

IN THE MATTER OF
ASH GROVE CEMENT CO.

Docket 8785. Order, Sept. 9, 1975

Denial of respondents' petition for reconsideration of Commission's final order and opinion dated June 24, 1975.

Appearances

For the Commission: *Thomas F. McNerney, Paul N. Kane and Nancy P. Rosenfeld.*

For the respondent: *David J. McKean and Robert L. Williams, McKean, Whitehead & Wilson, Wash., D.C.*

ORDER DENYING PETITION FOR RECONSIDERATION

Respondent Ash Grove Cement Company ("Ash Grove") has moved, pursuant to Section 3.55 of the rules of practice, for reconsideration of the Commission's final order and opinion, dated June 24, 1975. [85 F.T.C. 1121]

Section 3.55 provides that a petition for reconsideration "* * * must be confined to new questions raised by the decision or final order and upon which the petitioner had no opportunity to argue before the Commission."

Respondent claims that the Commission's order raises such a question:

namely, conceding *arguendo* that Ash Grove's acquisition of Lee's Summit [Ready-Mixed Concrete & Materials Company] and Fordyce [Concrete, Inc.] violated the Clayton Act, whether an order of divestiture is appropriate and in the public interest in view of substantial evidence in the record which shows that the challenged acquisitions resulted in consumer benefits in the form of lower prices and a vigorous enhancement of price competition in the sale of portland cement and ready-mixed concrete in the "Kansas City" area.

Respondent, however, had an opportunity, which it exercised, to argue before the Commission its claim that the acquisitions benefited consumers and enhanced price competition. See respondent's brief on appeal at 30-38. The Commission ordered divestiture of Fordyce and Lee's Summit only after a full review of the record, including the extensive briefing and oral argument on appeal, and a consideration of all of respondent's contentions raised therein.

It is ordered, That respondent's petition for reconsideration be, and it hereby is, denied.
