Order denying respondent's request for permission to file interlocutory appeal and for stay of hearings pending appeal.

Order Denying Request to File Interlocutory Appeal and Motion to Stay Hearings

This matter is before the Commission upon the filing by respondent on April 18, 1972 of a document entitled "Request For Permission To File Interlocutory Appeal And Motion For Stay Of Hearings Pending Appeal." Respondent seeks permission to file an appeal from a ruling on the record by the hearing examiner on April 12, 1972, which ruling it claims was to the effect "that the Complaint alleges

so-called vertical foreclosure in valve lifters." It further requests that the hearings be stayed pending disposition of the appeal.

The Commission has determined that respondent has not satisfied the provisions of Commission Rule Section 3.23, governing interlocutory appeals, published in the Federal Register March 17, 1972 (Volume 37, No. 53, page 5608), and effective fifteen (15) days thereafter. There has been no determination by the hearing examiner of justification in accordance with Paragraph (b) of Section 3.23, nor has respondent shown that the ruling complained of falls within any of the four categories set out in Paragraph (a) of such rule.

The request to file an appeal will be denied on the basis that respondent has not conformed to the provisions of the Commission's rule on interlocutory appeals and the motion to stay the hearings will be denied as moot in the circumstances. Accordingly,

It is ordered, That respondent's request, filed April 18, 1972, for permission to file interlocutory appeal and its motion for a stay of hearings pending appeal be, and they hereby are, denied.

Chairman Kirkpatrick not participating.

J. J. NEWBERRY CO.