

No. 6653.
SCHRAGER COAL COMPANY
v.
DELAWARE, LACKAWANNA & WESTERN RAILROAD
COMPANY ET AL.

Submitted July 6, 1914. Decided October 6, 1914.

Carload rates on anthracite coal from Schrager's washery, near Taylor, Pa., to tidewater points in New Jersey found unreasonable to the extent they exceed the rates to same points from Taylor. Reparation awarded.

John C. Hinckley and Robert D. Jenks for complainant.

J. L. Seager for Delaware, Lackawanna & Western Railroad Company.

REPORT OF THE COMMISSION.

McCHORD, *Commissioner*:

The complainant attacks as unreasonable and unjustly discriminatory rates on anthracite coal from its plant to points of destination on the Central Railroad of New Jersey. Reparation in the sum of \$6,250.44, with interest from June 1, 1913, is claimed.

The single question involved is whether complainant's washery, which for commercial and railroad purposes generally has been included in the territory receiving the benefit of the Taylor rate, should be required to pay the additional local rate from Old Forge, Pa., to Taylor, Pa., on shipments of anthracite coal to points at or near tidewater in New Jersey on the Central Railroad of New Jersey.

The business of complainant is to clean, sell, and ship the refuse or small particles of anthracite coal which were formerly not utilized, but which are now valuable on account of the improved methods of preparation and use. Its washery is located on the Bloomsburg division of defendant Delaware, Lackawanna & Western Railroad, between the stations of Old Forge and Taylor, about 2 miles from Old Forge station and 1 mile from Taylor station. It is within the territorial limits of the borough of Old Forge, although it is situated much nearer to Taylor station than to Old Forge station, being only 600 feet from the Taylor yard limits.

There are no through rates on anthracite coal from Old Forge to points of destination at tidewater on the Central Railroad of New Jersey. Defendant Central Railroad of New Jersey published in connection with defendant Delaware, Lackawanna & Western Rail-

road its joint freight tariff naming rates on anthracite coal, in gross tons (I. C. C. A No. 201, effective May 24, 1911, and still in force), from Taylor (Delaware, Lackawanna & Western Railroad tracks), to Elizabethport, Lincoln, Plainfield, Jersey City, and Chrome, N. J., \$1.65; Newark and West Side Avenue, N. J., \$1.70; and Keyport, N. J., \$2.05. Defendant Delaware, Lackawanna & Western Railroad publishes a rate of 45 cents now in force for 2,240 pounds on anthracite coal, applying from Old Forge to Taylor.

Old Forge and Taylor take the same rates generally, being in one rate group on inbound and outbound shipments. When complainant established its washery the materials thereof were shipped to Taylor and took the Taylor rate, and complainant was under the impression that this rate would be applied to outbound shipments. In fact, shipments of coal involved in this controversy were first moved on the joint rate from Taylor to destination. Bills of lading and expense bills when first rendered to complainant indicated Taylor as the point of origin and the Taylor rate as the rate that would be applied. Subsequently bills were presented covering, in addition to the rate from Taylor, the above-mentioned local rate from Old Forge to Taylor of 45 cents a ton, which it was claimed by defendant was the only tariff rate that could be applied.

Coal from the washery to Pennsylvania Railroad stations takes the Taylor rate, but complainant's washery is between Taylor and points of destination on that railroad. Sibley colliery, which is also situated in Old Forge borough about a mile northwest of Taylor, and not quite as near to Taylor as complainant's washery, enjoys the Taylor rate. We are unable to distinguish differences of transportation circumstances and conditions between Sibley's and Schragger's.

Defendants have not filed a brief. Their position, as we quote from the record, is as follows:

Our doubt was whether we could lawfully apply the Taylor rates to the product of this washery, and the doubt in our mind was raised by the fact that this washery was not only without the usual limits from which Taylor rates would ordinarily apply, but was also in the borough of Old Forge. Now, in order to arrive at a determination, we agreed with the Schragger Coal Company to put this matter before the Interstate Commerce Commission.

Therefore, without other reason than the doubt of defendant Delaware, Lackawanna & Western Railroad that it could properly apply the Taylor rate, it imposed on complainant, under the circumstances and conditions set out above, the charge of 45 cents a ton in addition to its part of the division of the joint through rate, which the Commission in the case of the *Marian Coal Co. v. D., L. & W. R. R. Co.*, 24 I. C. C., 140, had fixed as a reasonable charge for ship-

ments of anthracite coal from Taylor to tidewater. While Taylor is on the Central Railroad of New Jersey, the rates from Taylor to tidewater points on that road are joint rates of that line and the Delaware, Lackawanna & Western, the joint tariff of those lines providing that these rates shall apply from the tracks of the Delaware, Lackawanna & Western.

We find that the rates charged by defendants on shipments of coal from complainant's washery to tidewater points on the Central Railroad of New Jersey were, and for the future will be, unreasonable to the extent that they exceeded, or exceed, the joint rates of defendants contemporaneously maintained from the tracks of the Delaware, Lackawanna & Western at Taylor to points at or near tidewater on the Central Railroad of New Jersey, and an appropriate order will be entered.

The complainant will be expected to prepare a statement showing as to each shipment upon which reparation is claimed, the date of movement, point of origin, point of destination, route, weight, car number and initials, rate charged, and the amount of reparation claimed. This statement should be submitted, with the freight bills covering the same, to the defendants for verification by them. Upon receipt of a statement so prepared by complainant and verified by the defendants, together with the billing, the Commission will take the matter up with a view to the issuance of an order of reparation.

32 I. C. C.