

No. 22003¹SUSSEX COUNTY FUEL CLUB *v.* ERIE RAILROAD
COMPANY ET AL.

Submitted May 9, 1930. Decided July 15, 1930

1. Rates on coal, in carloads, from the anthracite district in Pennsylvania to certain destinations in northern New Jersey found unreasonable. Reasonable rates prescribed, and reparation awarded. Finding in previous report in No. 18815, 136 I. C. C. 680, reversed.
2. Rates on coal, in carloads, from the anthracite district in Pennsylvania to Warbasse, N. J., and over certain routes to Sparta and Sparta Junction, N. J., found not unreasonable.
3. Schedules proposing to increase rates on coal from the anthracite district in Pennsylvania to certain destinations in northern New Jersey found not justified. Suspended schedules ordered canceled, and proceeding discontinued.

Frederick I. Cox, L. P. Dolan, Hugo Oberg, and E. C. Blanchard for complainants.

Frank M. Swacker, W. A. Moore, W. A. Smith, and Alexander Koplín for New Jersey Zinc Company, intervener.

W. J. Woodcock, jr., for Reading Company; *W. J. Larrabee* for Delaware, Lackawanna & Western Railroad Company; *George P. Orlandy* for Lehigh & New England Railroad Company; *E. H. Burgess* for Lehigh Valley Railroad Company; *H. A. Taylor* for New York, Susquehanna & Western Railroad Company, Wilkes-Barre & Eastern Railroad Company, and Erie Railroad Company; *A. H. Elder* for Central Railroad Company of New Jersey, defendants and respondents.

E. C. Blanchard and Hugo Oberg for protestants.

REPORT OF THE COMMISSION

PORTER, *Commissioner*:

These cases involve similar issues, and will be disposed of in one report. Exceptions were filed by complainants and defendants to the report proposed by the examiner, to which replies were made, and the cases were orally argued. Our conclusions differ somewhat from those recommended by the examiner.

¹ This report also embraces No. 21277, *Ira Casterline, Incorporated, v. Erie Railroad Company et al.*; No. 18815, *Same v. Same*, upon rehearing; and Investigation and Suspension Docket No. 3304, *Anthracite Coal from Mines on Erie Railroad in Pennsylvania to Destinations in New Jersey*.

Complainant in the title case is a voluntary association of individuals,² partnerships,³ and corporations,⁴ hereinafter called complainants, retailing coal at various points in Sussex County in the northern part of New Jersey. Complainant in No. 21277 is a member of complainant in the title case, and retails coal at South Ogdensburg, N. J. By complaint in the title case, filed February 20, 1929, as amended, and by complaint in No. 21277, filed July 23, 1928, it is alleged that the rates on anthracite coal, in carloads, from the anthracite coal district in Pennsylvania to certain destinations⁵ in northern New Jersey were and are unreasonable.

The allegations in the title case and in No. 21277 are more specifically shown in Appendix A hereto. We are asked to prescribe reasonable rates for the future and to award reparation, including shipments moving during the pendency of these proceedings. Rates and rate differences will be stated in amounts per ton of 2,240 pounds, unless otherwise indicated.

The New Jersey Zinc Company, a corporation operating zinc mines and ore-dressing plants at Franklin and Ogdensburg, was permitted to intervene in the title case. It seeks reasonable rates on sizes smaller than pea from the anthracite coal fields of Pennsylvania to Franklin and Ogdensburg, and reparation on past shipments.

In the previous report in No. 18815, 136 I. C. C. 680, handled under the shortened procedure, division 4 found not unreasonable rates of \$2.39 on prepared sizes and \$2.27 on pea and smaller sizes from the anthracite district to South Ogdensburg. The shipments there considered moved from the mines either over the Erie and Wilkes-Barre & Eastern, the Delaware & Hudson and Wilkes-Barre & Eastern, or the Lehigh & New England, and thence to destination over the New York, Susquehanna & Western. These carriers, except the Erie, will hereinafter be referred to by their initials. The average distance traversed, according to complainant, was 105 miles. South Ogdensburg is 3.2 miles east of Sparta, and 3.1 miles west of

² Those named in the complaint are Lester Z. Brands, Papakating, N. J.; W. B. Hough, Augusta, N. J.; W. E. Chambers, Ogdensburg, N. J.; Joseph Ayers, Andover, N. J.; Herman M. Mendell, Sparta, N. J.; Day E. Hixson, Newton and Andover, N. J.; B. D. Simmons, trading as Decker & Simmons, Sussex, N. J.; and Eugene Parker, trading as Wm. D. Parker & Bros., Vernon, N. J.

³ Those named in the complaint are Mills & Roy Company, Sussex, N. J., composed of Andrew W. Roy and S. Royal Mills; and O. P. Armstrong Company, Lafayette, N. J., composed of O. P. Armstrong and Floyd Burd.

