ORDER DENYING PETITION FOR RECONSIDERATION

Respondent, Mississippi River Fuel Corporation, has filed a Petition for Reconsideration of the Commission's Order Entertaining and Denying Appeals from Hearing Examiner's Denial of Motions to Quash or Limit Subpoenas, issued June 8, 1966 [69 F.T.C. 1186]. Respondent requests that the Commission rescind its direction, contained in that order, that material produced in response to the subpoenas issued herein be submitted to an accounting firm which shall compile and present the material to respondent's counsel in such manner that no individual company's confidential arrangements or data will be revealed.

Respondent argues that this requirement will prevent it from developing all the facts relating to the state of competition in the market because the accounting firm will not know whether the replies to the subpoenas "are responsive or not, or whether they are accurate or complete" and "will convert the evidence sought by Respondent into simple, untested, expository statements of whatever the witnesses desire to submit." Respondent's contentions at this stage in the proceeding must remain in the area of hypothesis and conjecture. We do not agree with respondent's contentions and adhere to our decision.

The interposition of an accounting firm between respondent and the subpoenaed parties in no way limits or impairs respondent's ability to develop whatever facts it can from the material produced in response to the subpoenas. Respondent argues that a disinterested accounting firm "would have absolutely no conception of or interest in the issues in this case." Of course, "disinterested," as used in the Commission's order, connoted the absence of an interest in the outcome of this proceeding. The hearing examiner, after consultation with complaint counsel and respondent's counsel, will provide the accounting firm with sufficient information to enable it to perform its function. Nor is there any reason to believe that responses to the subpoenas will be less complete or less candid because the responses are directed to an accounting firm rather than to respondent's counsel. Because of the overlapping nature of the subpoenas, the accounting firm will be as capable as respondent's counsel of detecting incomplete responses. In essence, respondent is seeking the right to rummage at will through the confidential business files of the subpoenaed firms, many of which are now, or may be in the future, its competitors. This it is not entitled to do. In order to avoid any possibility that the data claimed to

be confidential will be improperly used, it is necessary that material submitted in response to the subpoenas be presented to respondent's counsel in such manner that no individual company's confidential arrangements will be revealed.

It is ordered, That respondent's Petition for Reconsideration be, and it hereby is, denied.

Commissioner MacIntyre not participating.