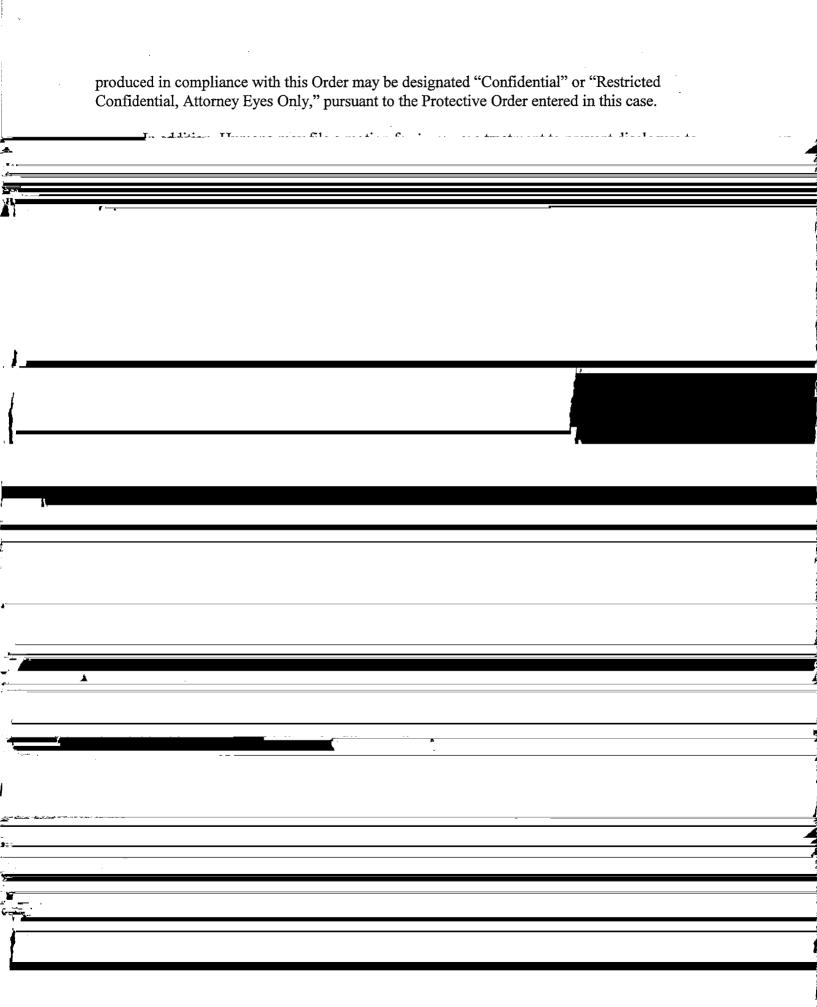
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| • | Discovery sought in a proceeding before the Commission must be "reasonably expected to yield information relevant to the allegations of the complaint, to the proposed relief, or to the defense of any respondent." 16 C F B & 3.31(c)(1): Federal Trade Commission. |
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| ress o o | 631 F.2d 741, 745 (D.C. Cir. 1979). However, discovery may be limited if the discovery sought is unreasonably cumulative or duplicative or is obtainable from some other source that is more |
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| ; ; | The scope of the subpoena is limited to demand production only from Humana Health |
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| | 3. Confidential documents are discoverable |
| | Humana asserts that the subpoena requests production of documents containing |
| | confidential and commercially consitive information including comnetitivaly consitive princing |
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| | information and Humana's proprietary analyses and trade secrets. |

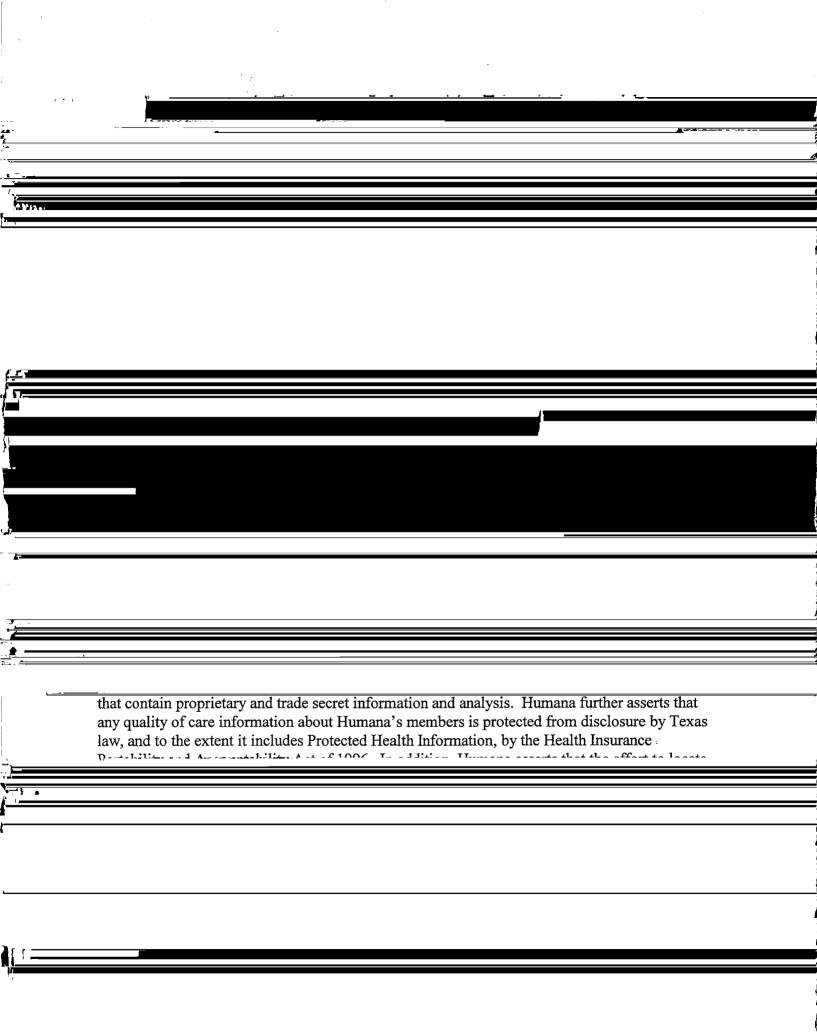
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| | Humana asserts that this request calls for irrelevant materials. Humana further asserts that it has already produced documents responsive to this request to the FTC. Respondent replies that a subnoena may not be avoided merely by saying the information sought is available from | |
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| | that a silongena may not ne avoided merely by saying the information sought is available from | |
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| | Pursuant to Commission Rule 3.31(c)(1), discovery may be limited if it is obtainable | |
| | from another source that is more convenient. 16 C.F.R. § 3.31(c)(1)(i). It is more convenient for | |
