

No. 5015.
WAYNE R. BROWN
v.
BOSTON & MAINE RAILROAD ET AL.

Submitted March 14, 1913. Decided May 6, 1913.

The rates maintained by certain of the defendants for the transportation of anthracite coal from various mining points in Pennsylvania to Scotia, N. Y., held to be excessive, and reductions to \$2 per gross ton on the prepared sizes, with corresponding reductions on the smaller sizes, ordered.

C. S. Hillyer and Wm. L. Ranson for complainant.

Charles H. Blatchford for Boston & Maine Railroad.

Lewis E. Carr and H. D. Weatherwax for Delaware & Hudson Company.

J. C. Anderson for New York, Ontario & Western Railroad Company.

REPORT OF THE COMMISSION.

MEYER, Commissioner:

Wayne R. Brown, a dealer in coal, wood, and cement, located at Scotia, N. Y., attacks the rates charged for the transportation of anthracite coal in carloads from certain points of origin in Pennsylvania to his place of business as unjust and unreasonable, discriminatory, and prejudicial, and asks for the establishment of joint through rates not to exceed the rates contemporaneously in effect to Schenectady, N. Y.

The rates complained of are, first, a joint rate of \$2.15 per gross ton for all sizes from Packerton, Pa., via the Lehigh Valley Railroad, West Shore Railroad, and Boston & Maine Railroad; second, \$2.15 for the prepared sizes, \$2.10 for pea, and \$1.95 for buckwheat Nos. 1, 2, and 3, from Peckville and Scranton, Pa., via the New York, Ontario & Western Railroad and West Shore Railroad to Rotterdam Junction, at proportional rates of \$1.85, \$1.80, and \$1.65, respectively, plus 30 cents per ton for all sizes Rotterdam Junction to Scotia, via Boston & Maine Railroad; third, \$2 per ton for the prepared sizes, \$1.85 for pea, \$1.70 for buckwheat No. 1, and \$1.55 for buckwheat Nos. 2 and 3, these last also being joint rates applicable from Peck-

ville, Pa., via the Delaware & Hudson Company to Mechanicville, N. Y., and the Boston & Maine Railroad to Scotia.

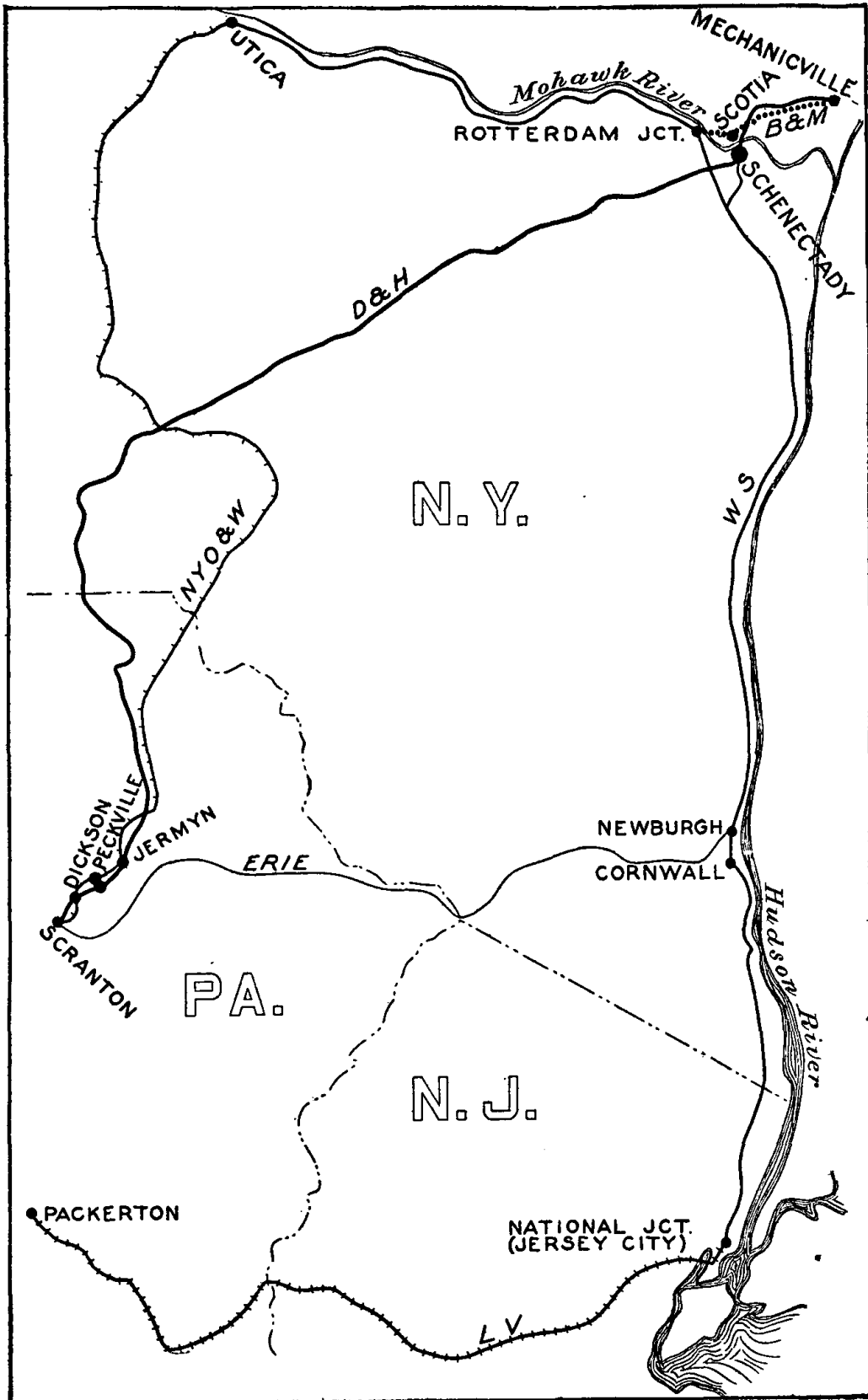
In advance of the hearing the Lehigh Valley Railroad Company entered into a stipulation in connection with the petitioner to the effect that it would voluntarily readjust its rates in harmony with any rates the Commission might order on the other lines involved in this case.

