but that its appearance as a party in interest would seriously impede the Commission in the performance of its continuing duty to enforce the laws administered by it and thus be clearly detrimental to the public interest:

Accordingly, it is ordered, That the respondent's motion be, and it hereby is, denied.

NORTH AMERICAN PHILIPS COMPANY, INC.

Docket 6900. Order, Sept. 30, 1959

Order denying motion to reopen Clayton Act proceeding—disposed of by a consent order on Nov. 3, 1958, 55 F.T.C. 682—following amendment of Act to provide for more expeditious enforcement of orders and imposition of penalties for violations.

Respondent, North American Philips Company, Inc., having filed a motion requesting the Commission to set aside the orders to cease and desist entered herein on November 3, 1958; and

Said respondent having alleged in support of its motion that since the entry of the orders, Section 11 of the Clayton Act has been amended by the enactment of Public Law 86–107, approved July 23, 1959, that under the statute prior to amendment respondent had the right to a hearing before a Court of Appeals on the terms of the orders before being subjected to any penalty proceedings, and that under the amended statute it is denied this opportunity; and

It appearing that the orders to cease and desist were entered in disposition of this proceeding pursuant to and in strict conformity with voluntary agreements theretofore executed by the respondent and counsel in support of the complaint expressly providing for the entry thereof, and in which agreements the respondent, among other things, expressly waived all of the rights it may have had to challenge or contest the validity of the orders; and

The Commission being of the opinion that the changes in the procedures for the enforcement of orders to cease and desist issued under the Clayton Act brought about by the enactment of Public Law 86–107 afford no basis for the Commission to set aside a previously entered order:

It is ordered, That the respondent's motion be, and it hereby is, denied.

THE GRAND UNION COMPANY

Docket 7344. Order and Opinion, Oct. 14, 1959

Interlocutory order remanding to hearing examiner for consideration and appropriate action, as clearly within the scope of his authority, joint motion to amend complaint by substituting wholly owned subsidiaries for original respondent.

OPINION OF THE COMMISSION

By the COMMISSION:

This matter is before the Commission on an interlocutory appeal filed by counsel supporting the complaint from the hearing examiner's order denying a joint motion of counsel to amend the complaint by substituting Square Deal Market Co., Inc., and Super Market Wholesalers, Inc., as parties respondent in lieu of The Grand Union Company. The reason given for the order was that "the proposed amendment is not reasonably within the scope of the proceeding initiated by the original complaint."

In so ruling the hearing examiner was in error. Square Deal Market Co., Inc., it appears, is a wholly owned subsidiary of the respondent, The Grand Union Company, and Super Market Wholesalers, Inc., is in turn a wholly owned subsidiary of Square Deal Market Co., Inc. The acts and practices alleged in the complaint to have been unlawful, instead of having been engaged in by The Grand Union Company, as alleged, were actually engaged in by Square Deal Market Co., Inc., acting through Super Market Wholesalers, Inc. In such circumstances, as the Commission recognized in Docket No. 6486, *The Goodyear Tire and Rubber Company et al.* (Order Affirming Hearing Examiner's Order Amending Complaint —issued October 26, 1956), an order amending the complaint by a substitution of the parties is clearly within the scope of the hearing examiner's authority. See also the Commission's opinion of June 4, 1958, in Docket No. 6961, *Hafner Coffee Company*, in disposition of a motion for amendment certified to the Commission by the hearing examiner.

The motion for amendment will be remanded to the hearing examiner for consideration and appropriate action in conformity with the foregoing.

ORDER

Counsel supporting the complaint having filed an interlocutory appeal from the hearing examiner's order of September 21, 1959, denying a joint motion of counsel supporting the complaint and counsel for the respondent for an amendment of the complaint herein; and