| | a party, Complaint Counsel, to produce documents already obtained from Humana than to | |
| | request production, a second time, from Humana, a non-party. | |
| | To the extent that documents responsive to this request are relevant, Respondent may | |
| | request them from Complaint Counsel. The issue presented here is distinguishable from other | |
| | orders addressing whether the Commission, as a repository of documents obtained from non- | |
| | parties, should be compelled to produce documents obtained from non-parties. Cf In re | |
| | Schring Plangh Corn Docket 0207 (Order on American Home Products Cornoration's and | |
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| · | which. Respondent asserts. Humana has already assembled. Respondent further asserts that |
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| <u>.</u> | The statute governing information gathered by the Texas Attorney General in the course |
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of an investigation, cited by Humana, only prevents the Texas Attorney General from producing



| | Request Number 7: Documents concerning or relating to comparisons of the cost of |
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| : - | physician services, hospital care, pharmacy cost, or cost of health insurance in the State of |
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| | Texas. |
| | Humana asserts that this request calls for irrelevant information, specifically, it calls for comparisons relating to hospital and pharmacy costs that do not appear to be related in any way to this proceeding. In addition, Humana asserts the hurden of gathering these materials |
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| ! ! ! | outweighs any probative value gained by NTSP. In addition, Humana asserts that the request calls for commercially sensitive business information. |
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