⁴ Those named in the complaint are B. D. Simmons Company, Franklin, N. J.; Branchville Supply Company, Branchville, N. J.; Reeve Harden Companies, Woodruff's Gap and Hamburg, N. J.; Consolidated Feed, Coal & Lumber Company, Sussex, N. J.; the Hart & Hiff Companies, Newton, N. J.; and Hoos & Fletcher, Branchville, N. J.

⁵ Warbasse, Sparta, South Ogdensburg, Stockholm, Ogdensburg, Pellettown, Woodruff's Gap, Vernon, Newton, Lafayette, Branchville, Sparta Junction, Franklin, Hamburg, Sussex, Andover, Augusta, and Monroe.

Beaver Lake, N. J., being intermediate to the latter point. It is not named in the governing tariffs and the rates charged were those applicable to Beaver Lake, the next more distant station named. Complainant in that case sought rates of \$2.02 on prepared sizes and \$1.89 on pea and smaller sizes, applicable to Sparta. Although complainant at the original hearing relied upon its allegation of unreasonableness, its evidence at that time was directed primarily to the fact that its competitor at Sparta enjoys rates which are less than those of complainant by 37 cents on prepared sizes and 38 cents on pea and smaller sizes.

Sparta is the last point in the group taking rates of \$2.02 on prepared sizes and \$1.89 on pea and smaller sizes, while South Ogdensburg is the first point in the next group to the east. The group in which Sparta is located ranges in distance from 80 to 109 miles from the anthracite district, or a mean distance of about 95 miles. The distances to the group in which South Ogdensburg is located range from 87 to at least 169 miles, or a mean distance of about 128 miles. The original record failed to show that there was an improper grouping of destinations. Upon petition filed by complainant this case was reopened for rehearing. At the combined hearing herein this complainant, who is also complainant in No. 21277, supported complainants and intervener in the title case in their contention that all of the rates to this territory were and are excessive. Undue prejudice or preference was expressly disclaimed by all of the complainants and the intervener.

By schedules filed to become effective June 3 and July 1, 1929, after the combined hearing had been held, respondents proposed to increase the rates on anthracite coal from points on the Erie, W. & E., D. & H., L. & W. V., and N. Y., O. & W.,⁶ in the anthracite district to Warbasse, Sparta Junction, and Sparta on the N. Y., S. & W., and also to stations Blairstown to Halsey, N. J., inclusive, on that line. The latter stations are directly west of Warbasse. Upon protest of complainants in these cases, operation of the schedules was suspended by us until January 3 and February 1, 1930, and has since been voluntarily deferred by respondents until September 1, 1930. The parties to the suspension proceeding agreed to submit the issues therein upon the record in the complaint cases.

A description of the regions in which anthracite coal is produced is found in *Rates for Transportation of Anthracite Coal*, 35 I. C. C. 220, decided July 30, 1915, hereinafter referred to as No. 4914. Each destination here considered is served by one or more of the following carriers: The N. Y., S. & W., which extends from Strouds-

⁶ Lackawanna & Wyoming Valley; New York, Ontario & Western.
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burg, Pa., where it connects with the W. & E., to Jersey City, N. J.; the D. L. & W.,⁷ which extends from the origin territory to Hoboken, N. J.; the L. & H. R.,⁷ which extends northeasterly from Easton, Pa., where it connects with the C. R. R.,⁷ to Maybrook, N. Y., where it connects with the New York, New Haven & Hartford; and the L. & N. E., which extends northeasterly from the origin territory to Campbell Hall, N. Y., where it connects with the N. Y., O. & W.

In No. 4914 we prescribed rates, as modified by the subsequent general changes, of \$2.39 on prepared sizes and \$2.27 on pea and smaller sizes from the anthracite district to northern tidewater points and lower rates to a few interior points. The following table is illustrative:

From points on—	To—	Average distance	Rates	
			Prepared sizes	Pea and smaller sizes
		<i>Miles</i>		
D., L. & W.-----	Hoboken, N. J.-----	149	\$2.39	\$2.27
Do-----	Boonton, N. J.-----	115	2.14	2.02
Erie-----	Jersey City, N. J.-----	168	2.39	2.27
Do-----	Middletown, N. Y.-----	102	2.02	1.89
C. R. R.-----	Jersey City, N. J.-----	140	2.39	2.27
Do-----	Somerville, N. J.-----	115	2.14	2.02

¹ As modified by the subsequent general changes.

We said, at page 289:

To all points intermediate or related to the points specified herein the carriers will be required to establish rates in harmony with those here prescribed, giving due consideration to distance.

