

No. 3592.  
MARIAN COAL COMPANY  
*v.*  
DELAWARE, LACKAWANNA & WESTERN RAILROAD  
COMPANY.

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*Submitted May 16, 1912. Decided June 8, 1912.*

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Upon complaint attacking defendant's rates on anthracite coal from the Lackawanna (Wyoming) coal region of Pennsylvania to tidewater, *Held:*

1. That the rates of defendant per long ton on anthracite coal in carloads from Taylor, Pa., to Hoboken, N. J., or New York Lighterage Station, N. J. (f. o. b. vessel), of \$1.58 on prepared sizes, \$1.43 on pea, and \$1.28 on buckwheat, are excessive and unreasonable in and to the extent that they exceed \$1.33 on prepared sizes, \$1.24 on pea, and \$1.09 on buckwheat, and that for the future the latter rates must not be exceeded for such movement.
2. That the complainant is entitled to reparation upon basis of the rates herein found reasonable as applied to such of the shipments embraced in its claim as were delivered within the statutory period of two years prior to the date of filing complaint. No conclusion as to the amount of the award will be given at this time and this question will be held in abeyance for determination in a supplemental report.

*H. C. Reynolds* for complainant.

*W. S. Jenney* and *J. L. Seager* for defendant.

REPORT OF THE COMMISSION.

*MEYER, Commissioner:*

The complaint in this proceeding, filed on October 18, 1910, puts in issue the reasonableness of defendant's rates, local and proportional, on anthracite coal from Taylor, Pa., to all points on that line, and specifically seeks the establishment by the Commission of rates from the Lackawanna (Wyoming) coal region of Pennsylvania to Hoboken, N. J., f. o. b. vessel there, of not more than 95 cents per gross ton on sizes larger than pea, 90 cents on sizes known as pea and buckwheat, and 75 cents on sizes known as rice and barley. Reparation in the sum of \$55,238.27 is asked for the imposition of alleged excessive rates on numerous carload shipments.

On March 13, 1911, the complainant filed another petition, No. 3931, in which it asks that the Commission require the defendant

herein and other carriers to establish through routes and joint rates from Taylor to specified points without the state of Pennsylvania. This complaint and No. 3592 were heard together; but before the hearing had been concluded it was announced that certain of the defendants would establish through routes and joint rates in connection with the Delaware, Lackawanna & Western Railroad. This intention led to an agreement with the complainant to discontinue further proceedings in No. 3931 unless the routes and rates were not made effective as proposed. It appears that only two of the defendants, the Central Railroad of New Jersey and the Pennsylvania Railroad have published joint rates to points on their lines. Under the circumstances we can not in justice to the complainant dismiss this case. If an adjustment of the matter, as outlined at the hearing, is not made by all the defendants, as it has been made by the above-named two, the proceeding will be resumed with the view of making an appropriate order. The reasonableness *per se* of the rates established or proposed is not in issue and the agreement in question does not prejudice the right of the complainant to test the reasonableness of such rates by the filing of a new petition.

The petitioner is a corporation engaged in the business of cleaning, preparing, shipping, and selling that character of anthracite coal known in the trade as "washery" coal, reclaiming from the refuse discarded in the early history of anthracite mining the small pieces which at such early period were not marketable, but which are now valuable, especially for steaming purposes, owing to improved methods of preparation and draft grates. The washery of complainant at which such refuse is prepared for the market is located in the borough of Taylor, Lackawanna county, Pa., about 2,500 feet from the Bloomsburg division of defendant's line. It is served by a spur track connecting with such division near Taylor, a point about 3 miles west of Scranton. The Bloomsburg division is that part of defendant's road upon which originates the bulk of its anthracite tonnage, being located in what is known as the "Northera" anthracite region, and runs in a northeasterly direction from Northumberland to Scranton, a distance of about 80 miles. The main line of defendant runs in a southeasterly direction from Buffalo, N. Y., through Scranton to tidewater at Hoboken, N. J., a distance of 411 miles.

