

No. 670, O.T. 1948
Suggestion of Mootness
as to petition for cert to
CADC

SEC v. Philadelphia Co.

This is a case in which respondent Philadelphia Company prevailed on the CADC to set aside an SEC amendment to one of the rules it had promulgated under the Holding Company Act. Under the rule as it existed prior to SEC amendment, certain of respondent's subsidiaries were exempt from SEC supervision as to a Chapter X reorganization of the Pittsburgh Railways Co. pending in the W. D. Pa. The SEC amendment, stricken by the court below, would have removed that exemption from SEC supervision. The CADC remanded the case to the SEC for further consideration of the amendment, apparently indicating that the burden of proving the need for the amendment lay with the Commission.

The SEC has filed a petition for cert with this Court. Respondent Philadelphia has, via an extension of time, until May 27, 1949 to file an opposition to the petition.

But since the decision in the court below, the SEC and Philadelphia have come to an agreement under which the proposed reorganization plan will be subject to SEC, as well as DC, approval. Accordingly respondent no longer has any interest in sustaining the decision of the court below, and both parties have therefore joined in filing this suggestion of mootness, requesting that the judgment of the Court of Appeals be vacated.

The suggestion of mootness and request for vacation of the judgment seem wholly proper.

5/13/49

LHP