

No. 13577.

SONORA, INCORPORATED, *v.* DELAWARE, LACKAWANNA  
& WESTERN RAILROAD COMPANY ET AL.

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*Submitted November 1, 1922. Decided October 11, 1923.*

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Rate on talking-machine operating and sound mechanism assemblies from New York, N. Y., and Newark and Harrison, N. J., to Saginaw, Mich., during April, May, and July, 1920, found not unjust or unreasonable. Complaint dismissed.

*Chas. E. Vose* for complainant.

*W. J. Larrabee* and *E. H. Burgess* for defendants.

*F. W. Smith* for Official Classification Committee.

REPORT OF THE COMMISSION.

DIVISION 3, COMMISSIONERS HALL, CAMPBELL, AND COX.

By DIVISION 3:

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

Complainant is a corporation manufacturing talking machines at Saginaw, Mich. By complaint filed February 25, 1922, it alleges that the first-class rate of 99 cents charged on seven carloads of talking-machine operating and sound mechanism assemblies shipped during April, May, and July, 1920, from New York, N. Y., and Newark and Harrison, N. J., to Saginaw, Mich., was unjust and unreasonable to the extent that it exceeded the fourth-class rate of 46 cents. The prayer is for reparation. Rates are stated in cents per 100 pounds.

The bulk of the shipments consisted of spring motors purchased in St. Croix, Switzerland. One shipment of motors was purchased and shipped from Newark. The seven carloads also contained a few cases of extra parts for motors and a few cases of sound boxes, tone arms, and turntables.

Prior to August 15, 1920, and when the shipments moved, no carload rating on talking-machine parts was provided in the applicable classification. The classification of these articles fell under the head of "Talking Machine Parts, N. O. I. B. N., in barrels or boxes," rated first class in official territory. Effective August 15, 1920, a new item was added reading as follows:

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Talking Machine Operating and Sound Mechanism Assemblies:	Class.
In boxes, L. C. L.-----	1
In boxes, c. L., min. wt. 30,000 lbs., subject to Rule 34-----	4

The carload rating was published at the instance of the Columbia Graphophone Company, which petitioned for the establishment of such a rating on talking machines, knocked down, without cabinets. No complaint asking for reparation on shipments made prior to August 15, 1920, has been filed by the Columbia Graphophone Company or any manufacturer of talking machines other than this complainant. Shippers appeared at the public hearing held by the classification committees and it was made to appear that the practice of the larger manufacturers of talking machines was to have the wooden cabinets manufactured at points considerably removed from the factories where the operating and sound mechanism units were manufactured. The mechanical parts, therefore, moved to the assembly plants in carload quantities. Complainant does not attack the rating of fourth class subsequently established.

The spring motor introduced in evidence by complainant resembles the works of a clock except that it has no small gears and wheels. It consists of a cast-iron frame with steel spring barrels, a gear wheel, two pinions, a spindle, a winding crank, and a speed regulator. The winding crank and speed regulator were packed separately. The motors were wrapped in water-proof paper, packed in cartons, and boxed in cases weighing about 200 pounds each. There were no springs in these motors. The sound boxes, tone arms, and turntables are not fully described in the record, but resemble those of other standard talking machines. Complainant testified that the motors weighed from 6.5 to 20 pounds each and ranged in value from \$4 to \$23 each at New York. The tone arms weighed about 0.75 pound each and were worth from \$2.50 to \$3 each at New York. The sound boxes weighed from 0.375 to 0.5 pound each and were worth about \$1.75 each at New York. The weight and value of the turntables is not shown.

Completed talking machines, which are more liable to loss and damage, were rated second class, in carloads, minimum 16,000 pounds. Fans, motors, generators, vacuum cleaners, and textile machinery are classified fourth class and fifth class, in carloads. Complainant refers to these commodities without supporting evidence establishing their analogy to the articles here considered.

Complainant shows that during 1919 it made 39 shipments of talking-machine parts, mostly of motors, from New York to Saginaw, Mich., averaging 2,066 pounds each. This is considerably below the minimum of 30,000 pounds established in connection with the carload rating.

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Defendants contend that complainant's shipments could not be properly classified as talking-machine operating and sound mechanism assemblies for the reason that the assemblies were not complete, the motors having no springs and not being accompanied by a sufficient number of sound boxes, tone arms, and turntables to make complete machines with the exception of the cabinets. There were also a number of separate motor parts in these shipments, and the sound boxes were shipped without the mica diaphragm needed to make them complete. Complainant's shipments apparently would not fall within the description now taking the carload rating of fourth class.

Carload ratings, like commodity rates, should be established as the need for them arises. Considering the volume of movement it does not appear that there was any undue delay in the establishment of the carload rating on August 15, 1920. We find that the rate assailed was not unjust or unreasonable. The complaint will be dismissed.

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