Scotia is a separately incorporated village, situated on the north bank of the Mohawk River opposite Schenectady, with which there is direct communication by means of a highway bridge. The Schenectady street car lines operate into Scotia, one fare being charged to or from any point in Schenectady. Scotia has free delivery of mail, being served from a substation of the Schenectady post office. It also has telegraph, express, and merchandise deliveries on the same basis as outlying parts of Schenectady, Scotia being nearer to the business district of Schenectady than some residence sections of the city itself.

The Fitchburg division of the Boston & Maine Railroad, which is the only railroad serving Scotia, has a junction with the Delaware & Hudson Company at Mechanicville, 16 miles east, and its western terminus is at Rotterdam Junction, between 5 and 6 miles west, where there is a large interchange yard with the West Shore Railroad. For a considerable time the Boston & Maine Railroad handled its Scotia business from Rotterdam Junction, but about 1908 a station was established at Scotia. The Boston & Maine Railroad handles all its Schenectady business, both freight and passenger, through this station.

As indicated, the complainant has several sources of supply, though substantially all of the coal bought by him within the last two years came from the Scranton Coal Company's fields via the New York, Ontario & Western, West Shore, and Boston & Maine railroads at the combination of the proportional rates to Rotterdam Junction and the local rate from there to Scotia. An occasional purchase was made from mines at Packerton, shipment being made via the Lehigh Valley, West Shore, and Boston & Maine railroads, or from mines at Peckville via the Delaware & Hudson Company and Boston & Maine Railroad. Although in the latter case the rate is \$2, for some reason the coal costs 10 cents per ton more at the mines, and thus the advantage of the rate over that route is largely offset. The petitioner occasionally buys coal from the Hudson Coal Company, which operates on the line of the Delaware & Hudson Company, but this coal is always sold to him at a delivered price, 10 cents per ton above the cost of the coal, including transportation, from either the New York, Ontario & Western fields or the Lehigh Valley fields.

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The complainant has to meet the competition of retail coal dealers in Schenectady, and also anticipates active competition on the part of the Schenectady County Coal Company. This company is said to be organized in the interest of the Delaware & Hudson Company, and has recently established itself in Schenectady with a large central coal-handling plant and smaller plants in outlying districts, one of them being in Scotia, for the purpose of supplying coal at wholesale to the dealers, though the petitioner apprehends that it will eventually enter the retail trade, as has been done in other towns where similar companies have been established. This feature of the present complaint will receive due consideration in the general investigation of anthracite coal rates which the Commission is now conducting.

