PET MILK COMPANY ET AL.

Docket 6176. Order, Apr. 27, 1961

Interlocutory order denying reconsideration of remand for evidence regarding trade and commerce affected by exclusive-dealing arrangements.

The Commission, by its order of March 15, 1961, having remanded certain proceedings, including the instant proceeding, to the hearing examiner for the reception of such evidence as may be offered relating to the nature and amount of trade and commerce affected by any "requirements contracts, 'trade agreements' or other exclusive dealing agreements" used by the respondents in those proceedings in distributing their ice cream and other frozen products; and the respondents in this proceeding having filed a motion requesting that the Commission reconsider its action in remanding this case, which motion states, among other things, that the hearing examiner in effect found that no such agreements were used by the respondents in this proceeding; and

It appearing to the Commission that one of the issues implicit in the appeal from said initial decision involves a determination of whether the instant respondents' contracts, including those whereby they have leased cabinets and other equipment to retailer customers in consideration of purchases by them of respondents' products, are kindred in purpose and effect to the agreements referred to in the Commission's order of remand, and the Commission having determined that no adequate showing has been made in the motion that the order of remand herein should be rescinded; and

It appearing that the motion and the answer filed in opposition thereto by counsel supporting the complaint afford adequate basis for informed decision of such motion, and the Commission having determined that the respondents' request for oral argument thereon should accordingly be denied:

It is ordered, That the respondents' motion for reconsideration be, and it hereby is, denied.

It is further ordered, That the request for oral argument in support of said motion be, and it hereby is, denied.

Commissioner Kern not participating.

JAMES LEES AND SONS COMPANY

Docket 7640. Order and Opinion, May 11, 1961

Interlocutory order remanding to hearing examiner motion to amend complaint by substituting allegations identifying as respondent, purchaser of assets of dissolved corporation.