. There is still adequate time to conduct discovery and briefing in those cases and still finish the case on time.

Attached to these comments is a brief listing of amendments to the Commission's proposed complaint rules that CBT would suggest in order to implement the above comments. CBT reserves the right to file reply comments responding to any comments filed by other parties to this proceeding.

Respecfully submitted,

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Filed January 6, 1997

APPENDIX

CBT'S PROPOSED AMENDMENTS TO RULES PROPOSED BY THE COMMISSION

1. In section 1.722 (d), omit subparagraph (2).

2. In section 1.724, omit subparagraphs (g) and (h).

3. In section 1.727, omit subparagraph (b), amend subparagraph (e) to state "ten" rather than "five" days for oppositions to motions and substitute the following for subparagraph (h):

   > "(h) Amendments or supplements to complaints to add new claims or requests for relief shall only be permitted upon motion stating good cause why such amendment or supplement should be permitted. In the event such a motion is granted, upon filing of the amended or supplemental complaint, the original complaint shall be dismissed and the amended or supplemental complaint shall be assigned a new file number and recommence the applicable time period in which the complaint must be resolved. "

4. Do not delete section 1.730.

5. In section 1.732, omit subparagraph (h).

6. In section 1.733, amend paragraph (a) to include the following as the third sentence:

   > "An attorney and/or party may appear for a status conference by telephone by making prior arrangements with the Commission."

   Also amend paragraph (c) to state as follows:

   > "(c) During a status conference, the Commission may issue oral rulings pertaining to a variety of interlocutory matters relevant to the conduct of a formal complaint proceeding included, inter alia, procedural matters, discovery, and the submission of briefs or other evidentiary materials. Commission staff will prepare an order memorializing the oral rulings made during the conference."

7. In section 1.734 (d), amend the first sentence to state:

   > "(d) All proposed orders shall be submitted both as hard copies and on a 3.5 inch diskette formatted in an IBM compatible form using MS-DOS 5.0 and WordPerfect 5.1 or Microsoft Word software, or in ASCII format."

Attachment A

DOCUMENT OFF-LINE

This page has been substituted for one of the following:

o An oversize page or document (such as a map) which was too large to be scanned into the RIPS system.

o Microfilm, microform, certain photographs or videotape.

o Other materials which, for one reason or another, could not be scanned into the RIPS system.

The actual document, page(s) or materials may be reviewed by contacting an Information Technician. Please note the applicable docket or rulemaking number, document type and any other relevant information about the document in order to ensure speedy retrieval by the Information Technician.

1 Diskette