

No. 17884

SUNBURY CONVERTING WORKS *v.* DELAWARE, LACKAWANNA & WESTERN RAILROAD COMPANY

Submitted September 11, 1926. Decided March 4, 1927

Rate charged on engraved copper rolls returned for reengraving, in less than carloads, from Northumberland, Pa., to New York, N. Y., found not unreasonable. Complaint dismissed.

Abner Pollack and Samuel H. Blank for complainant.

W. J. Larrabee for defendant.

REPORT OF THE COMMISSION

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND WOODLOCK

BY DIVISION 4.

This case was presented under the shortened procedure. Exceptions were filed by the complainant to the report proposed by the examiner.

Complainant is a corporation engaged in converting silk goods with general offices at Sunbury, Pa. By informal complaint filed February 25, 1925, and formal complaint filed December 18, 1925, as amended, it alleges that the rate charged for the transportation of old worn-out engraved copper rolls, returned for reengraving, in less than carloads from Northumberland, Pa., to New York, N. Y., was and is unreasonable. We are asked to prescribe a reasonable rate for the future and award reparation on shipments made subsequent to February 21, 1923. Rates will be stated in cents per 100 pounds.

The distance over defendant's line from Northumberland to New York is 214 miles. From June 23, 1923, to December 17, 1925, 242 shipments were made, averaging eight shipments per month, and having an average weight of 5,345 pounds. Charges were collected at the applicable first-class rate of 66.5 cents. This rating has been applicable on engraved or etched copper rolls, whether old or new, for 14 years.

Engraved copper rolls are used in the printing of textiles. Complainant's shipments consisted of engraved copper rolls on which the engraving had become so worn as to be unfit for further use, or, in a few instances, on which the engraving or pattern was defective, and which were returned to be planed down and reengraved. Each

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roll weighs 220 pounds net, and is packed in a heavy wooden box. They are 44 inches long and 5.75 inches in diameter, on the average. The boxes used for the returned shipments are the same in which newly engraved rolls are shipped. The average weight density is 136 pounds per cubic foot. The cost of new copper rolls, bought for engraving, is 30 cents per pound, and the estimated cost of engraving varies from \$50 to \$300 per roll, according to the design. The value of the rolls after engraving is not shown, but based on the indicated cost of engraving would range from 52 cents to \$1.66 per pound. The value of the rolls returned for reengraving is estimated by complainant at 28 cents per pound. No loss and damage claims have been presented on these shipments.

Complainant contends that its shipments should not be made to pay a higher rate than third class, which is 44 cents, and in support of this contention refers to official classification ratings on various commodities of which the following are illustrative:

Commodity	Value per pound	Weight per cubic foot	Less-than-carload ratings
	<i>Cents</i>	<i>Pounds</i>	<i>Class</i>
Copper rivets, in boxes.....	35-50	75	Third.
New copper rolls, in boxes.....	30	137	Third.
Cast-iron toys, in boxes.....	11	38	Second.
Floor-sweeping compound in barrels.....	2	37.5	Fourth.

Complainant also refers to the following articles which take lower ratings when old or worn out than when new:

	New	Old or worn out
	<i>Class</i>	<i>Class</i>
Boat sails.....	First.....	Third.
Cartridge shells, empty, in barrels or boxes.....	First.....	Rule 25.
Electrotype plates or electrotype shells.....	First.....	Third.
Stereotype plates.....	First.....	Fourth.
Metal type.....	Second.....	Third.
Paper-mill rolls, not engraved or etched, iron or steel, covered with cloth or rubber...	Second.....	Third.
Printer's rollers, elastic composition covered.....	Second.....	Third.

Complainant directs particular attention to the third-class rating on new copper rolls, pointing out that these rolls are of slightly more value than the returned rolls because the former are ready to be engraved while the latter must first be planed to remove the original engraving. It also directs attention to the ratings on old or worn-out electrotype plates, electrotype shells, and stereotype plates contending that they have similar transportation characteristics to its shipments.

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Defendant states that the rating on new copper rolls when applied to rolls suitable for engraving, is subnormal; that the classification description is primarily intended to apply on ordinary rolls, which are analogous to commercial copper bars or tubing, but that the classification committee has not found it practicable to draw a line which would accord one rating to ordinary commercial rolls and another to rolls suitable for engraving. It contends that the other commodities mentioned by complainant are not comparable with rolls returned for reengraving. Of the commodities instanced by complainant as taking lower ratings when old than when new, defendant states that old cartridge shells, electrotype plates, electrotype shells, stereotype plates, and metal type are never shipped for finishing but only for remelting, and are in fact nothing more than scrap metal. In its rebuttal memorandum, however, complainant denies that old cartridge shells are invariably remelted.

Defendant stresses the difficulty of policing shipments of new and old engraved copper rolls if those for reengraving should be accorded different rates or ratings than the new engraved rolls, and states that such a distinction was formerly made in the classification, but that policing troubles necessitated its discontinuance in 1912. Further, unless the engraving is altogether removed from the roll the carriers' representatives can not determine from any examination or inspection that can practicably be made whether or not the roll is still serviceable for printing. The process of turning the rolls down and reengraving the surface can be repeated from 12 to 16 times before they become too thin for further use.

Defendant also states that while complainant describes these rolls as "old and worn out," and having value only as the elementary metal from which made, it is manifest that only the engraving is worn out and that the rolls still have a considerable value as such. Unmanufactured copper they show to be worth only 14 cents per pound, whereas complainant estimates the value of these old rolls at 28 cents per pound.

Defendant points out, moreover, that engraved copper rolls are not only returned to engravers for planing off the worn-out pattern and reengraving a new one, but frequently also for sharpening up a pattern, certain portions of which have become dull or marred; that they are sometimes shipped to engravers for reengraving notwithstanding they are still serviceable, because the pattern has been discarded by the particular mill; and that occasionally rolls which have been used, but not long enough to become unserviceable, are shipped to another point for further use, in which case the roll is not reengraved or revived in any manner.

Complainant admits that there is a small percentage of its shipments which are returned to the engraver on account of defects in the pattern on which the engraving is removed and a new pattern engraved, but insists that it does not ship engraved rolls from Northumberland to New York or other destinations unless they are to be reengraved or scrapped; and states that policing difficulties should not be given undue consideration, referring, in support thereof, to *Nat'l. Asso. Waste Material Dealers v. A. A. R. R. Co.*, 68 I. C. C. 748, 752. That case dealt with the ratings on scrap rubber and the situation as there considered differed materially from the instant case.

On the evidence submitted the principal if not the only question raised is whether the old engraved rolls shall have a lower rating than the newly engraved rolls. The commodities instanced by complainant which take the same ratings whether old or new are of little help in determining this question. Neither can much probative value be given to the comparisons made by complainant with other commodities to which the carriers have accorded lower ratings when old than when new, since they are unsupported by evidence concerning the classification characteristics of those commodities, and the evidence given by defendant on that point indicates, as to some of these articles at least, that the new and old forms are practically distinct commodities.

As previously stated, the rolls returned for reengraving are shipped in the same containers as the new engraved rolls, and, except as to value, they have the same transportation characteristics. The reasonableness of the first-class rate as applied to shipments of newly engraved rolls is not in issue. A similar question was considered in *Minneapolis Traffic Asso. v. C. & N. W. Ry. Co.*, 23 I. C. C. 432, and after a thorough consideration of the matter we said, at page 437:

* * * we are not prepared to lay down the principle that old or second-hand articles must be treated differently from new or that value is the controlling element in making rates. Such of these articles or parts as are in fact scrap are entitled to the scrap rate, but if they have any value as the articles which they originally purported to be, we do not feel that we can require the carriers to transport them at other than the regular tariff rates applicable to the new or originally transported article.

This policy has been followed in numerous later cases.

We find that neither the rate assailed nor the classification rating applicable to shipments of engraved copper rolls returned for reengraving are unreasonable. The complaint will be dismissed.

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