

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of	)	
McGraw Broadcast Communications,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. 97-439-TP-CSS
	)	
Cincinnati Bell Telephone Company,	)	
	)	
Respondent.	)	

ENTRY

The attorney examiner finds:

- (1) On July 17, 1998, a prehearing conference was held in this matter. At the prehearing, counsel for complaint requested additional time to conduct discovery, as he contended that additional Cincinnati Bell Telephone Company (CBT) employees would be identified and deposed. The parties were granted an extension of time, to August 14, 1998, to complete discovery. In addition, the hearing in this matter was scheduled for October 1, 1998.
- (2) On September 4, 1998, CBT filed a motion in limine to prohibit complainant from offering any witnesses or documents not identified or produced in response to CBT's first set of interrogatories and requests for production of documents. CBT states that complainant had identified Jane McGraw, Lana McGraw, and Michael McGraw as the only witnesses to testify at the hearing. CBT acknowledged that the parties agreed that the deposition of Rob Meldrum, a CBT witness, would be offered at the hearing. CBT stated that, on July 21, 1998, it served a second set of interrogatories and request for documents requesting complainant identify any witnesses it intended to call at hearing not previously identified. CBT states that, to date, complainant has failed to respond to this second set of discovery. CBT argues that, since complainant failed to identify any additional witnesses or produce any additional documents in response to CBT's second set of discovery, the Commission should limit the witnesses and documents to be used by complainant to those

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- (3) Rules 4901-1-19 and 4901-1-20, Ohio Administrative Code, provide that responses to interrogatories and requests for documents be served upon the requesting party within 20 days. As complainant has failed to respond to CBT's second set of discovery, the attorney examiner finds that CBT's motion is well taken and should be granted.
- (4) On September 30, 1998, counsel for complainant advised the attorney examiner that complainant was ill and would be unable to participate at the hearing. As a result, complainant requested a continuance of the hearing. CBT opposed a continuance of the hearing.
- (5) Upon review, the record shows that the hearing in this matter has been continued at the request of complainant on several previous occasions. Nevertheless, due to the apparent ill condition of the complainant, the attorney examiner will grant a short continuance of the hearing; however, further continuances of this matter will be disfavored. In addition, the attorney examiner puts the complainant on notice that this matter may be subject to dismissal for failure to prosecute, should the complainant seek another continuance in this matter. Accordingly, the hearing in this matter should be continued to October 20, 1998, at 10:00 a.m. at the offices of the Commission.

ORDERED, That the attorney examiner grants CBT's motion in limine. It is, further,

ORDERED, That a copy of this entry be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

*Edith Fuchs*

By: Scott Farkas  
Attorney Examiner

RRG/pdc

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SERVICE NOTICE

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CASE NUMBER 97-439-TP-CSS  
CASE DESCRIPTION MCGRAW BROADCAST/CINCINNATI BELL  
DOCUMENT SIGNED ON October 2, 1998  
DATE OF SERVICE 10-6-98

PERSONS SERVED

PARTIES OF RECORD

ATTORNEYS

COMPLAINANT

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