

IN THE MATTER OF
RETAIL CREDIT COMPANY

Docket 8920. Order, July 29, 1975.

Affirmation of law judge's denial of respondent's motion for a stay of further proceedings and, in the alternative, for leave to supplement the record.

Appearances

For the Commission: *William M. Sexton.*

For the respondent: *J. Wallace Adair, Howrey, Simon, Baker & Murchison, Wash., D.C. Kent E. Most, Hansell, Post, Brandon & Dorsey, Atlanta, Ga.*

ORDER AFFIRMING DENIAL OF RESPONDENT'S MOTION TO STAY
PROCEEDINGS, OR, IN THE ALTERNATIVE, FOR PERMISSION TO
SUPPLEMENT THE RECORD WITH NEWLY DISCOVERED EVIDENCE

This matter is before us on respondent's application for review of the administrative law judge's order, dated June 11, 1975, denying respondent's motion to stay proceedings pending the outcome of its Freedom of Information Act ("FOIA") suit against the Commission in the United States District Court for the District of Columbia or, in the alternative, for leave to supplement the record with newly discovered evidence which might be obtained by reason of the lawsuit.

By order dated June 24, 1975, the administrative law judge certified his ruling for review by the Commission pursuant to Section 3.23(b) of the Commission's Rules of Practice, 16 C.F.R. §3.23(b).

Respondent's motion offers too speculative a ground to warrant staying further proceedings since it assumes that respondent will ultimately obtain the documents and that the documents will contain information necessary to a resolution of the issues in this case. See *Encyclopaedia Britannica, Inc.* Docket 8908, order of May 22, 1975 Denying Motion to Postpone Oral Argument.

The administrative law judge's denial of respondent's motion, in the alternative, for permission to supplement the record with newly discovered evidence obtained from the Commission by reason of its FOIA request is also affirmed. The denial was without prejudice to respondent's right to renew the motion "* * * if and when respondent is in a position to move admission of specific and identified documents it may obtain under the FOIA into this record while the administrative law judge has jurisdiction of this proceeding." Such motions should be granted, at the very least, only upon a showing that the newly discovered evidence is relevant. It would, accordingly, be premature to

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decide whether any materials which might be obtained as a result of the FOIA litigation should be included in the record.¹

It is ordered, That the law judge's denial of respondent's motion for a stay of further proceedings and, in the alternative, for leave to supplement the record be, and it hereby is, affirmed.
