

plaint on the grounds of alleged prejudgment be, and it hereby is, denied.

It is further ordered, That this proceeding be, and it hereby is, remanded to the hearing examiner for hearing.

CURTISS-WRIGHT CORPORATION

Docket 8703. Order, Aug. 14, 1969

Order denying respondent's request to file interlocutory appeal from examiner's denial of motion to stay compliance with subpoena duces tecum.

ORDER DENYING REQUEST FOR PERMISSION TO FILE
INTERLOCUTORY APPEAL FROM ORDER DENYING MOTION
TO STAY COMPLIANCE WITH SUBPOENA

This matter is before the Commission upon respondent's request for permission to file an interlocutory appeal from an order of the hearing examiner filed July 23, 1969, denying respondent's and Martin A. Sherry's (Sherry) motion to stay compliance with a subpoena *duces tecum* and fixing the return date for such subpoena.

Respondent and Sherry argue principally that they are in good faith in seeking judicial review of the order of the United States District Court for the District of Columbia (Civil No. 398-69) dated June 25, 1969, calling for compliance with the Commission's subpoena dated October 12, 1967, and that they should not be required to comply with the subpoena, which they assert may be invalidated upon review.

Respondent and Sherry fundamentally present one basic question, that is, whether or not the Commission should direct a stay of compliance with the aforementioned subpoena, as to which the District Court for the District of Columbia has directed compliance, for the purpose of providing respondent and Sherry time for review proceedings. Such issue was fully briefed before the hearing examiner. His order denying the request and setting the return date for compliance with the subpoena shows that he carefully considered all of respondent's arguments, which are essentially the same arguments which are now presented to the Commission. His reasons for the denial are clearly set forth. In all the circumstances we are not persuaded that his order is incorrect. Furthermore, respondent has not justified its appeal under Section 3.23(a) of the Commission's Rules of Practice. Accordingly,