The rates to Schenectady are as follows: From Packerton, via Lehigh Valley Railroad, West Shore Railroad, and New York Central & Hudson River Railroad, \$1.95 per gross ton for all sizes; from Peckville and Scranton, via New York, Ontario & Western Railroad and Delaware & Hudson Company, \$1.95 for the prepared sizes, \$1.60 for pea, \$1.50 for buckwheat No. 1, and \$1.40 for buckwheat Nos. 2 and 3 and birdseye. It will thus be seen that the rates for the prepared sizes, which constitute the bulk of the complainant's trade at present, are 20 cents higher to Scotia than to Schenectady, except on shipments moving via Mechanicville, in which case the difference is 5 cents. The complainant admitted that a 5-cent differential over Schenectady on this traffic is reasonable, in view of the additional haul of about 32 miles which is involved via the route named, but for reasons already explained he has not been able to take advantage of the lower rate.

Exhibits were filed in behalf of the complainant for the purpose of showing that on other traffic in numerous instances the same rates apply to Scotia as to Schenectady. Rates are quoted from Buffalo, New York, Cincinnati, and certain stations in Illinois and Kansas, on lumber, logs, molding sand, iron ore, grain and grain products, hay, crushed stone, and broom corn. Objection is made on the part of the defendants that these rates are not fairly representative. On the part of one of the defendants, the Delaware & Hudson Company, exhibits were submitted after the hearing showing the six class rates from points in Pennsylvania, New York, and New Jersey, some of the points being located in the anthracite coal districts. Of the rates shown in these exhibits about one-third are no higher to Scotia than to Schenectady, several being lower. For instance, on all classes from Rome, N. Y., and on third class from Scranton and Wilkes-Barre, Pa., the rates are lower to Scotia than to Schenectady. From the last two points named the first and second class rates are the same to both destinations, while the fourth, fifth, and sixth class

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rates to Scotia are somewhat higher than to Schenectady. Commodity rates from many of the same points are also shown, the rates on pig iron, iron and steel products, sand, clay and clay products, etc., being uniformly higher to Scotia than to Schenectady.

It was claimed that a lowering of the Delaware & Hudson Company's rates to Scotia would result in a disturbance of its coal rates to various destinations on the New York, Ontario & Western Railroad, West Shore Railroad, and New York Central & Hudson River Railroad, and would affect a large volume of traffic. On the part of the New York, Ontario & Western Railroad it was claimed that the reduction of its Scotia rates to the Schenectady level would necessitate a reduction in its rates to all points on the West Shore Railroad between Schenectady and Utica and to a number of points in the vicinity of Utica (\$2 per ton) in order to avoid a violation of the fourth section.

It was stated that the rates to Schenectady were originally established through Newburgh and Cornwall on the Hudson River, on a lower basis as a result of water competition, and that such competition did not and does not now affect traffic to Scotia. In reply it was contended on the part of the complainant that the new state barge canal would occupy the whole of the Mohawk River between Scotia and Schenectady, thus providing water transportation for Scotia as well as for Schenectady.

Shipments originating on the New York, Ontario & Western Railroad are turned over to the West Shore Railroad at Utica and carried from there to Rotterdam Junction. The interchange yard at this point is owned by the Boston & Maine Railroad interests, but is used jointly by the Boston & Maine Railroad and the West Shore, each bearing one-half of the expense. The movement from Rotterdam Junction to Scotia, between 5 and 6 miles, is apparently considered a road haul, and the 30 cents per ton charged for it is claimed to be in line with charges for similar service rendered at other points on the Boston & Maine. It is also contended that east of Buffalo the usual rate for switching within yard limits is 30 cents per ton.

According to the record, the distance from Peckville to Scotia via the Delaware & Hudson Company to Mechanicville and the Boston & Maine is 208 miles. The distance from Peckville via the New York, Ontario & Western, West Shore, and Boston & Maine is 238 miles, and from Scranton 245 miles, while the distance from Packerton via the Lehigh Valley, West Shore, and Boston & Maine is 300 miles. The short line is therefore by the Delaware & Hudson Company, which has substantially the whole of the haul.

