

No. 4792 (Sub-No. 1).
PLYMOUTH COAL COMPANY
v.
DELAWARE, LACKAWANNA & WESTERN RAILROAD
COMPANY.

Decided January 27, 1921.

Report on further hearing, 56 I. C. C., 699, modified as to the amount of reparation awarded.

SUPPLEMENTAL REPORT OF THE COMMISSION.

BY THE COMMISSION:

In our report on further hearing in this case, 56 I. C. C., 699, we found (a) that within the period April 9, 1910, to March 31, 1916, inclusive, the complainant paid, through the American Exchange National Bank of New York, its fiscal agent, to defendant, Delaware, Lackawanna & Western Railroad, freight charges aggregating \$345,820.87 on certain carload shipments of anthracite coal which had been transported by said defendant from Plymouth, Luzerne, and Kingston, Pa., to New York lighterage station, N. J., f. o. b. vessels; (b) that in the aggregate these shipments consisted of 187,389.93 long tons of prepared sizes and 34,800.36 long tons of pea size, and that the freight charges paid thereon were assessed at rates of \$1.58 and \$1.43 per long ton, respectively, which were found to have been unreasonable; (c) that freight charges aggregating \$318,695.88 would have accrued and become payable on these shipments if the rates therein found reasonable, \$1.45 and \$1.35 per long ton, respectively, had been applicable; (d) that by reason of having been required to pay the aforesaid charges at unreasonable rates the complainant, at the time of payment, suffered damages to the extent of the difference between the charges paid and the charges which it would have been required to pay at the rates therein found reasonable; and (e) that the complainant was entitled to recover from the Delaware, Lackawanna & Western Railroad the damages thus sustained, amounting in principal to \$27,124.99, with interest. An order was entered awarding reparation in accordance with the findings.

Upon further examination of the record we find that in the aggregate the shipments referred to consisted of 187,381.65 long tons of prepared sizes and 34,797.80 long tons of pea size; that freight charges aggregating \$318,680.42 would have accrued and become payable.

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able on these shipments if the rates found reasonable, \$1.45 and \$1.35 per long ton, respectively, had been applicable; and that the damages which complainant is entitled to recover from the Delaware, Lackawanna & Western Railroad under our findings amount in principal to \$27,140.45. Our report on further hearing is modified to this extent and an amended order of reparation will be entered accordingly.

INVESTIGATION AND SUSPENSION DOCKET No. 1220.
TRACKAGE CHARGE ON LOADED CARS.

Submitted November 11, 1920. Decided January 24, 1921.

Schedules filed by the Chicago & West Ridge Railroad naming trackage charges ordered stricken from our files, the Chicago & West Ridge Railroad not being a common carrier subject to the interstate commerce act.

B. F. Weber and C. A. Shank for respondent.

A. R. Miller and W. R. Olsen for protestant.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HALL, EASTMAN, AND FORD.

BY DIVISION 3:

By schedules filed to become effective October 15, 1920, the respondent, Chicago & West Ridge Railroad, proposes to establish a trackage charge of \$3 "for each car under load set upon and each car under load taken from" its tracks. In a tariff previously filed by respondent a trackage charge of \$1 is named which it proposes to cancel. Upon protest of the Illinois Brick Company the schedules were suspended until February 12, 1921.

Respondent's tracks extend about 2.5 miles from Weber, Ill., a station beyond the city limits of Chicago, Ill., on the Chicago & North Western, hereinafter called the North Western, to Peterson avenue within those limits. Respondent does not own or operate any rolling stock or perform any service of transportation. It allows the North Western, its only connection, to use its tracks without charge. The trackage charge is imposed on the shipper. Respondent does not participate in any rates with other railroads, does not issue bills of lading or publish demurrage charges, and the only charge collected by it is the trackage charge, which thus constitutes its sole source of revenue.

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