The present rates per gross ton from Taylor, Pa., to tidewater (f. o. b. vessels, Hoboken, N. J.), which complainant specifically seeks to have reduced to the basis before noted, are as follows: Prepared (larger than pea), \$1.58; pea, \$1.43; buckwheat, \$1.28; rice and smaller, \$1.13. The distance from Taylor to Hoboken is 147.8 miles, and these rates per ton-mile are 10.6, 9.6, 8.6, and 7.6 mills, respectively, or an average revenue on the four rates of 9.1 mills. On

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basis of the rates sought by complainant the ton-mile revenues would approximate 6.4 mills on prepared, 6 mills on pea and buckwheat, and 5 mills on rice and barley.

These proportional rates are also applicable to the transportation of anthracite coal to tidewater from all the collieries and washeries reached by defendant's line and have been in effect since June 1, 1903. It is urged by complainant that the average distance from these various points to tidewater is 148 miles, but the defendant claims an average of 155 miles, stating that its auditing department figures the average haul as being in excess of 10 miles above the distance from Scranton to tidewater. Accepting the figure advanced by defendant, the ton-mile earnings on these rates will approximate 10.2, 9.2, 8.2, and 7.2 mills respectively, or an average of 8.7 mills. It will be noted that this line haul of 155 miles is not reckoned via the new "cut-off" line, Delaware Water Gap to Netcong. The completion of this cut-off in December, 1911, reduced the distance 12 miles, or from 155 to 143 miles.

In substantiation of the charge that these rates are excessive, the complainant makes numerous comparisons with rates between other points on selected commodities including anthracite and bituminous coal, sand, etc. These comparisons reveal lower ton-mile earnings than under the rates of defendant, and the complainant asserted that this showing condemns such rates. Comparisons of ton-mile revenues are frequently resorted to by the Commission, and several such comparisons are made in this report. Their limitations have repeatedly been pointed out by us in previous cases.

The defendant in denying the allegations of the petition, attempts to justify its rates on the ground of the expensive character of the service performed, particularly the terminal expenses. The testimony shows that empty cars come into the anthracite region and are distributed from the yards to the collieries and washeries. These cars are switched and classified on mine spurs. After they are loaded they are assembled at various points and are then forwarded to the so-called classification yards. The assembling point from the Marian washery appears to be the Taylor yards, and the classification point the Hampton yards. The classification performed at these yards appears to be simply the separation of the tonnage moving north toward Buffalo and that moving south to tide, except as to the Buffalo and intermediate points traffic there is a further classification into two sizes of coal, and likewise to local points south of Scranton moving short distances. On the great bulk of the anthracite tonnage, which appears normally to be in the direction of tidewater, the only classification into sizes takes place at Secaucus, N. J., a point on the New Jersey meadows a few miles outside of Hoboken. From that

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point it is moved to Hoboken for local delivery, or delivered on board ships.

It is claimed that coal, unlike other commodities, is a nonproducing commodity, affording no tonnage other than such as may be supplied by the use of steam generated from it; that on account of the peculiar condition of the trade, cars are often supplied in excess of the actual demand, and are held free from demurrage while awaiting loading; reconsignment is permitted without charge; stoppage in transit for storage for an unlimited period is granted free of charge; 97 per cent of the cars are hauled back to the mines empty, and, in general, that the handling of this commodity is different and more expensive than that of other traffic.

While the record supports some of the contentions of defendant, it is not shown that it costs more to handle the coal traffic than other freight. The complainant, to sustain its demand for lower rates, points to the fact that the ton-mile earnings on defendant's coal traffic have been very high. Following is a statement of the ton-mile earnings on all traffic (revenue-earning freight), anthracite traffic, and for all other than anthracite traffic (revenue-earning freight) for the years 1909 to 1911, inclusive, compiled from the annual reports of the defendant to the Commission.

