hereby is, denied.

GULF OIL CORP.

Docket 6689. Order, April 17, 1958

Interlocutory order upholding hearing examiner's denial of complaint counsel's application for issuance of subpena duces tecum directing respondent to produce contracts for sales of natural gasoline and liquefied petroleum gas as providing little relevant information beyond that already in record.

ORDER DENYING APPEAL FROM HEARING EXAMINER'S RULING

This matter having come on to be heard upon an appeal filed by counsel in support of the complaint from the hearing examiner's ruling denying counsel's application for the issuance of a subpena duces tecum directing Warren Petroleum Corp. to produce all of its contracts for the years 1954, 1955, and 1956 to sell natural gasoline and lique-

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[1] Upon remand of the case to the Commission, the Commission after further proceedings issued its decision with an order to cease and desist. This matter is now on appeal to the Court of Appeals for the Ninth Circuit.

fied petroleum gas to the 20 largest purchasers of each of said products; and

It appearing that the ruling was based, in part at least, on the hearing examiner's determination that the contracts involved would provide counsel with little, if any, information relevant to the issues in this proceeding other than that which is already contained in the record; and

Such a determination being a matter within the sound discretion of the hearing examiner, and no clear showing having been made that in this instance such discretion was abused:

It is ordered, That the aforesaid appeal be, and it hereby is, denied Commissioners Secrest and Kern dissenting.

CONSOLIDATED FOODS CORP.

Docket 7000. Order, April 25, 1958

Interlocutory order in merger proceeding upholding hearing examiner's denial of respondent's motion for leave to file memorandum in support of its proposed motion to dismiss complaint, to argue said motion orally, etc.

ORDER DISPOSING OF RESPONDENT'S INTERLOCUTORY APPEAL AND MOTION TO DISMISS COMPLAINT

This matter having come on to be heard upon the respondent's appeal from the hearing examiner's order of April 2, 1958, denying the respondent's motion for leave to file on or before May 10, 1958, a memorandum in support of a proposed motion to dismiss the complaint and to argue said motion orally, and for postponement of a hearing theretofore set for April 29, 1958, to a date to be fixed after final decision on the motion to dismiss; and

It appearing that the basis for the hearing examiner's order was that he would have no authority to rule on the questions to be raised in the proposed motion to dismiss, namely, the propriety and timeliness of the Commission's action in issuing the complaint in the first instance and the sufficiency of the complaint as issued to state a cause of action under section 7 of the Clayton Act, as amended; and

It further appearing that the respondent has made no showing that the hearing examiner was in error in so ruling, and, thus, has failed to demonstrate that the order is or may be one to be entertained under section 3.20 of the Commission's rules of practice; and

The Commission, however, having considered the respondent's motion to dismiss the complaint, filed April 7, 1958, and having determined that the issues presented therein can best be resolved after the development of a complete factual record: