ground that the order in Docket No. 8629, p. 668 herein, requires additional evidence.

ORDER DENYING PERMISSION TO FILE INTERLOCUTORY APPEAL

The respondent in this proceeding seeks to appeal from the hearing examiner's order denying its motion for an additional hearing and it has filed with the Commission a document which it designates as an appeal. Complaint counsel has filed a reply thereto. Under Section 3.20 of the Commission's Rules of Practice, an interlocutory appeal, except as provided in sections not here relevant, may be filed only after permission is first obtained from the Commission. Since respondent has not obtained and received such permission, it may not properly appeal to the Commission from the examiner's order. Nevertheless, in the circumstances the Commission will construe the document filed as a request for permission to file an interlocutory appeal under Section 3.20 of its Rules and will make its determination in accordance with the requirements of such section. This provides that permission to file an interlocutory appeal will not be granted except in extraordinary circumstances where an immediate decision by the Commission is clearly necessary to prevent detriment to the public interest.

On October 5, 1966, subsequent to the closing of the record for the taking of further evidence except in accordance with the examiner's order of September 29, 1966, authorizing the parties to present motions for additional hearings, respondent moved for an additional hearing of one day, to be held in New York City. Respondent, as a ground for its request, asserted that the Commission's decision in the recently decided case of *Rabiner & Jontow, Inc.*, Docket No. 8629 (order issued September 19, 1966) [p. 638 herein] required the submission of additional evidence. The examiner denied such motion, stating as his reason that respondent failed to state (a) the nature of the evidence to be adduced and why such evidence was not offered at the previous defense hearings; (b) the names of the additional witnesses to be called and a list of the additional exhibits to be offered, as required by previous orders of the examiner; and (c) the manner, if any, in which the *Rabiner & Jontow* opinion imposed a burden of proof upon respondent different from its burden at the time of the hearing.

Respondent, in seeking to appeal to the Commission, makes no claim that the examiner erred in any way in the proper exercise of his discretion nor does the respondent attempt to explain or satisfy the deficiencies in its presentation to the examiner. Respondent states only that the additional expert witness to be called, who is not identified, will testify "regarding the manner of granting allowances in apparel trades and the ability

of a competitor to make a determination of the nature and extent of such allowance, ..." Respondent's justification for its request appears to be contained in the following sentence:

> Respondent deems that the Rabiner & Jontow decision, which was received after the conclusion of the last hearing of this proceeding on September 27, 1966, would be additional evidence that would aid the Commission in learning more about the practices in the apparel trades in order to make a determination of the question whether or not this respondent was meeting competition in good faith.

We fail to see that it is necessary to hold a further hearing merely to bring to the Commission's attention to practices in the apparel trade which may be shown in *Rabiner & Jontow, supra.* The Commission, of course, is cognizant of such decision, and respondent is free to argue as to its relevance, if any, to the instant proceeding.

The hearing examiner has broad discretion in connection with the conduct of the hearings. No showing whatsoever has been made here that he was unreasonable or arbitrary in denying the request for an additional hearing or that he in any way abused his discretion in this regard. No showing has been made of extraordinary circumstances where an immediate decision by the Commission is clearly necessary to prevent detriment to the public interest. In the circumstances, respondent's request will be denied. Accordingly,

It is ordered, That the request herein presented as an appeal and treated as a request for permission to file an interlocutory appeal be, and it hereby is, denied.

Commissioner Elman not concurring.

GENERAL TRANSMISSIONS CORPORATION OF WASHINGTON ET AL.

Docket 8713. Order, Dec. 1, 1966

Order denying respondents' request for suspension of proceeding until complaints are issued against its competitors who are engaged in the same practices with which respondent is charged.

ORDER RULING ON MOTION FOR SUSPENSION OF PROCEEDINGS

CERTIFIED BY THE EXAMINER