*Statement compiled from the annual reports filed with the Interstate Commerce Commission in behalf of the Delaware, Lackawanna & Western Railroad Co. for the years ending June 30, 1909, to June 30, 1911.*

ALL REVENUE-EARNING FREIGHT TRAFFIC.

Item.	1909	1910	1911
Total tonnage.....	19,053,696	21,603,849	21,563,915
Total revenue.....	\$24,832,586.66	\$26,789,316.44	\$26,067,755.87
Ton-mileage.....	3,363,062,727	3,675,364,577	3,642,161,113
Ton-per-mile revenue.....mills..	7.38	7.29	7.16

ANTHRACITE COAL.

Total tonnage.....gross tons..	10,033,827	10,293,870	9,644,864
Revenue.....	\$14,500,031	\$14,544,751	\$13,637,892
Ton-mileage.....	1,870,431,785	1,929,304,534	1,823,065,293
Ton-per-mile revenue:			
Mills per ton of 2,240 pounds.....	7.75	7.54	7.46
Mills per ton of 2,000 pounds.....	6.92	6.73	6.66

ALL REVENUE-EARNING FREIGHT TRAFFIC OTHER THAN ANTHRACITE COAL.

Total tonnage.....	9,019,869	11,304,979	11,919,051
Revenue.....	\$10,332,555.66	\$12,244,565.44	\$12,429,863.87
Ton-mileage.....	1,493,630,942	1,746,060,043	1,814,095,820
Ton-per-mile revenue.....mills..	6.91	7.01	6.86

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That the traffic handled by the defendant has been very remunerative is revealed by the following financial statement and condensed balance sheet compiled from the annual reports of that carrier to the Commission for the last four years:

*The Delaware, Lackawanna & Western Railroad Co. financial statement for years 1908-1911.*

[Compiled from annual reports to the Interstate Commerce Commission.]

	1911	1910	1909	1908
<b>INCOME ACCOUNT.</b>				
Operating revenues .....	\$35,947,066	\$36,005,987	\$33,553,436	\$33,810,254
Operating expenses .....	21,627,942	19,292,769	18,477,713	19,622,043
Net operating revenue .....	14,319,124	16,713,218	15,075,723	14,188,211
Net revenue from outside operations .....	295,524	280,673	304,036	245,165
Total net revenue .....	14,614,648	16,993,891	15,379,758	14,433,376
Taxes accrued .....	1,640,664	1,516,000	1,094,400	1,290,300
Operating income .....	12,973,984	15,477,891	14,285,358	13,143,076
Other income .....	1,039,552	1,048,960	1,422,827	1,382,884
Gross corporate income .....	14,013,536	16,526,851	15,708,185	14,525,960
Rents and miscellaneous deductions .....	5,476,000	5,531,728	5,500,646	5,500,860
Interest on funded debt .....	6,486	6,486		35,531
Dividends from income <sup>1</sup> .....	6,028,800	6,028,786	5,240,000	5,240,000
Appropriations for betterments .....	2,554,375	2,471,020	1,676,375	3,540,120
Balance to profit and loss .....	<sup>1</sup> 52,125	<sup>2</sup> 2,488,831	<sup>3</sup> 3,291,164	<sup>2</sup> 209,449
<b>PROFIT AND LOSS.</b>				
Balance at beginning of year .....	32,072,279	39,819,591	31,922,627	28,274,900
Other properties—profit .....	3,228,958	4,079,377	4,634,635	3,614,063
Dividends from surplus <sup>2</sup> .....		17,030,000		
Credit balance to balance sheet after other adjustments are made .....	35,362,685	32,072,279	39,819,591	31,922,627
<b>BALANCE SHEET.</b>				
<b>Assets:</b>				
Road and equipment, less reserves for accrued depreciation .....	42,301,394	38,848,710		
Securities .....	17,323,041	13,666,707		
Other investments .....	2,957,897	2,817,459		
Working assets .....	19,356,547	19,846,994		
Deferred debt items .....	5,241,117	6,319,261		
Total .....	87,179,996	81,499,131		
<b>Liabilities:</b>				
Stock .....	30,347,720	30,347,720		
Mortgage bonds .....	320,000	320,000		
Working liabilities .....	6,567,776	6,941,021		
Accrued liabilities not due .....	3,047,304	2,707,343		
Deferred credit items .....	179,023	309,656		
Appropriated surplus .....	11,355,488	8,801,112		
Balance .....	35,362,685	32,072,279		
Total .....	87,179,996	81,499,131		
			} Balance sheet form not comparable with 1910 and 1911.	

