

*It is further ordered,* That respondent's request for oral presentation be, and it hereby is, denied.

Commissioner Elman not concurring.

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SUBURBAN PROPANE GAS CORPORATION

*Docket 8672. Order, July 24, 1969*

Order denying respondent's request to file appeal from hearing examiner's ruling against motion to dismiss.

ORDER DENYING LEAVE TO FILE INTERLOCUTORY APPEAL

This matter is before the Commission upon the request filed by respondent on June 23, 1969, for leave to file an interlocutory appeal from the hearing examiner's order filed June 12, 1969, denying its motion to dismiss the complaint at the close of the evidence offered in support of the complaint based upon an alleged failure to establish a *prima facie* case; upon complaint counsel's opposition thereto filed June 30, 1969; and upon a reply filed by respondent on July 9, 1969; and

The Commission having determined that respondent has made no showing that the hearing examiner abused his discretion in denying its motion to dismiss the complaint and, further, that respondent has made no showing, as required by Section 3.23 of the Commission's Rules of Practice for an interlocutory appeal, 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 is essential to serve the interests of justice:

*It is ordered,* That respondent's request, filed June 23, 1969, for leave to file an interlocutory appeal from the hearing examiner's order denying its motion to dismiss the complaint be, and it hereby is, denied.

Commissioner Elman dissenting.

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NATIONAL DAIRY PRODUCTS CORP.

*Docket 6651. Order, July 25, 1969*

Order requiring parties to file briefs on existence of issues of fact requiring evidentiary hearings and issues of law raised by previously filed papers.