The average receipts per ton per mile on the prepared sizes of coal to Scotia by way of the New York, Ontario & Western, the West

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Shore, and the Boston & Maine are 9 mills or 8.7 mills, according to the point of origin. The average by way of the Lehigh Valley, the West Shore, and the Boston & Maine is 7.1 mills, and the average by way of the Delaware & Hudson and the Boston & Maine is 9.6 mills. These averages are all considerably in excess of the average receipts per ton per mile from all classes of freight, as reported to the Commission by the five operating companies involved, for the years ended June 30, 1911 and 1912, excepting the Boston & Maine and the New York, Ontario & Western. Those averages are given in the following table. The ton-mile averages for anthracite coal, which are generally understood to be considerably lower than those for all classes of freight, are also shown for those carriers that include them in their annual reports.

Average receipts in cents per ton per mile as reported to the Commission by the carriers named.

Road.	1911		1912	
	All freight.	Anthracite coal.	All freight.	Anthracite coal.
Boston & Maine.....	1.095	1.089
Lehigh Valley.....	.652646
New York Central (including West Shore).....	.628	0.458	.634	0.466
New York, Ontario & Western.....	.754	.622	.758	.613
Delaware & Hudson.....	.689669

The averages given in the second and fourth columns are those for all classes of freight, both carload and less than carload, including high-class merchandise which produces proportionately more revenue, as well as the low-grade commodities which move in large volume.

The complainant stated that the average revenue per car to the Boston & Maine Railroad at the 30-cent rate from Rotterdam Junction was \$10 or \$11. Two to four cars are generally delivered to him at one time; hence the average revenue from each shipment would be in the neighborhood of \$32 or \$33. The service involves no obligation on the part of the carrier to furnish equipment and but little detention of the cars for unloading under the method of handling them as described by the complainant.

Taking into consideration all the facts in this case, we think the complaint is well founded. The connection of Scotia and Schenectady by a highway bridge, the arrangements for free delivery in Scotia by Schenectady merchants, and vice versa, the many voluntarily established railway rates the same to both towns, the relation of both communities to the new barge canal and the Mohawk River, and other geographical and commercial considerations appearing of

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record warrant the conclusion that for the purposes of railway transportation these two places are one traffic area, entitled to substantially the same rates. A mere glance at the map showing the lines of railways participating in this business impresses one with the propriety of common grouping unless decisive special considerations should appear. None have been shown in this case. Rates covering substantial distances are practically never balanced to such a degree of nicety as to reflect differences resulting from differences in switching and line movements over the different routes as small as those involved in the work at Rotterdam Junction and from there to Scotia. On the contrary, especially in the coal trade, it is customary to ignore considerable differences in mileage and substantial differences in switching in order to place contiguous communities on a basis of commercial equality. The extent and wisdom of such a policy is not here in issue. We wish merely to suggest that to place Scotia and Schenectady on substantially the same rate basis is entirely in harmony with what carriers have long been doing in all parts of this country.

Upon the record, the present joint through rate of \$2.15 per gross ton on all sizes of anthracite coal, maintained by the Lehigh Valley Railroad Company, the West Shore Railroad Company, and the Boston & Maine Railroad, is held to be excessive, and these defendants will be required to publish and maintain for a period not less than two years a joint through rate not to exceed \$2 per gross ton on all sizes of anthracite coal from Packerton, Pa., to Scotia, N. Y. Likewise, the charges of \$2.15 per gross ton on the prepared sizes, \$2.10 on pea, and \$1.95 on buckwheat Nos. 1, 2, and 3, made up of joint proportional rates of \$1.85, \$1.80, and \$1.65, respectively, maintained by the New York, Ontario & Western Railroad Company and West Shore Railroad Company from Peckville and Scranton, Pa., to Rotterdam Junction, N. Y., and the 30-cent local rate on all sizes maintained by the Boston & Maine Railroad from Rotterdam Junction to Scotia, are held to be excessive, and these defendants will be required to publish and maintain for a period not less than two years joint through rates from Peckville and Scranton, Pa., to Scotia, N. Y., not exceeding \$2 per gross ton on the prepared sizes, \$1.95 on pea, and \$1.80 on buckwheat Nos. 1, 2, and 3.

An order will be entered accordingly.

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