

No. 14275.¹

SEABOARD BY-PRODUCT COKE COMPANY v. DELAWARE, LACKAWANNA & WESTERN RAILROAD COMPANY.

Submitted May 18, 1923. Decided October 27, 1923.

Rate on sulphate of ammonia, in carloads, from Seaboard, N. J., to New York, N. Y., for export, found not unreasonable or otherwise unlawful. Complaints dismissed.

H. F. Smith and *S. S. Bruce* for complainant.

M. B. Pierce and *D. T. Lawrence* for defendants.

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, a corporation operating by-product coke ovens at Seaboard, N. J., alleges by complaints filed September 22 and 26, 1922, that the rate of 12.5 cents charged on 188 carloads of sulphate of ammonia from Seaboard to New York, N. Y., for export between September 15, 1920, and April 7, 1922, was unreasonable and unduly prejudicial to the extent that it exceeded 10 cents. Reparation only is sought. Rates are stated in cents per 100 pounds.

Of the shipments, 100 moved over the Delaware, Lackawanna & Western, hereinafter called the Lackawanna, via Hoboken, N. J., and 88 over the Erie via Jersey City or Weehawken, N. J. The rate charged was the applicable sixth-class rate. The average loading was 68,600 pounds. The distance from Seaboard to New York is given in the tariffs as 5 miles over the Erie and 4 miles over the Lackawanna. Defendants show that they, in fact, hauled the shipments from 10 to 12 miles by rail and from 4 to 8 miles by water. They point out that divisions to carriers making deliveries in New York Harbor are frequently based on an allowance of 60 constructive miles for the water haul, and that in *Seaboard By-Product Coke Co. v. Director General*, 62 I. C. C., 317, 320, we said that 108 constructive miles did not seem to be an unreasonable estimate for

¹ This report also embraces No. 14348, Same v. Erie Railroad Company.
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movements through the harbor. They estimate the cost of the ligherage service, including loading and unloading, to have been \$1.28 per net ton.

Complainant performs the terminal service at its plant, which was opened for operation in August, 1917. Its total traffic amounts to about 2,000,000 tons annually, consisting chiefly of coal, lime, and sulphuric acid inbound, and coke, crude oil tar, sulphate of ammonia, and coal gas outbound. Sulphate of ammonia is used as a basic material in the manufacture of fertilizer and also to some extent in the manufacture of various chemical compounds. Its value at the time of hearing in January, 1923, ranged from \$3.55 to \$3.65 per net ton. Complainant had previously disposed of most of its output of this commodity to manufacturers of fertilizer at Chrome, N. J., Richmond, Va., and other points in the United States. These shipments constituted the first substantial movement from its plant for export. In September, 1921, it requested the establishment of a commodity rate. The Erie granted this request on April 7, 1922, by the establishment of a commodity rate of 10 cents. Like action was taken by the Lackawanna, effective May 15, 1922. The Erie maintained during the period of movement a commodity rate of 10 cents on fertilizer to New York from Harrison, N. J., 2 miles west of Seaboard, and this rate was applicable to mixed carloads of fertilizer and sulphate of ammonia under an exception to the classification. The sixth-class rate of 12.5 cents was applicable from that point over the Erie on sulphate of ammonia shipped alone and over the Lackawanna on both commodities.

Complainant refers to contemporaneous rates on sulphate of ammonia to fertilizer manufacturing points in trunk-line territory, ranging from 48 to 87 per cent of the corresponding sixth-class rates. It is not contended that these rates covered any service comparable to that afforded this traffic in the New York district. Defendants stress the fact that the domestic use of fertilizer results in increasing the tonnage of agricultural products offered the carriers for transportation.

The following table, compiled from an exhibit, shows the rates contemporaneously maintained to New York, for export, from representative competing points:

To New York, N. Y., for export, from—	Distance.	Rates.	To New York, N. Y., for export, from—	Distance.	Rates.
	<i>Miles.</i>	<i>Cents.</i>		<i>Miles.</i>	<i>Cents.</i>
Buffalo, N. Y.....	396	25	Swedeland, Pa.....	90	17.5
Steelman, Pa.....	185	21	Bethlehem, Pa.....	85	19.5
Lebanon, Pa.....	172	21	Seaboard, N. J.....	4.5	12.5

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Complainant bases its allegation of undue prejudice on comparison with the rate from Buffalo, from which point the traffic moved in substantial volume over both the Erie and Lackawanna. When the service performed by the carriers in the New York district is considered the rate charged does not compare unfavorably with the rates from Buffalo and the other points named.

We find that the rate assailed was not unreasonable or otherwise unlawful. The complaints will be dismissed.

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