

tion, and the memorandum by respondent in reply to the director's opposition; and

The Commission for the reasons stated in the accompanying opinion having determined that the petition should be denied:

It is ordered, That respondent's petition requesting modification of the final order be, and it hereby is, denied.

DIENER'S, INC.

Docket 8804. Order, June 15, 1970

Order denying respondent's appeal from hearing examiner's ruling on respondent's objection to the admission of certain pricing evidence.

ORDER DENYING APPEAL

This matter is before the Commission upon an appeal by respondents, dated June 1, 1970, from rulings on objections to requests for admissions, and complaint counsel's reply thereto filed June 8, 1970. Two rulings are involved:

1. The examiner's ruling on respondents' objections to requests for admissions by complaint counsel, in which the examiner partially sustained and partially overruled respondents' objections. Respondents contend that the requests for admissions in the instant proceeding are not in accordance with the purpose of the admissions procedure. Moreover, respondents state that most of the requests seek information dealing with a period of time prior to January 1968, which, according to respondents, is irrelevant to a proceeding conducted in 1970. Finally, respondents argue that some of the requests require the review of many documents and a computation based on a study of these documents.

2. The examiner's ruling on objections by complaint counsel to requests for admission, filed by respondents, in which the examiner sustained complaint counsel's objections. By filing these requests respondents were seeking to establish that at the time of the issuance of the complaint there was no basis for the statement that the Commission had reason to believe that there were misrepresentations as to pricing.

The criteria for this appeal are contained in Section 3.35(b) of the Commission's Rules of Practices, which provides that such an appeal "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 is essential to serve the