

DECISIONS OF

# The Public Service Commission

OF THE

## COMMONWEALTH OF PENNSYLVANIA

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May 11, 1931, to February 28, 1933

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VOLUME 11



HARRISBURG, PENNSYLVANIA

1933

IT IS FURTHER ORDERED: That the grade crossings shown in yellow across Sutton Avenue be paved and maintained with granite block between the rails and eighteen inches outside thereof for the full width of Sutton Avenue by and at the expense of the Philadelphia Rapid Transit Company.

IT IS FURTHER ORDERED: That the grade crossings across Route No. 729 at or about Station 149 + 50 shown in red on the approved plan be paved and maintained with granite block between the rails and eighteen inches outside thereof for a width of forty feet measured at right angles to the center line of the highway by and at the expense of the Philadelphia Rapid Transit Company.

IT IS FURTHER ORDERED: That the portion of Route No. 729 lying between Stations 149 + 43 and 149 + 60, as shown on the approved plan, be paved and maintained with concrete by and at the expense of the Department of Highways.

IT IS FURTHER ORDERED: That all necessary drainage facilities at Station 17 + 25 and Station 149 + 50 be constructed and maintained by and at the expense of the Department of Highways.

IT IS FURTHER ORDERED: That the County of Delaware pay to the Philadelphia Rapid Transit Company the actual cost of moving its tracks and facilities as shown on the approved plan in accordance with the terms of the agreement of March 30, 1931, filed to M. C. 5794 for approval.

IT IS FURTHER ORDERED: That all cars of the Philadelphia Rapid Transit Company operating in and along Sutton Avenue shall come to a full stop before proceeding across State Highway Route No. 729.

IT IS FURTHER ORDERED: That all work herein approved shall be done in a manner satisfactory to this Commission.

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MILLER

v.

DELAWARE, LACKAWANNA AND WESTERN RAILROAD  
COMPANY

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COMPLAINT DOCKET No. 8635.

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*Rates—Railroads—Reasonableness—Comparative distances—Discrimination—Loss of business—Evidence.*

A charge of unreasonably excessive rates on prepared anthracite coal was

rejected where the evidence merely showed lower rates to other comparable points.

A charge of unduly discriminatory rates on past shipments of prepared anthracite coal was rejected where there had since been an adjustment of the rate structure and the evidence failed to show any loss of business as a result of the alleged discrimination.

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*Robert T. Kauffman* for Complainant.

*W. J. Larrabee* for Respondent.

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REPORT AND ORDER BY THE COMMISSION, *May 11, 1931*:

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

Complainant is engaged in retailing anthracite coal at Danville on the Delaware, Lackawanna and Western Railroad. It is alleged by complaint duly filed that respondent's rates of \$1.76 per gross ton on stove, nut and pea coal and \$1.51 per gross ton on buckwheat coal, in carloads, demanded and collected during the period September 12, 1928, to January 1, 1930, from Kingston to Danville, were unjust and unreasonable, discriminatory and unduly prejudicial to the extent they exceeded a rate of \$1.51 on prepared sizes and \$1.26 on pea and smaller sizes. Rates will be stated in amounts per gross ton of 2240 pounds.

The rates on anthracite coal are published from grouped points of origin to grouped destinations. The origin group on the D. L. & W. extends from Shickshinny to Priceburg, a distance of about 51 miles, and Kingston is 16 miles from the southern edge of the group. The destination group extends from Catawissa to Northumberland and the average distance between the groups is about 62.4 miles. The distance from Kingston to Danville is 52 miles.

Rates on anthracite coal between the above stated origin and destination groups in 1915 were 90 cents on prepared sizes and pea coal and 82 cents on buckwheat and smaller sizes. The general increases and reduction made the rates \$1.76 and \$1.51, respectively. On December 31, 1929, the destination group was reduced by cutting off about 11 miles and the rate of \$1.51 on prepared sizes and \$1.26 on pea and buckwheat and smaller sizes were made applicable. The destination point here involved, Danville, now enjoys those rates.

The line of the respondent is paralleled by the Pennsylvania Railroad from Northumberland to Wilkes-Barre, and by the Delaware and Hudson from that point to Scranton and north of Scranton in the territory from which anthracite coal is shipped.

The Pennsylvania Railroad Company in 1889 published rates of 80 cents on prepared sizes and 65 cents on pea coal and smaller sizes from an origin group extending from Mocanaqua to Wilkes-Barre to a destination group extending to Sunbury for an average distance of 50 miles. That origin group has been extended to cover all collieries and washeries on the Delaware and Hudson Company north of Wilkes-Barre to Carbondale, inclusive, and to all points on the D. L. & W. between Shickshinny and Scranton. The average distance has thereby been increased to approximately 70 miles. The level of the local group rate was not increased when the group was extended to include joint hauls but the general increases and reductions made the rates which were originally established \$1.51 and \$1.26. South Danville, which is included in this destination group, is situated directly across the river from Danville and is connected by a bridge which is a quarter of a mile in length. The distance from Kingston to South Danville is 54 miles.

Complainant's competitors at South Danville delivered pea coal in Danville during the period in question at \$9.75 per ton, which is the delivery price of complainant's coal. It would cost the complainant about 50 cents per ton to truck coal from South Danville to Danville. The difference per ton in freight charges on pea coal was, prior to December 31, 1929, as hereinbefore indicated, 50 cents per ton. The difference on nut coal was 25 cents per ton. The complainant compares the rates on the Pennsylvania Railroad of \$1.51 on prepared sizes and \$1.26 on pea coal and smaller sizes for distances to 83 miles, with the rates of the D. L. & W. of \$1.76 and \$1.51, respectively, for the distance of 52 miles, single line haul, to Danville. The rates sought are applicable for joint hauls to Sunbury and Selinsgrove for Pennsylvania Railroad delivery for distances of 78 and 83 miles, respectively.

Respondent testified that when the dealers at Danville brought to its attention the fact that the joint rates from its mines to South Danville on the Pennsylvania Railroad were lower than to Danville, local to the D. L. & W., the Pennsylvania Railroad, who publishes the joint rates, was asked to increase them to the level of the D. L. & W. local rates. It developed that the Delaware and Hudson would not consent to the increase in the joint rates from its competing mines, and therefore the D. L. & W. was forced to continue to be a party to the lower joint rates in order to maintain the mines on its line on a competitive basis. Further than that it was also necessary to reduce its local rates to Danville to protect that community against competition from South Danville and to hold the traffic to its own lines and the mines it serves.

Respondent introduced numerous comparisons of group rates on anthracite coal in this same general territory for similar average dis-

tances from various origin groups. Those shown in the following table compiled from respondent's exhibits are representative.

From origin group on	Average Distance	Prepared	Pea	Buckwheat
D. L. & W.	45 to 72	\$1.64 to \$2.02	\$1.51 to \$2.02	\$1.51
N. Y. O. & W.	26 to 67	1.89 to 2.14	1.76 to 2.02	1.76 to \$2.02
Erie	44 to 69	1.64 to 1.89	1.51 to 1.76	1.51 to 1.76
D. & H.	58 to 70	1.64 to 1.76	1.39	1.39
P. R. R.	34 to 45	1.76 to 1.89	1.39 to 1.89	1.39 to 1.89
Reading	46 to 67	1.89 to 2.02	1.64 to 1.89	1.64 to 1.89
L. V.	45 to 76	1.76 to 2.02	1.39 to 1.89	1.39 to 1.89

Complainant's case is based primarily on discrimination, and they cite two instances where the dealers from South Danville delivered coal in Danville at the same delivery price as the complainant. The record shows that it costs fifty cents a ton to transport coal from South Danville to Danville and that the difference in freight rates is approximately that figure. No other fact concerning the loss of this business appears of record. The evidence here submitted pertaining to the reasonableness of the rates during the period in question is generally a comparison of rates for comparative distances or of group to group rates and does not indicate that the rates are unreasonable per se. Any advantage in freight rates enjoyed by the dealers at South Danville in the past was eliminated by the adjustment in rates which became effective December 31, 1929.

Upon all the facts of record we are constrained to find that the rates on anthracite coal here under attack during the period stated have not been shown to have been unjust, unreasonable or unduly discriminatory;

THEREFORE, NOW, to-wit, May 11, 1931, IT IS ORDERED: That the complaint be and is hereby dismissed.

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DAVISON COKE AND IRON COMPANY

v.

PENNSYLVANIA RAILROAD COMPANY et al.

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COMPLAINT DOCKET No. 8182

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*Rates—Railroads—Reasonableness—Coke.*

The Commission found a rate for the transportation of coke of \$1.89 per net ton in carloads was unreasonable and ordered the filing of a new rate not to exceed \$1.64 per ton of 2000 pounds.