ceeding be, and it hereby is, denied.

CROWN CENTRAL PETROLEUM CORP.

Docket 8539. Order, Oct. 9, 1963

Order denying request of a third party to quash a subpoena duces tecum issued at instance of respondent in this case.

Order Denying Appeal From Order Denying Motion To Quash Subpoena Duces Tecum

Harry Waller, as an individual and as President of A & H Transportation, Inc., appearing *pro se*, appeals the hearing examiner's order denying his motion to quash a subpoena *duces tecum* issued at the instance of respondent in the above-captioned matter. Under Section 3.17(f) of the Commission's Rules, an appeal to the Commission from the hearing examiner's order denying a motion to quash a subpoena "will be entertained by the Commission only upon a showing that the ruling complained of involves substantial rights and will materially affect the final decision and that a determination of its correctness before conclusion of the hearing will better serve the interests of justice." Under this Rule, prime responsibility for the protection of witnesses from overbroad or otherwise improper subpoenas rests with the hearing examiner, and the Commission will intervene at an interlocutory stage in the proceeding only upon a clear and concrete showing of the necessity for such intervention.

Appellant has made no such showing. He alleges in vague and conclusional terms that the examiner's order was erroneous and that irreparable injury will be inflicted upon him if he must comply with the subpoena. However, no facts are alleged, in support of these claims, that would enable the Commission to determine whether appellant is entitled to an immediate appeal. Consequently, the appeal must be denied. In so ruling, the Commission expresses no view on the correctness of the hearing examiner's order or the merits of appellant's