<sup>1</sup> Debit.

<sup>2</sup> Credit.

<sup>3</sup> Rate of dividends from both income and surplus, 1911, 20 per cent; 1910, 85 per cent; 1909, 20 per cent; 1908, 20 per cent.

NOTE.—The capitalization covers both railroad and coal properties. "In former reports an assignment of \$10,000,000 was made to other properties, purporting to represent the capital cost of coal properties, etc. The division was purely arbitrary and had no basis. The two interests are inseparable and we do not care to guess how much is applicable to either." (Annual Report, 1908, p. 28.)

This financial statement shows a high degree of prosperity. With practically no bonded indebtedness, the dividends actually paid in four years are nearly one and a half times the par value of the stock. At the same time there have been expended, since June 30, 1907, out of income for improvements over eleven million dollars, leaving

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surplus in 1911 of over thirty-five million dollars. It is true that these returns in part come out of the profits of coal mining, but the capitalization covers both the railroad and coal properties. It should be noted, however, that the capitalization of the Delaware, Lackawanna & Western per mile of all tracks is low as compared with roads in this territory including the other anthracite roads.

In the case of *Meeker & Co. v. L. V. R. R. Co.*, 21 I. C. C., 129, the Commission reached the conclusion that the rates for the transportation of coal from the Wyoming region of Pennsylvania to Perth Amboy, N. J. (tidewater), of \$1.55 per ton on prepared sizes, \$1.40 on pea, and \$1.20 on buckwheat, were unreasonable so far as they exceeded \$1.40 on prepared sizes, \$1.30 on pea, and \$1.15 on buckwheat. These reductions of 15, 10, and 5 cents, respectively, were on rates which applied for an average distance of 165 miles. The maximum rates established by the Commission afford the carrier ton-mile earnings of 8.48, 7.87, and 6.96 mills, respectively. Upon this basis the rates to tidewater of the defendant herein would be approximately \$1.31 on prepared sizes, \$1.22 on pea, and \$1.08 on buckwheat.

Following is a comparison for the past 10 years of the anthracite coal rates per gross ton maintained by the Lackawanna and Lehigh Valley railroads and the Central Railroad of New Jersey from the Wyoming region of Pennsylvania to tidewater:

From—	To—	Period.	Prepared sizes.	Pea.	Buckwheat and culm. ¢
Mines on Central R. R. of New Jersey.	Elizabethport, N. J., and Port Johnston, N. J.	Jan. 1, 1902, to Jan. 15, 1905, inclusive.	\$1.55	\$1.40	\$1.20
		Jan. 16, 1905, to date.	1.55	1.40	1.20
		Jan. 1, 1902, to Nov. 15, 1903, inclusive.	1.55	1.40	1.25
Mines on Lehigh Valley R. R. (Lehigh, Schuylkill, and Wyoming regions).	Perth Amboy, N. J., f. o. b. vessels.	Nov. 16, 1903, to Jan. 9, 1905, inclusive.	1.55	1.40	1.25
		Jan. 10, 1905, to Oct. 14, 1911, inclusive.	1.55	1.40	1.20
		Oct. 15, 1911, to date.	1.55	1.40	1.20
Lehigh and Schuylkill regions.	do.....	do.....	1.40	1.30	1.15
Wyoming region.....	do.....	do.....	1.58	1.43	1.28
Mines on Delaware, Lackawanna & Western R. R.	Hoboken, N. J., f. o. b. vessels.	June 1, 1903, to Feb. 25, 1912, inclusive.	1.58	1.43	1.28
		New York Lighterage Station, N. J., f. o. b. vessels.	1.58	1.43	1.28

