

such traffic, petition may be filed with the Commission for continuing permission to publish, file, and make effective on less than statutory notice lower rates on specific commodities. Such permission will not, however, authorize the establishment on short notice of rates higher than those in effect when permission is granted.



No. 5917.

G. B. MARKLE COMPANY ET AL.

v.

LEHIGH VALLEY RAILROAD COMPANY.

Submitted March 6, 1915. Decided December 27, 1915.

Upon complaint that rates applying upon anthracite coal in carloads from certain collieries in the Lehigh coal region of Pennsylvania to Perth Amboy f. o. b. vessels for transshipment are unreasonable and unjustly discriminatory; *Held:*

1. Reasonable rates for the future will be secured complainants by the order entered in *Rates for Transportation of Anthracite Coal*, 35 I. C. C., 220.
2. Following *Plymouth Coal Co. v. L. V. R. R. Co.*, 36 I. C. C., 140, defendant found to have justified its refusal to continue to furnish storage bins at Perth Amboy, N. J., for the free storage of anthracite coal, and defendant's demurrage regulations governing anthracite coal awaiting transshipment at Perth Amboy found reasonable.
3. Question of reparation held in abeyance for determination in a supplemental report.

R. D. Jenks and *W. A. Glasgow, jr.*, for complainants.
E. H. Boles and *S. C. Pratt* for defendant.

REPORT OF THE COMMISSION.

HALL, *Commissioner:*

G. B. Markle Company, Pardee Brothers & Company, Incorporated, and Weston Dodson & Company, Incorporated, the complainants, are corporations engaged in mining and selling coal. The interveners are partners composing the firm of Charles M. Dodson & Company and doing a like business.

By complaint, filed July 2, 1913, it is alleged that defendant's rates for transportation of anthracite coal in carloads from complainant's collieries to tidewater at Perth Amboy, N. J., for transshipment by water, are unreasonable and subject complainants to

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undue prejudice and disadvantage as compared with defendant's rates on like traffic from the Wyoming coal region of Pennsylvania; and that defendant's regulations as to storage and demurrage at Perth Amboy are unjust, unreasonable, and unjustly discriminatory. Reparation is also asked. The petition in intervention, filed March 20, 1914, is to like effect except that reparation is there asked upon shipments made subsequent to the date of the filing of the original complaint.

At the hearing the parties agreed that the evidence taken in Docket 5905, *Plymouth Coal Co. v. L. V. R. R. Co.*, since reported in 36 I. C. C., 140, should be considered in connection with that introduced in this proceeding in so far as relating to the storage and demurrage regulations of defendant effective at Perth Amboy. In that case we found that defendant had justified its refusal to continue to furnish storage bins at Perth Amboy for free storage of anthracite coal, and that defendant's demurrage regulations as to anthracite coal awaiting transshipment at that point were reasonable. Those findings are controlling here upon this record.

The collieries, seven in all, from which the complainants ship their coal are located on the Mahanoy and Hazleton division of the Lehigh Valley Railroad, in the vicinity of Hazleton. These collieries are at an average distance of 131 miles from Perth Amboy. The colliery from which the interveners ship their coal is one of the seven above referred to and is 130 miles from Perth Amboy. The carload rates in issue from said collieries to Perth Amboy for transshipment by water are as follows:

	Per gross ton.
Prepared sizes-----	\$1. 55
Pea-----	1. 40
Buckwheat-----	1. 20
Rice-----	1. 10
Barley-----	1. 10
Culm-----	1. 10

All rates in this report are stated in dollars and cents per gross ton of 2,240 pounds.

In *Meeker & Co. v. L. V. R. R. Co.*, 21 I. C. C., 129, decided June 8, 1911, the Commission found the rates of the Lehigh Valley Railroad from the Stevens colliery, near Wilkes-Barre, in the Wyoming region, to tidewater at Perth Amboy, a distance of 165 miles, to be unreasonable and prescribed the following as reasonable maximum rates for the future:

	Per gross ton.
Prepared sizes-----	\$1. 40
Pea-----	1. 30
Buckwheat-----	1. 15

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As compared with these rates, the higher rates from the collieries and mines of complainants and interveners are claimed to be unduly prejudicial to them.

Much evidence was introduced bearing on the issues of unreasonableness and unjust discrimination. It need not be discussed, as, since this case was submitted, just and reasonable rates governing such traffic from the coal region affected have been prescribed in *Rates for Transportation of Anthracite Coal*, 35 I. C. C., 220.

There remains the claim for reparation. We are of opinion that in passing upon this issue consideration should be had of matters such as were put in evidence in the *Anthracite case, supra*. Moreover, the parties agreed at the hearing that evidence bearing on the amount of reparation, if any, should be deferred pending determination of the issue of reasonableness.

Further hearing will be had accordingly, and meantime no order will be entered.

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