We originally prescribed over the D., L. & W. and Erie to Paterson and Newark, N. J., a lower rate than to tidewater, but by supplemental order dated February 24, 1916, we fixed the tidewater rates as maxima to those points. Paterson and Newark are about 16 and 9 miles, respectively, west of Hoboken and Jersey City.

Defendants take the position that as the supplemental order fixed the tidewater rates as maxima for application to Paterson and Newark, this indicated our intention to permit them to carry the tidewater rates back to all of the stations east of the first stations west of tidewater to which specific rates were originally prescribed.

The D., L. & W. established to stations east of Boonton the rate prescribed to Hoboken. It also established that rate to destinations on its Sussex branch, on which the complaining points herein served by that line are located.

⁷ Delaware, Lackawanna & Western; Lehigh & Hudson River; Central Railroad of New Jersey.

The Erie established to stations east of Middletown the rate prescribed to Jersey City. In No. 4914 no rates were prescribed to points on the N. Y., S. & W. other than Jersey City. That line established the Jersey City rate to Beaver Lake, the southern terminus of its Hanford branch, about 54 miles from Jersey City and 3 miles east of South Ogdensburg, and to points on its Hanford branch. Most of the complaining points served by the N. Y., S. & W. are on the Hanford branch.

The L. & N. E., which was not a party to No. 4914, extended the tidewater rates back into the interior, including Pellettown, Sussex, and Augusta, the rates to which are among those here assailed.

Intervener uses large quantities of buckwheat sizes Nos. 2 and 3. During 1928 it received a total of over 53,000 tons at Ogdensburg and Franklin. During the reparation period complainants received a total of about 58,000 tons of prepared sizes and 12,500 tons of pea and smaller sizes. Intervener's evidence and that of complainants was along similar lines, and it will be referred to generally as that of complainants, unless otherwise indicated.

The table in Appendix B hereto, prepared from exhibits of record, shows the rates assailed on prepared sizes and the average distances for which they apply.

Complainants point out that the distances from mines on the Reading via Haucks, Pa., thence the C. R. R. to Easton and the L. & H. R. beyond are about 30 miles less than those via Allentown shown in Appendix B. The assailed rate of \$2.65 does not apply over that route, and we have here no request for the establishment of additional routes. Moreover, such a route would short haul the Reading.

In computing distances from mines on the Lehigh Valley, herein-after called the L. V., and the C. R. R., complainants did not consider distances from mines on those lines in the Wyoming region for the reason that higher rates frequently apply from mines in that region. They do not ship from mines on those lines in the Wyoming region. Intervener ships from all three regions, but the record does not disclose whether it ships from mines on the C. R. R. and L. V. in the Wyoming region. Upon exceptions and oral argument defendant C. R. R. points out that the complaint in the title case, in so far as its line is concerned, attacks only the rates from "points such as Hauto and Upper Lehigh to Sussex, Pellettown, and Augusta." Hauto and Upper Lehigh are in the Lehigh region, and complainants do not attack the rates from points on the C. R. R. or the L. V. in the Wyoming region. In its petition of intervention, which was filed prior to the hearing, intervener specifically alleges that its shipments to Franklin and Ogdensburg are subject to the same rates as to Sussex alleged in the complaint to be unreasonable. Intervener contends

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that the petition of intervention as so worded placed in issue the rates to Franklin and Ogdensburg from C. R. R. and L. V. mines in the Wyoming region. The C. R. R. contends that it did not. We find it unnecessary to determine this point, for, while intervener and both the C. R. R. and the L. V. introduced some evidence with respect to the rates from points on those lines in the Wyoming region to Franklin and other destinations here considered, it is too meager to warrant a finding with respect thereto, and our findings herein are not to be construed as embracing those rates.

It will be noted from Appendix B that the average distances, excluding those from mines on the Reading over its route via Allentown, range from 87 to 130 miles, and that seven of the destinations are served by more than one line. The lowest average of the average distances shown to any point, excluding the route from Reading mines, is to Sparta, 102 miles, and the highest is to Ogdensburg, 122 miles.

The rates on pea and smaller sizes are lower than those on prepared sizes, and no suggestion was made upon this record that they should not continue to be lower. Where the assailed rates on prepared sizes are \$2.02, \$2.39, and \$2.52, the rates on pea and smaller sizes are 12 or 13 cents lower, and where the rates on prepared sizes are \$2.65 the rates on pea are 26 cents lower and the rates on sizes smaller than pea 38 cents lower. Intervener shows that the value of buckwheat Nos. 2 and 3 is comparable with the value of bituminous coal. It contends that the rates on sizes smaller than pea should be about 75 per cent of the rates on prepared sizes. There is no fixed relation between the rates on prepared sizes on the one hand and the smaller sizes on the other, nor between the rates on pea size and the smaller sizes. The rates on pea and smaller sizes prescribed in No. 4914 were approximately 90 per cent of those prescribed on prepared sizes. The present relationship is about 95 per cent. Prior to the No. 4914 adjustment the carriers maintained four different rates on various sizes of anthracite coal moving to tidewater. This record does not warrant more than two different rates to any of these destinations, one for prepared sizes and the other for pea and smaller sizes.

