

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Edith Ramirez, Chairwoman**
 Julie Brill
 Maureen K. Ohlhausen
 Terrell McSweeney

In the Matter of)	
)	
)	
The Penn State Hershey)	
Medical Center,)	Docket No. 9368
a corporation)	
)	
and)	PUBLIC
)	
PinnacleHealth System,)	
a corporation.)	

ORDER DENYING MOTION TO STAY
THE ADMINISTRATIVE HEARING

On December 8, 2015, the Commission issued an administrative complaint alleging that a merger agreement between the Respondents in this administrative proceeding violates Section 5 of the Federal Trade Commission Act, and, if consummated, would violate Section 7 of the Clayton Act and Section 5 of the FTC Act. On December 9, 2015, pursuant to Section 13(b) of the FTC Act and Section 16 of the Clayton Act, the Commission filed a complaint in United States District Court for the Middle District of Pennsylvania seeking a temporary restraining order and a preliminary injunction to prevent Respondents from consummating their proposed merger until final resolution of this administrative proceeding. Compl., *FTC v. Penn State Hershey Med. Ctr.*, No. 1:15-cv-2362-JEJ (M.D. Pa.) (Dec. 9, 2015). In accordance with Commission Rule 3.11(b) (4), the administrative complaint provides that the evidentiary hearing shall begin on May 17, 2016.

On February 22, 2016, Respondents filed a motion to stay the evidentiary hearing, without staying discovery or any other scheduling order deadlines, “until 60 days after the ruling” on the Commission’s district court complaint for a preliminary injunction. Motion at 1. Complaint Counsel opposes the motion.

Commission Rule 3.41(f) provides, in relevant part, that a pending “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.” 16 C.F.R. § 3.41(f) (2016). Respondents rest their motion to stay on the suggestion that the district court may not rule on the preliminary injunction request until after the administrative hearing begins

on May 17, 2016. Respondents' conjecture, however, is not a basis for delaying the administrative hearing. The preliminary injunction hearing is scheduled to begin on April 11, 2016; will be "held over no more than five (5) days;" and will conclude no later than April 15, 2016. Stip. Case Mgmt. Order at 10, *FTC v. Penn State Hershey Med. Ctr.*, No. 1:15-cv-2362-JEJ (M.D. Pa.) (Jan. 19, 2016). At this time, we see no conflict between the two proceedings or any other reason that would justify staying the administrative hearing. Furthermore, as reflected in the Commission's rules, the Commission has made a commitment to move forward as expeditiously as possible with administrative hearings on the merits. We therefore find that no good cause exists to grant Respondents' motion to stay.

Accordingly, **IT IS HEREBY ORDERED** that Respondents' February 22, 2016 Motion To Stay the Administrative Hearing is hereby **denied** without prejudice.

By the Commission.

Donald S. Clark
Secretary

SEAL:
ISSUED: March 21, 2016