

DECISIONS OF

# The Public Service Commission

OF THE

## COMMONWEALTH OF PENNSYLVANIA

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September 10, 1929 to May 11, 1931

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VOLUME 10



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venience of the public requires an extension of respondent's bus service to the intersection of Huntingdon Turnpike and Fox Chase Road in Abington Township and that such extension may reasonably be required of respondent under the circumstances involved. The extension of the two routes to this point will be ordered for a trial period of six months, and, upon application by the complainants after September 1, 1931, the Commission will consider the question of the further continuance of the service on either or both lines; **THEREFORE,**

**NOW, to-wit, March 17, 1931, IT IS ORDERED:** That the complaint be and is hereby sustained.

**IT IS FURTHER ORDERED:** That the Philadelphia Rural Transit Company, respondent, extend its service over its bus lines known as Routes "N" and "O" over Huntingdon Turnpike to the intersection of said turnpike and Fox Chase Road for a trial period of six months, beginning April 1, 1931.

**IT IS FURTHER ORDERED:** That the Philadelphia Rural Transit Company, respondent, file with this Commission monthly reports showing the number of passengers riding said buses beyond the former terminus, and other operating data; copies of said reports to be sent also to counsel for the complainants herein.

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SPRUKS

v.

ERIE RAILROAD COMPANY et al.

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COMPLAINT DOCKET No. 8298.

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*Rates—Railroads—Mine timbers—Reasonableness.*

Rates on mine lagging or timbers from grouped origins to an anthracite coal producing center were found not unreasonable upon comparison with other rates in the general territory and with sixth class rates which were higher.

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*H. C. Wilson and R. A. Koontz for Complainant.*

*M. B. Pierce and W. T. Pierson for Erie Railroad Company.*

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**REPORT AND ORDER BY THE COMMISSION, March 17, 1931:**

Exceptions were filed by complainant to the proposed report and respondents replied. Oral argument was waived.



Complainant is a dealer of mine timbers, props, ties, lagging and lumber. It is alleged by complaint that the rate of 11 cents per 100 pounds charged by the respondents for the transportation of the commodities mentioned, in carloads from Ararat, Hickory Grove, Great Bend, Starrucca, Susquehanna and Thompson on the Erie Railroad to Scranton on the Delaware and Hudson Railroad is and for the future will be unjust and unreasonable to the extent it exceeds or may exceed  $9\frac{1}{2}$  cents from Ararat, Thompson, Starrucca and Susquehanna, and 10 cents from Hickory Grove and Great Bend. Complainant seeks reasonable rates for the future. Rates will be stated in cents per one hundred pounds.

The complaint concerns primarily the rates as applied to mine lagging or timbers which are described as being small trees from two to four inches in diameter, cut to seven or eight foot lengths. Approximately 2,000 pieces are loaded in a box car. Lagging is valued at 5 cents a piece or approximately \$100 per car.

The rates on mine lumber and timber are published by the Erie Railroad from group to group, generally. A rate of 11 cents applies from the origin points in question, which are grouped, to Scranton for Delaware and Hudson delivery, via Carbondale. Complainant seeks a rate of  $9\frac{1}{2}$  cents from Ararat, Thompson, Starrucca and Susquehanna and 10 cents from Hickory Grove and Great Bend which were in effect when the complaint was filed via Carbondale to Scranton, for New York, Ontario & Western Railway delivery. Subsequent to the hearing in this proceeding, the rates were equalized via both routes by increasing the rates for N. Y. O. & W. delivery to 11 cents.

The distance from Carbondale to Scranton is practically the same via the Erie or the N. Y. O. & W. or the D. & H. and the total distance is, therefore, the same for either delivery. Complainant contends there is no difference in operating conditions which justifies higher rates for delivery to the mines on the D. & H. than to the mines on the N. Y. O. & W.

The distances from the origin points involved to Scranton, complainant states, range from 36 to 63 miles. Respondents show the distances to be 37 to 65 miles. Complainant calculates the weighted average distance based on past shipments as 45 miles, and respondents show the average, not weighted, as 51 miles. The average weight of past shipments was 52,570 pounds per car. The 11 cent rate complained of also applies from the same origin points to Wilkes-Barre for an average distance of 68 miles.

Complainant shows a local rate of 9 cents in effect to Scranton via the Erie from four points of origin for an average distance of 49 miles, and a rate of 10 cents from ten points of origin to Scranton for an average distance of 73 miles.

Attention is also directed to the joint rate of 13 cents on mine lum-



ber from points on the Susquehanna and New York Railroad to various destinations in the anthracite field established in compliance with the order of the Commission in *Central Pennsylvania Lumber Co. v. Reading Co. et al.*, 9 Pa. P. S. C. 542, which for distances ranging from 100 miles to 152 miles produces earnings per ton mile of 17.7 mills to 26 mills and per car mile of 45 cents to 68.3 cents. For the average distance of 133 miles the ton mile yield is 19.6 mills and the car mile yield 51.4 cents. Complainant cites *E. L. Palmer v. Mo. Pac. R. R. Co. et al.*, 87 I. C. C. 622, wherein a scale of rates was prescribed on mine timber from points in Missouri to points in Illinois for distances between 50 and 75 miles of \$1.40 per net ton.

