

No. 12587.<sup>1</sup>  
 MAGARGEE BROTHERS, INCORPORATED,  
*v.*  
 DELAWARE & HUDSON COMPANY ET AL.

Submitted December 9, 1921. Decided March 18, 1922.

Rate applicable on newsprint paper, in carloads, from Corinth, Delano Junction, and Fort Edwards, N. Y., to Scranton, Pa., found not unreasonable, unjustly discriminatory, or unduly prejudicial. Refund of overcharges directed and complaints dismissed.

*M. J. Martin* for complainant.

*W. J. Larrabee* for director general, as agent, and Delaware, Lackawanna & Western Railroad Company.

*Edward T. Noble* for Delaware & Hudson Company.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HALL, EASTMAN, AND CAMPBELL.

BY DIVISION 3:

No exceptions were filed to the report proposed by the examiner.

Complainant is a corporation engaged in the wholesale paper business at Scranton, Pa. By complaint filed February 28, 1921, it alleges that the rates charged on various carloads of newsprint paper, shipped from Corinth, Delano Junction, and Fort Edwards, N. Y., to Scranton since January 1, 1918, were, and that the present rate is, unjust, unreasonable, unjustly discriminatory, and unduly prejudicial. We are asked to prescribe a reasonable rate for the future and to award reparation. Rates will be stated in cents per 100 pounds.

Corinth, Delano Junction, and Fort Edwards are local stations on the Delaware & Hudson a few miles north of Saratoga Springs, N. Y., a junction point between that line and the Boston & Maine. The shipments on which reparation is sought were made between July 1, 1918, and August 12, 1920, inclusive. They moved, as routed by the shipper, over the Delaware & Hudson to Binghamton, N. Y., and the Delaware, Lackawanna & Western, hereinafter called the

<sup>1</sup> This report also embraces No. 12587 (Sub-No. 1), Same *v.* Director General, as Agent. 68 I. C. C.

Lackawanna, beyond. Charges were collected at the applicable joint commodity rate of 22.5 cents on most of the shipments, but on some overcharges exist which should be promptly refunded, with interest.

A combination rate of 18 cents was contemporaneously in effect on newsprint paper from the points of origin to complainant's plant at Scranton when routed over the Delaware & Hudson to Scranton. This rate was composed of a commodity rate of 15.5 cents to Scranton and the Lackawanna's switching rate of 2.5 cents. The distance from Corinth and Fort Edwards to Scranton over this route is 219 miles and from Delano Junction 265 miles, or approximately 10 miles less in each instance than over the route of movement. The 22.5-cent rate is compared with rates of from 22 to 25.5 cents contemporaneously in effect on the same commodity from and to other points for distances ranging from 218 to 291 miles. The 22.5-cent rate also applied from various other points in New York to Scranton for two-line hauls, 231 to 302 miles.

No evidence was introduced in support of the allegation of unjust discrimination or undue prejudice. The Delaware & Hudson at one time agreed to publish a rate of 17.5 cents on this traffic for direct movement over its line, but did not establish it. Complainant relied largely upon this promise. The fact that a lower rate was and is contemporaneously applicable over the Delaware & Hudson direct does not of itself prove that a higher rate for a two-line haul is unreasonable.

We find that the applicable rate was not and that the present rate is not unreasonable, unjustly discriminatory, or unduly prejudicial. The complaints will be dismissed.

68 I. C. C.