It will be noted from Appendix B that to most of the destinations different rates apply over different routes. Thus, rates of \$2.02 and \$2.39 apply to Sparta, \$2.39 and \$2.65 to Pellettown, Branchville, Hamburg, and Sussex, \$2.39 and \$2.52 to Newton and Lafayette, \$2.52 and \$2.65 to Monroe, and \$2.39, \$2.52, and \$2.65 to Franklin and Andover. The higher rates are for joint-line hauls. although

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in some instances those hauls are considerably shorter than single-line hauls to the same destinations. In *Richmond County Coal Merchants Asso. v. B. & O. R. R. Co.*, 101 I. C. C. 154, division 4 said, at page 159:

We recognize no principle that as a matter of law a higher charge may be made for a two-line than for a one-line haul. The reasonableness of a higher charge for the former than for the latter is a question of fact, and whether or not it shall be allowed in a particular case depends solely upon a showing of increased cost or some other fact or circumstance which would warrant a higher charge.

No attempt was made to show increased cost or any other fact or circumstance which would warrant a higher charge for the joint-line than for the one-line hauls.

The \$2.02, \$2.39, \$2.52, and \$2.65 rates assailed yield, respectively, ton-mile earnings ranging from 18.5 to 19.4, 18.6 to 27.4, 19.3 to 22.1, and 16.2 to 29.7 mills, and car-mile earnings of 85.2 to 89.3, 85.9 to 126.3, 89.1 to 101.6, and 74.7 to 136.9 cents, based on the distances shown in Appendix B and on the average loading of approximately 46 tons of 2,240 pounds per car to the complaining destinations. In No. 4914, at page 257, it appears that the average load per car at that time ranged from 34 to 42 tons.

Respondents proposed to increase the rates to Warbasse, Sparta Junction, and Sparta from \$2.02 on prepared sizes and \$1.89 on pea and smaller sizes to \$2.39 and \$2.27, respectively, and the rates to stations Halsey to Blairstown from \$2.02 on prepared and \$1.89 on pea and smaller sizes to \$2.14 and \$2.02, respectively. Warbasse and Blairstown are approximately 8 and 26 miles, respectively, west of South Ogdensburg. Respondents would thus lengthen the N. Y. S. & W. tidewater group from 54 to 62 miles and reduce the group west thereof from 26 to 18 miles.

Complainants show that for average distances comparable with those here considered the destination groups on the main lines of the C. R. R., D. & H., D., L. & W., and L. V. range in length from 3 to 35 miles, as compared with the N. Y., S. & W., and Erie tidewater groups, which are, respectively, 54 and 66 miles long. They contend that additional groups should have been established on the N. Y., S. & W. west of Paterson, and call particular attention to the large spread of 37 cents between the rates of \$2.02 and \$2.39 to Sparta and South Ogdensburg, respectively, for a difference in distance of only 3 miles.

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They compare the rates assailed with rates from the anthracite fields to other destinations for similar or longer hauls, of which the following are representative:

From mines on—	To—	On—	Average distance	Rates	
				Prepared sizes	Smaller sizes
			<i>Miles</i>		
D. & H.	Unadilla, N. J.	D. & H.	98	\$2.02	\$1.89
Do.	Collers, N. J.	do.	121	2.02	1.89
Do.	Maryland, N. J.	do.	127	2.14	2.02
Do.	Cobleskill, N. Y.	do.	152	2.14	2.02
Do.	Howe's Cave, N. Y.	do.	158		2.14
Do.	Central Bridge, N. Y.	do.	161		2.14
C. R. R.	Valley, N. J.	C. R. R.	89	2.14	2.02
Do.	Somerville, N. J.	do.	115	2.14	2.02
D., L. & W.	Blairstown, N. J.	D., L. & W.	82	2.14	2.02
Do.	Boonton, N. J.	do.	115	2.14	2.02
Do.	Chester, N. J.	do.	113	2.14	2.02
Erie	Graham, N. Y.	Erie	93	2.02	1.89
Do.	Middletown, N. Y.	do.	106	2.02	1.89
Do.	New Hampton, N. Y.	do.	110	2.39	2.27
Do.	Jersey City, N. J.	do.	168	2.39	2.27
Erie and W. & E.	Susquehanna, Pa.	do.	73	1.76	1.61
Do.	Johnson City, N. Y.	do.	99	1.76	1.61
Do.	Hooper, N. Y.	do.	102	2.02	1.89
Do.	Waverly, N. Y.	do.	137	2.02	1.89
Do.	Chemung, N. Y.	do.	142	2.14	2.02
Do.	Watkins Glen, N. Y.	do.	175	2.14	2.02
L. & W. V.	New Durham, N. J.	do.	173	2.39	2.27
Do.	Dundee, N. J.	do.	160	2.39	2.27
Do.	Netcong, N. J.	D., L. & W.	102	2.27	2.15
Do.	Chester, N. J.	do.	114	2.27	2.15
Do.	Sterling Forest, N. J.	Erie	211	2.39	2.27