It will be seen from this table that the tidewater rates on prepared sizes, pea, and buckwheat over these lines have remained unchanged for 10 years past except over the Lehigh Valley, which reduced its rate on buckwheat 5 cents per ton on January 10, 1905, and on October 15, 1911, established the lower rates on the three sizes in

accordance with the Commission's order in the *Meeker case, supra*. In this connection it is worthy of note that this carrier confined the latter reduction to the rates from the Wyoming region alone, although it had always, prior to that time, maintained the same rates from the Lehigh, Schuylkill, and Wyoming regions.

The defendant and the Lehigh Valley Railroad also transport anthracite coal from the Wyoming region to the Lake Erie port of Buffalo for shipment beyond. A comparison of the present rates per gross ton for this movement is as follows:

	Prepared sizes.	Pea.	Buck-wheat.	Rice and barley.
Mines on Delaware, Lackawanna & Western R. R. to Buffalo, N. Y.....	\$2.00	\$1.75	\$1.75	\$1.75
Mines on Lehigh Valley R. R. to Buffalo, N. Y., f. o. b. vessel..	2.25	2.00	2.00	2.00
Mines on Lehigh Valley R. R. to Buffalo, N. Y., for reshipment via rail.....	2.00	1.75	1.75	1.75

The distance to Buffalo via the line of the defendant from Wyoming, Pa., which may be taken as a representative point of origin, is 277.6 miles, and the rate per ton per mile on prepared sizes is 7.2 mills, or 3.4 mills less than the rate under attack, from Taylor, Pa., to tidewater, a distance of 147.8 miles. Via the Lehigh Valley from Wyoming, Pa., to Buffalo the distance is 273 miles, and the rate per ton per mile on prepared sizes, for reshipment by rail, is 7.3 mills, and f. o. b. vessel 8.2 mills. The Lehigh Valley rate on prepared sizes from the Wyoming region to tidewater, a distance of 165 miles, was, until reduced by the Commission, 9.4 mills. This table shows that on coal to the lakes no difference is made in the rates on pea, buck-wheat, rice, and barley.

A study of the anthracite coal movement of the principal coal-carrying roads shows that the bulk of the tidewater coal goes to the New York terminals, and that this tonnage is greatly in excess of the aggregate tonnage to all Lake Erie and Lake Ontario ports, including Buffalo, for domestic as well as Canadian destinations. The following is a statement of the total anthracite movement of eight originating carriers for the last two calendar years:

*Anthracite coal movement.*

Shipments by railroads, via—	1910	1911
	<i>Long tons.</i>	<i>Long tons.</i>
Philadelphia & Reading.....	12,445,733	13,265,758
Lehigh Valley.....	11,195,765	12,603,000
Central Railroad of New Jersey.....	8,519,135	9,218,802
Delaware, Lackawanna & Western.....	9,589,076	9,869,620
Delaware & Hudson.....	6,578,356	7,206,731
Pennsylvania.....	6,250,976	6,494,733
Erie.....	7,554,198	8,800,179
New York, Ontario & Western.....	2,772,547	2,495,476
Total.....	64,905,786	69,954,299

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The tidewater coal handled at the principal ports was as follows:

