

Order

81 F.T.C.

relevant here. Indeed, we wish to make clear at this time that the provision of Section 3.12(a) of the Commission rules which permits respondents ten days after service of an order denying a motion for a more definite statement in which to file their answers does not apply to motions for a more definite statement which are denied as untimely filed and the rule will henceforth so be interpreted. To hold otherwise would enable respondents to file answers any time they wish merely by preceding the answer with an untimely motion for a more definite statement. In these circumstances, being mindful that the complaints in these matters issued three years ago in 1969 and of the delays that have ensued thereafter, the Commission concludes that the public interest will be best served by avoiding the time-consuming appeals that would almost inevitably follow the imposition of default orders; we remand these matters, therefore, to the hearing examiners for further expeditious proceedings.

It is ordered, That the initial decisions in Docket No. 8786, Docket No. 8787, Docket No. 8788, Docket No. 8789, and Docket No. 8790 be, and they hereby are, vacated and set aside, and the matters are remanded to the hearing examiners for further proceedings.

CROWN CENTRAL PETROLEUM CORPORATION

Docket 8851. Order, Oct. 4, 1972—Memorandum Opinion, Feb. 12, 1973.

Order and memorandum opinion denying complaint counsel's application for interlocutory review of the administrative law judge's order requiring the disclosure of Commission records.

ORDER DENYING APPLICATION FOR INTERLOCUTORY REVIEW

This matter is before the Commission upon complaint counsel's application for interlocutory review dated September 26, 1972 of the administrative law judge's order of September 20, 1972 requiring the disclosure of Commission records and respondent's motion for emergency disposition dated September 29, 1972.

The Commission had determined to deny complaint counsel's application for interlocutory review for reasons which will be set forth in an opinion which will follow this order.* Accordingly,

It is ordered, That complaint counsel's application for interlocutory review be, and it hereby is, denied.

*The opinion was issued by the Commission on February 12, 1973, and is reported herein immediately following the interlocutory order and entitled Memorandum Opinion on Order Denying Application for Interlocutory Review.

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Opinion

MEMORANDUM OPINION ON ORDER DENYING APPLICATION FOR
INTERLOCUTORY REVIEW

FEBRUARY 12, 1973

By order of October 4, 1972, we denied complaint counsel's application for interlocutory review of a September 20, 1972, order of the administrative law judge directing disclosure of certain Commission records and we indicated that our reasons for denial would be set forth in a subsequent memorandum opinion.

The factual background of the application for review is as follows: on August 11, 1972, respondent moved under Rule 3.36 of the Commission's Rules of Practice for issuance of a subpoena *duces tecum* directing production of seven categories of documents from the Commission's files. The proposed specifications of the subpoena were appended to respondent's motion. Complaint counsel, on August 18, 1972, filed their opposition to the motion indicating their objections as to each of the proposed specifications. By order of August 25, 1972, the administrative law judge granted respondent's motion as to proposed specification 1; granted, in part, respondent's motion as to proposed specification 2; denied respondent's motion as to the balance of the demands; and instructed respondent to prepare and submit to the judge for issuance a subpoena conforming to the order. Complaint counsel did not appeal the ruling. Thereafter, on September 7, 1972, the judge issued a subpoena *duces tecum* which had been prepared by respondent pursuant to the August 25 ruling.

On September 13, 1972, complaint counsel moved to limit the September 7 subpoena on essentially the same grounds as they had asserted in their August 18 opposition. By order of September 20, 1972, the administrative law judge denied this motion ruling that it was inappropriate with respect to a subpoena issued under Rule 3.36. It was from this order that complaint counsel sought application for review under Rule 3.23(a) of the Commission's Rules.

The question raised by complaint counsel's application for review is whether the September 7 subpoena was properly subject to challenge by complaint counsel's September 13 motion to limit or quash. We hold that it was not.

Rule 3.36 provides that application for Commission records must be made in the form of a motion filed in accordance with Rule 3.22. The latter rule allows complaint counsel to answer the motion. Complaint counsel filed an answer in opposition, thereby joining the issue as to whether or not the subpoena should issue, and, if it should, what the scope of the subpoena should be. And, pursuant to the authority