Complainants instance rates of \$1.64 to \$2.14 on anthracite coal from Boston, Mass., to destinations on the Boston & Maine, for distances ranging from 72 to 159 miles; of \$1.26 to \$1.83 from Everett, Mass., to destinations on the Boston & Albany, from 80 to 169 miles; and of \$0.82 to \$1.51 from New London, Conn., to destinations on the Central Vermont, from 3 to 121 miles. These comparisons were not accompanied by a showing of the circumstances and conditions under which those rates were established. Especially is it not shown that the initial cost at those New England ports is comparable with the assembling cost at the mines from which complainants receive their coal.

In *International Paper Co. v. B., R. & P. Ry. Co.*, 146 I. C. C. 59, referred to by complainants, we prescribed reasonable maximum rates on anthracite coal to destinations in northern New York, representative of which is a rate of \$2.54 on buckwheat Nos. 2 and 3 and smaller sizes from D. & H. mines to Corinth, 224 miles, and \$3.43 on prepared sizes and \$2.92 on pea and smaller sizes from the same mines to Willsboro, 310 miles.

In *Fiero & Monin v. Pennsylvania R. Co.*, 147 I. C. C. 592, rates maintained by the Pennsylvania on prepared sizes from the anthracite district in Pennsylvania of \$2.65 to Elmira, Millport, and Montour Falls, N. Y., 179, 192, and 198 miles, respectively, and \$3.15 to
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the other New York destinations there considered, 210 to 248 miles, were found not unreasonable.

Complainants and intervener seek rates which are certain percentages of the Holmes & Hollowell scale of rates, prescribed in *Holmes & Hollowell Co. v. G. N. Ry. Co.*, 69 I. C. C. 11, for application on all sizes of anthracite coal from the head of the lakes to destinations in Minnesota, North Dakota, and South Dakota. Complainants seek rates on prepared sizes which are 85 per cent of that scale, and on pea and smaller sizes 90 per cent of the resulting rates on prepared sizes. Intervener asks for a rate of \$1.60 on sizes smaller than pea to Franklin and Ogdensburg, which is approximately 77 per cent of the Holmes & Hollowell anthracite scale and 85 per cent of the Holmes & Hollowell bituminous scale for 126 miles, the average distance to these two destinations from all mines in the anthracite district as computed by intervener.

Defendants rely upon *Anthracite Coal Investigation*, 101 I. C. C. 363, 104 I. C. C. 341, 122 I. C. C. 527, wherein we investigated the entire anthracite rate structure and declined to require a horizontal reduction in all such rates, but did require reductions in certain rates on anthracite coal, not including, however, any rates to points in New Jersey. That investigation was of a very general nature, and no one in that proceeding complained of the particular rates here assailed.

The assailed rates are compared by defendants with a number of rates on anthracite coal applying to other destinations, of which the following are typical:

From mines on—	To—	On—	Average distance	Rates	
				Prepared sizes	Pea and smaller sizes
			<i>Miles</i>		
D. L. & W., D. & H., and L. & W. V.	Mount Tabor, N. J.	D., L. & W.	116	\$2.39	\$2.27
Do.....	Chatham, N. J.	do.....	127	2.39	2.27
Do.....	Montville, N. J.	do.....	121	2.39	2.27
Do.....	Mountain View, N. J.	do.....	129	2.39	2.27
D., L. & W.	Belvidere, N. J.	L. & H. R. R.	136	2.65	2.52
Do.....	Maybrook, N. J.	do.....	162	2.65	2.65
Reading.....	Buttzeville, N. J.	do.....	123	2.65	¹ 2.39
Do.....	Trenton, N. J.	Reading.....	135	2.77	¹ 2.39
Do.....	Wilmington, Del.	do.....	126	2.77	¹ 2.39
Do.....	Grassland, Pa.	Pennsylvania.....	123	2.90	2.52
Do.....	Rawlandville, Pa.	do.....	181	2.90	2.52
C. R. R. in Lehigh region.....	Carpenterville, N. J.	do.....	78	2.52	2.14
Do.....	Flemington, N. J.	do.....	120	2.52	¹ 2.39
Do.....	Trenton, N. J.	do.....	124	2.77	¹ 2.39
C. R. R. in Wyoming region.....	Carpenterville, N. J.	do.....	107	2.65	¹ 2.27
Do.....	Flemington, N. J.	do.....	149	2.65	¹ 2.39
Do.....	Trenton, N. J.	do.....	153	2.90	¹ 2.52
Erie and W. & E.	New Hampton, N. Y.	Erie.....	106	2.39	2.27
Do.....	Graham, N. Y.	do.....	89	2.02	1.89
Do.....	West Hawley, N. Y.	do.....	42	1.89	1.76
Do.....	Paterson, N. J.	N. Y., S. & W.	149	2.39	2.27

