

Order

IN THE MATTER OF

RAMBUS INCORPORATED

**ORDER DENYING COMPLAINT COUNSEL'S PETITION
TO MODIFY THE SCHEDULE IN THE COMMISSION'S
JULY 20, 2005 ORDER**

On July 20, 2005, the Commission entered an order reopening the record to admit supplemental evidence and directing a schedule for briefing and other filings related to such supplemental evidence. On July 28, 2005, Complaint Counsel filed a Petition asking the Commission to suspend that schedule, in light of Rambus's ongoing production to Complaint Counsel of documents Rambus recently found on its computer back-up devices and produced to the plaintiff in *Hynix Semiconductor Inc. v. Rambus Inc.*, Dkt. No. CV 00-20905 RMW (N.D. Cal.). Complaint Counsel state that they expect to be able to file a motion to admit some of these documents into the record of this proceeding by September 9, 2005, and request that the Commission postpone the briefing directed by the July 20 Order until a time at which such briefing could also address any documents produced by Rambus in the *Hynix* litigation which may be admitted into the record. In its July 29, 2005 Response, Rambus does not object to suspending the July 20 Order schedule, but indicates that it will oppose a subsequent motion to reopen the record to admit supplemental evidence from the *Hynix* litigation.

Completeness of the record, burden to the parties, and expeditious disposition of matters pending before the Commission must be balanced in order to resolve the issues raised by this Petition. The Commission does not, on balance, believe that delaying its consideration of the supplemental evidence that has already been admitted to the record of this proceeding is warranted and has, therefore, determined that the July 20 Order schedule for the briefing of issues related to that supplemental evidence should not be modified. While Complaint Counsel may at a future date seek to reopen the record to admit additional documents currently

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being produced by Rambus in discovery in the *Hynix* litigation,¹ there is no need to suspend the briefing of issues related to documents already admitted into the record. Accordingly,

IT IS ORDERED THAT Complaint Counsel's Petition to Modify the Schedule in the Commission's July 20, 2005 Order be, and it hereby is, **DENIED**.

¹ This disposition of the Petition should not be construed to express any view on whether the record can or should be reopened at a later date to admit materials that are currently being produced by Rambus in discovery in the *Hynix* litigation.

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IN THE MATTER OF

**KENTUCKY HOUSEHOLD GOODS CARRIERS
ASSOCIATION, INC.****ORDER DENYING RESPONDENT'S MOTION FOR
RECONSIDERATION OR, IN THE ALTERNATIVE, FOR
A STAY OF FINAL ORDER PENDING REVIEW BY U.S.
COURT OF APPEALS**

On July 20, 2005, Respondent Kentucky Household Goods Carriers Association, Inc. ("Kentucky Association") moved the Commission for reconsideration of its June 21, 2005 final order in this case, in light of proceedings that have taken place before the Kentucky Transportation Cabinet ("KTC") with regard to a tariff filing by the Kentucky Association proposing a rate increase.¹ Respondent argues that these proceedings demonstrate that the KTC's current procedures for reviewing the Kentucky Association's collective rate-making satisfy the "active supervision" requirement of the state action defense. In the alternative, Respondent seeks a stay of the Final Order pending review by an appropriate court of appeals. Complaint Counsel opposes Respondent's motion. For the reasons stated below, we deny Respondent's motion in its entirety.

I. Motion for Reconsideration

Pursuant to Commission Rule 3.55, 16 C.F.R. § 3.55, 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." As the Commission has previously stated:

¹ Respondent's motion is cited herein as "Resp. Mot."