

proof or of taking any position different from that of respondent. No showing has been made that any interests which it has in the processing of this case either at the liability stage or at the relief stage are in any way different from those which are already represented by the two parties already named in this proceeding. The addition of another party to this complaint can only have the effect of complicating and protracting the proceedings.

Intervention, therefore, is wholly improper both as a matter of fact, as a matter of law and as a matter of sound policy. The addition of F & D to this case as a full party creates a precedent for intervention in the future which this Commission can only rue. I dissent.

ORDER DISMISSING APPEAL

By order of November 22, 1971, the Commission granted complaint counsel's request for permission to file an interlocutory appeal from an order of the hearing examiner authorizing the Fidelity and Deposit Company of Maryland to intervene in this proceeding.

Section 3.23 of the Commission's Rules of Practice provides that the Commission will not review interlocutory rulings of a hearing examiner except 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 interests of justice."

The Commission, having considered the briefs filed by the parties, has concluded that the requirements of Rule 3.23 have not been met and that permission to file interlocutory appeal was improvidently granted by our order of November 22, 1971. Accordingly,

It is ordered, That complaint counsel's interlocutory appeal in this matter be, and it hereby is, dismissed.

Chairman Kirkpatrick not participating, and Commissioner Jones dissenting and filing a dissenting statement.

MISSOURI PORTLAND CEMENT COMPANY

Docket 8783. Order, February 18, 1972

Order denying respondent's interlocutory appeal from hearing examiner's protective order in which he ordered production of and granted protective treatment to material sought under a specification of respondent's subpoenas *duces tecum* directed to seven third-party competitors.

ORDER DENYING INTERLOCUTORY APPEAL

This matter having come before the Commission upon respondent's appeal filed January 17, 1972, from the hearing examiner's protective