¹ On pea size; \$2.14 on sizes smaller than pea.

² On pea size; \$2.34 on sizes smaller than pea.

Defendants call particular attention to the rates to Trenton and Wilmington. The rates to Trenton are assailed in Docket No. 20286, now pending. The rates to Wilmington were prescribed in *Anthracite Coal Investigation, supra*. In that case the respondent carriers claimed an average haul of 170 miles from the mines to Wilmington. Based on that distance and on 46 tons to the car, the rate of \$2.77 yields car-mile earnings of 74.9 cents, as compared with from 74.7 to 136.9 cents under the rates assailed. The rates shown in the above table are group rates, many of which are relatively higher than the rates specifically prescribed in No. 4914. For example, the rates shown to New Hampton are \$2.39 on prepared sizes and \$2.27 on pea and smaller sizes, whereas from the same mines the present rates to Middletown, 4 miles west of New Hampton, fixed in No. 4914, as modified by the general rate changes, are \$2.02 on prepared sizes and \$1.89 on pea and smaller sizes.

The W. & E. and N. Y., S. & W., introduced evidence of operating deficits on the former and on the portion of the latter over which complainants' coal moves, and of difficult operating conditions and high operating costs for the purpose of proving their claim to a rate level on this traffic somewhat higher than that maintained by the Erie and other trunk lines. The W. & E. extends from Plains, Pa., in the Wyoming region, to Stroudsburg, 61.5 miles, where it connects with the N. Y., S. & W., which extends thence to Jersey City. In No. 4914 and in *New England Divisions Case*, 126 I. C. C. 579, we treated these lines as part of the Erie system. In No. 4914, page 234, we said:

It is apparent that the Wyoming region was already adequately served by railway lines before the extension of the last two lines, the Ontario & Western and the Susquehanna & Western, into that region subsequent to 1890.

* * * Under existing conditions the anthracite tonnage is charged with the burden of earning an income on the investments in a large portion of two railway lines which were not required and which surely would not have been constructed had proper conditions existed in the marketing of the commodity.

Again, on pages 272 and 273:

The anthracite tonnage which the Erie commands is divided between two railway lines, its own route and the joint route, the New York, Susquehanna & Western—Wilkes-Barre & Eastern, both of which extend to tidewater. The joint route has been controlled since the year 1898 by the Erie Railroad. * * * The joint route, New York, Susquehanna & Western Railroad—Wilkes-Barre & Eastern Railroad, receives 97 per cent of the coal tonnage it transports from the mining region from the two coal companies owned by the Erie, and it is apparent that the anthracite tonnage hauled by this joint route consists only of that which the Erie elects to divert from its own line to tidewater.

In that case we required the same reduction in the tidewater rates over the W. & E. and N. Y., S. & W. as over the other anthracite

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carriers there before us. The financial results from operation by the Erie and the other carriers defendant are not shown upon this record. It is evident that, in an interdependent adjustment such as this, in which so many carriers compete for the same traffic, as a practical matter one or more carriers can not maintain a higher level of rates than the others and do much business, and in view of the quotations from our report in No. 4914, the statements in which are not contradicted upon this record, we do not feel justified in sanctioning a rate level on this traffic, either for the past or future, which is higher than the transportation conditions on all of defendant trunk lines, considered together, seem to warrant.

It appears to us that the tidewater group, in which most of the points embraced in these complaints are located, is too large for these comparatively short hauls, and that the spreads between the rates to the various groups in this destination territory have been and are too great. Moreover, most of the rates here assailed were and are too high, particularly when compared with specific rates prescribed in No. 4914 to points in near-by groups. All of this came about primarily from the fact that defendants failed "to establish rates in harmony with those here prescribed, giving due consideration to distance," as they were admonished to do in No. 4914. Under these circumstances we must find that the rates herein condemned were unreasonable in the past, as well as for the future.

The B. D. Simmons Company, Lester Z. Brands, Ira Casterline, Incorporated, and the New Jersey Zinc Company introduced evidence which shows that they paid and bore the freight charges at rates assailed. The other complainants were present at the hearing and it was agreed for all parties that their testimony would be similar to that introduced by the parties just named.