Respondents state that had the rates in question been accorded the full measure of the various increases since 1916 they would have been 11½ cents from Great Bend and 11 cents from the other points to Scranton. Numerous rates are offered in comparison to show that in many instances the rates on mine ties and lagging in the territory concerned are equal or higher for comparable distances. Respondents also show that there was an actual movement of 70 cars under those rates during the period October 1, 1929 to March 31, 1930. Joint rates of 9½ and 10 cents on 30 shipments for distances ranging from 33 to 61 miles are also shown by respondents to have earned from 35.2 mills to 67.6 mills per ton mile and revenue per car mile of 82 cents to \$2.57. These shipments moved from the origin points herein concerned to N. Y. O. & W. points other than Scranton and produced average earnings in excess of the earnings under the rate in question. These rates to N. Y. O. & W. points have also been increased subsequent to the hearing in this proceeding.

Respondents submit numerous references to decisions of the Interstate Commerce Commission wherein the sixth class rates were either prescribed or found not to be unreasonable on low valued and heavily loaded commodities. The sixth class rate for the movements here in question is 12½ cents.

The rates effective in 1915 from the origin points involved via the Erie for either D. & H. or N. Y. O. & W. delivery at Scranton were on a parity except that from Great Bend and Hickory Grove the rates for N. Y. O. & W. delivery were 10 cents per ton higher than for D. & H. delivery. These rates were all increased and decreased along with other rates except that inadvertently the rates for N. Y. O. & W. delivery were not included in the general increase of 15 per cent in April, 1918. This accounts, respondents say, for the disparity in the rates as hereinbefore shown.

The record shows that the local rates of the Delaware & Hudson Railroad for distances comparable to those here concerned vary from about 7.5 cents to 10 cents. The Erie Railroad rates for like distances are 9 and 10 cents and the N. Y. O. & W. has similar rates in effect.

Our report at Central Pennsylvania Lumber Company, supra, cited by complainant, contains a description of the basis for rates on mine timber for the bituminous fields. The producing area nearest the mines is an average distance of 100 miles for which the rate is 11 cents.

The rates involved herein are part of a large group adjustment. The alleged unreasonableness of the rates in question is based to a large extent upon lower rates via an alternate route which has been changed since the complaint was instituted. Upon a careful consideration of all the facts disclosed by the record, the Commission finds that the rate complained against is not and will not be unjust or unreasonable, and would not warrant disturbing the entire adjustment of rates on mine timber in this territory; **THEREFORE,**

**NOW, to-wit, March 17, 1931, IT IS ORDERED:** That the complaint be and is hereby dismissed.

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**SPRUKS**

*v.*

**ERIE RAILROAD COMPANY et al.**

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**COMPLAINT DOCKET No. 8299.**

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*Rates—Railroads—Mine timbers—Past reasonableness.*

Rates on mine lagging or timbers were found not reasonable in the past in comparison with other rates in that territory, when the chief basis for attack was that the rate via a parallel line was lower, and the lower rate had been raised to the level of respondent's rate.

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*H. C. Wilson and R. A. Koontz for Complainant.*

*M. B. Pierce and W. T. Pierson for Erie Railroad Company.*

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**REPORT AND ORDER BY THE COMMISSION, March 17, 1931:**

Exceptions were filed by complainant to the proposed report and respondents replied. Oral argument was waived.

This complaint, duly filed April 10, 1930, concerns the reasonableness of the rate of 11 cents per 100 pounds charged by the respondents on 30 carloads of mine lagging and one carload of mine ties transported from Ararat, Hickory Grove, Great Bend, Starrucca, Susquehanna and Thompson to Scranton over the Erie Railroad and the



Delaware and Hudson Railroad via Carbondale during the period October 30, 1927, to August 27, 1929. It is alleged that the rate charged was unreasonable to the extent that it exceeded 10 cents per hundred pounds from Hickory Grove and Great Bend and 9½ cents from the other above enumerated points. Reparation is asked.

The evidence introduced by the parties in this proceeding concerning the reasonableness of the rates during the period in question is the same as that discussed in the report of the Commission in *Charles Spruks v. Erie R. R. et al.*, C. D. 8298, issued simultaneously herewith, in which the reasonableness of the rates for the future is involved and need not be repeated here.

Complainant's evidence is based principally upon the fact that the rates sought were in effect during the period the cars moved from the same points of origin via Carbondale to Scranton for New York, Ontario and Western Railway delivery. The consignees are located on the Delaware and Hudson tracks and must have that delivery. The mileage via any of the routes is practically the same and no differences in operating conditions are shown to exist. Respondents state that the rates for New York, Ontario and Western delivery were not given the 15 per cent increase when that general increase was made in other rates. The rates for N. Y. O. & W. delivery have been increased since the hearing to the level of the rates for D. & H. delivery. The evidence does not indicate that complainant could have taken N. Y. O. & W. delivery and secured the lower rates. No shipments were shown to have been transported from the points of origin stated above to Scranton for N. Y. O. & W. delivery.

The Commission finds upon all the facts of record that the rate of 11 cents per one hundred pounds charged on 30 carloads of lagging and one carload of mine ties from the origin points involved to Scranton for Delaware and Hudson delivery during the period herein complained of was not unreasonable; **THEREFORE,**

**NOW, to-wit, March 17, 1931, IT IS ORDERED:** That the complaint be and is hereby dismissed.

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McCULLOUGH

v.

BELLEFONTE CENTRAL RAILROAD COMPANY et al.

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COMPLAINT DOCKET No. 8446.

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*Rates—Railroads—Crude plastic clay—Reasonableness.*

Upon complaint against proposed rates on crude plastic clay in carloads from complainant's shipping points, the Commission prescribed a maximum mileage