THE ATLANTIC REFINING COMPANY

Docket 7471. Order, June 28, 1963

Order denying respondent's motion for a rehearing by the Commission *en banc*.

This matter has come on to be heard upon respondent's motion for rehearing before the full Commission, sitting *en banc*, of the Commission's decision consisting of an opinion and [proposed] order issued on May 16, 1963; and

The decision of the Commission was and is that of a majority of the Commissioners who participated in that decision. Three of the five members of the Commission participated and therefore constituted a quorum for action by the Commission in accordance with its rules and the accepted practice through the years. The argument of the respondent is that the validity of an Order of the Commission should be sustained only where a minimum of three out of the entire membership of the Commission approved such order. Here a majority of the Commissioners who participated in this matter

approved the Order but not a majority of the entire membership of the Commission if we are to take into account those members of the Commission who did not participate. It is on this point that respondent has rested its argument and motion for a rehearing regarding the legal sufficiency of the Order. Respondent has made the further argument that, because of the questions presented, the full Commission as a matter of policy and discretion should participate in hearing and deciding this case.

The full Commission considered the pending motion and has determined that respondent has shown no sufficient basis to justify a rehearing as requested.

It is ordered, That respondent's motion for rehearing be, and it hereby is, denied.