We find that the assailed rates of \$2.02 on prepared sizes and \$1.89 on pea and smaller sizes to Warbasse, Sparta, and Sparta Junction were not and are not unreasonable. We further find that the other rates assailed, except those from points in the Schuylkill region on the Reading over its route via Allentown, Pa., C. R. R. Easton, Pa., L. & H. R. R., were, are, and for the future will be unreasonable to the extent that they exceeded, exceed, or may exceed, in cents per ton of 2,240 pounds, rates of \$2.14 on prepared sizes and \$2.02 on pea and smaller sizes. We further find that the rates assailed from points in the Schuylkill region on the Reading over its route via Allentown, C. R. R., Easton, L. & H. R., were, are, and for the future will be unreasonable to the extent that they exceeded, exceed, or may exceed, in cents per ton of 2,240 pounds, rates of \$2.39 on prepared sizes and \$2.27 on pea and smaller sizes.

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We further find that the B. D. Simmons Company, Lester Z. Brands, Ira Casterline, Incorporated, and the New Jersey Zinc Company made shipments as described and paid and bore the charges thereon at the rates herein found unreasonable; that they were damaged thereby in the amount of the difference between the charges so paid and those which would have accrued at the rates herein found to have been reasonable, and that they are entitled to reparation, with interest. They should comply with Rule V of the Rules of Practice, and in so doing they may include, with appropriate proof, shipments moving *pendente lite*. The other complainants may submit affidavits showing that they made shipments and establishing their right to reparation. If defendants object to this form of proof, further hearing may be requested.

We further find that the suspended schedules have not been justified. Their cancellation will be required.

Appropriate orders will be entered.

APPENDIX A

In No. 22003 the rates assailed per ton of 2,240 pounds "from coal mines and shipping points in the Wyoming, Lehigh, and Schuylkill regions of the anthracite coal fields in the State of Pennsylvania to the New Jersey destinations shown in the following paragraphs" are:

\$2.02 on prepared and \$1.89 on pea and smaller sizes from Erie and Wilkes-Barre & Eastern points "such as Jessup, Dunmore, Plains Junction, Avoca, Pittston, Scranton, Hillside Junction, and Moosic to Warbasse and Sparta";

\$2.39 on prepared and \$2.27 on pea and smaller sizes from the above-mentioned Erie and Wilkes-Barre & Eastern points to Ogdensburg, Franklin, Hamburg, Sussex, and Stockholm, and from Delaware, Lackawanna & Western points "such as Shickshinny, Scranton, Wyoming, and Kingston to Branchville, Newton, Andover, Franklin, Lafayette, and Augusta"; from Delaware & Hudson points "such as Scranton, Archbold, Avoca, and Hudson to Ogdensburg"; and from Lehigh & New England points "such as Tamaqua, Coaldale, Seek, Hauto, Lansford, and Nesquehoning to Sussex, Pellettown, Augusta, and Sparta";

\$2.65 on prepared, \$2.39 on pea, and \$2.27 on smaller sizes from Central Railroad of New Jersey points "such as Hauto and Upper Lehigh to Sussex, Pellettown, and Augusta"; from Lehigh & New England points "such as Coaldale, Seek, Lansford, and Hauto to Hamburg, Franklin, Monroe, and Woodruff's Gap"; from Lehigh Valley points "such as Packerton and Thomas Colliery to Hamburg, Franklin, Monroe, Woodruff's Gap, and Andover; from Packerton to Pellettown, Augusta, and Sussex"; and from Reading points "such as Schuylkill Haven and St. Clair to Franklin, Andover, Sparta Junction, Woodruff's Gap, and Hamburg";

\$2.85 on prepared and \$2.52 on pea and smaller sizes from Lehigh & New England points "such as Coaldale, Tamaqua, Seek, Hauto, Lansford, and Nesquehoning to Branchville";

\$2.65 on prepared and smaller sizes from Lehigh & New England points "such as Coaldale, Seek, Lansford, and Hauto"; from Lehigh Valley points "such as

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Packerton, Thomas Colliery"; and from Reading points "such as Schuylkill Haven to Vernon";

\$2.52 on prepared and \$2.40 on pea and smaller sizes from Delaware & Hudson points "such as Scranton, Archbold, Avoca, and Hudson to Newton, Andover, Franklin, Monroe, Lafayette, and Augusta"; and from Lackawanna & Wyoming Valley points "such as Virginia to Newton";

\$3.65 on prepared and \$3.15 on pea and smaller sizes from Lehigh Valley points "such as Packerton to Newton."