*Tidewater coal handled.*

To—	1910	1911
<b>DOMESTIC SHIPMENTS.</b>		
New York.....	<i>Long tons.</i> 13,991,426	<i>Long tons.</i> 14,651,401
Philadelphia.....	1,980,830	2,197,750
Baltimore.....	271,122	257,025
<b>Total domestic shipments.....</b>	<b>16,243,378</b>	<b>17,106,176</b>
<b>EXPORTS.</b>		
Baltimore.....	3,248	4,525
New York.....	65,807	87,747
Newark, N. J.....	23,385	36,064
Perth Amboy, N. J.....	42,591	33,547
Philadelphia.....	74,733	52,984
<b>Total exports.....</b>	<b>209,764</b>	<b>214,867</b>
<b>Total shipments.....</b>	<b>16,453,142</b>	<b>17,321,043</b>

These figures show the quantities of anthracite coal handled over tidewater docks at New York, Philadelphia, and Baltimore; also exports from these three ports as well as from Newark and Perth Amboy, N. J. Some of these exports, especially at New York, may be contained in the totals of tidewater coal reported by the carriers, but as the exports are relatively small the error resulting from either adding or disregarding the export figures would not be very serious.

The lake shipments of anthracite coal during the same calendar years were as follows:

*Lake shipments of anthracite coal.*

	1910	1911
<b>TO DOMESTIC DESTINATIONS.</b>		
From Lake Erie ports.....	<i>Short tons</i> 3,927,106	<i>Short tons.</i> 4,074,383
From Lake Ontario ports.....	226,366	254,419
<b>Total domestic.....</b>	<b>4,153,472</b>	<b>4,328,802</b>
<b>Equivalent in long tons.....</b>	<b>3,708,904</b>	<b>3,865,002</b>
<b>EXPORTS BY LAKE.</b>		
From Buffalo customs district.....	<i>Long tons.</i> 320,677	<i>Long tons.</i> 462,588
From Oswego <sup>1</sup> customs district.....	456,627	778,437
<b>Total, long tons.....</b>	<b>4,486,208</b>	<b>5,106,027</b>

<sup>1</sup> Figures represent probably exports by lake as well as rail; exports by lake only are not given. The customs district of Oswego includes Sodus Point and Fair Haven.

The foregoing tables have been compiled from data in the possession of the Commission.

No definite calculation of initial and terminal expenses was submitted by defendant, although it endeavored to show that they are "extremely expensive." It is clear, however, that any possible allowance on account of such extra cost would not bring the total



operating expenses to a point where rates of \$1.33 on prepared sizes, \$1.24 on pea, and \$1.09 on buckwheat would not be highly remunerative for the average haul of 155 miles from the mines to tidewater. These rates are based on a consideration of the ton-mile rates established by the Commission in the *Meeker case, supra*, making due allowance for the fact that for a shorter distance the ton-mile rate should be slightly higher.

Considering all the facts of record, we are of the opinion that the defendant's rates per long ton on anthracite coal in carloads from Taylor, Pa., to Hoboken, N. J., or New York Lighterage Station, N. J. (f. o. b. vessel), of \$1.58 on prepared sizes, \$1.43 on pea, and \$1.28 on buckwheat are excessive and unreasonable in and to the extent that they exceed \$1.33 on prepared sizes, \$1.24 on pea, and \$1.09 on buckwheat, and that for the future the latter rates must not be exceeded for such movement.

We are further of the opinion that the complainant is entitled to reparation upon basis of the rates herein found reasonable as applied to such of the shipments embraced in its claim as were delivered within the statutory period of two years prior to the date of filing complaint. No conclusion as to the amount of the award will be given at this time and this question will be held in abeyance for determination in a supplemental report.

The complaint contains numerous allegations not connected with the rate. All of them relate to the manner of conduct of the carrier's business in certain respects. The Commission is charged with the duty of keeping itself informed with respect to the manner in which this business is conducted; and therefore this report might well devote attention to such matters. However, the petitioner is primarily interested in the rates in question and we are disposing of that feature of its complaint at this time to avoid the delay which a fair consideration of the collateral issues might necessitate. The extent to which, if any, such collateral issues will be dealt with in a formal report is a matter for future determination.

An order will be issued in accordance with the conclusions herein expressed.

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