In No. 21277 the rates assailed "to South Ogdensburg, N. J., from the anthracite coal regions of Pennsylvania, points of origin located on the lines of defendants such as Pittston, Plains Junction, Avoca, Laflin, Parsons, Providence, Mayfield, Carbondale, Seek, Coaldale, Tamaqua, Hauto, etc." are \$2.39 on prepared and \$2.27 on pea and smaller sizes, per ton of 2,240 pounds.

APPENDIX B

Destinations and lines on which located	From points on Erie and W. & E. in Wyoming region		From points on D., L. & W. in Wyoming region		From points on D. & H. in Wyoming region		From points on L. & N. E. in Lehigh region	
	Average distance	Rate	Average distance	Rate	Average distance	Rate	Average distance	Rate
	<i>Miles</i>		<i>Miles</i>		<i>Miles</i>		<i>Miles</i>	
Warbasse, N. J.: N. Y., S. & W. (main line).....	104	\$2.02						
Sparta, N. J.: N. Y., S. & W. (main line).....	109	2.02					¹ 95	\$2.39
South Ogdensburg, N. J.: N. Y., S. & W. (main line).....	112	2.39					¹ 98	2.39
Stockholm, N. J.: N. Y., S. & W. (main line).....	119	2.39						
Ogdensburg, N. J.: N. Y., S. & W. (Hanford branch).....	118	2.39			² 126	\$2.39		
Pellettown, N. J.: L. & N. E. (main line).....							91	2.39
Woodruff's Gap, N. J.: L. & H. R. (main line).....							⁵ 110	2.65
Vernon, N. J.: L. & H. R. (main line).....								
Newton, N. J.: D., L. & W. (Sussex branch).....			115	⁶ \$2.39	⁹ 118	2.52		
Lafayette, N. J.: D., L. & W. (Sussex branch).....			120	2.39	⁹ 123	2.52		
Branchville, N. J.: D., L. & W. (Sussex branch).....			125	2.39			¹² 89	2.65
Sparta Junction, N. J.: N. Y., S. & W. (main line).....	106	2.02						
Franklin, N. J.: L. & H. R. (main line).....								
Franklin, N. J.: N. Y., S. & W. (Hanford branch).....	120	2.39			² 128	2.39	¹ 106	2.39
Franklin, N. J.: D., L. & W. (Sussex branch).....			128	2.39	⁹ 130	2.52	⁴ 116	2.65
Franklin, N. J.: L. & H. R. (main line).....								
Hamburg, N. J.: N. Y., S. & W. (Hanford branch).....	124	2.39					⁶ 118	2.65
Hamburg, N. J.: L. & H. R. (main line).....								
Sussex, N. J.: N. Y., S. & W. (Hanford branch).....	128	2.39						
Sussex, N. J.: L. & N. E. (main line).....							96	2.39
Andover, N. J.: D., L. & W. (Sussex branch).....			110	2.39	⁹ 113	2.52		
Andover, N. J.: L. & H. R. (main line).....								
Augusta, N. J.: D., L. & W. (Sussex branch).....			123	2.39	⁹ 126	2.52		
Augusta, N. J.: L. & N. E. (main line).....							87	2.39
Monroe, N. J.: D., L. & W. (Sussex branch).....					⁹ 127	2.52		
Monroe, N. J.: L. & H. R. (main line).....							⁵ 113	2.65

¹ L. & N. E., Hainesburg Junction, N. J., N. Y., S. & W.
² D. & H., Yatesville, Pa., W. & E.-N. Y., S. & W.
³ L. & N. E., Hauto, Pa., C. R. R. of N. J., Easton, Pa., L. & H. R.
⁴ Rate of \$2.52 applies from mines on L. & N. E., for an average of 114 miles.
⁵ D. & H., Scranton, Pa., D. & L. W.
⁶ L. & N. E., Augusta, N. J., D., L. & W.

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APPENDIX B—Continued

Destinations and lines on which located	From points on Lehigh Valley in Lehigh and Schuylkill regions		From points on C. R. R. of N. J. in Lehigh region		From mines on the Reading in Schuylkill region	
	Average distance	Rate	Average distance	Rate	Average distance	Rate
Warbasse, N. J.: N. Y., S. & W. (main line).....	<i>Miles</i>		<i>Miles</i>		<i>Miles</i>	
Sparta, N. J.: N. Y., S. & W. (main line).....						
South Ogdensburg, N. J.: N. Y., S. & W. (main line).....						
Stockholm, N. J.: N. Y., S. & W. (main line).....						
Ogdensburg, N. J.: N. Y., S. & W. (Hanford branch).....						
Pellettown, N. J.: L. & N. E. (main line).....	³ 102	\$2.65	⁴ 116	\$2.65		
Woodruff's Gap, N. J.: L. & H. R. (main line).....	⁶ 120	2.65			⁷ 149	\$2.65
Vernon, N. J.: L. & H. R. (main line).....					⁷ 163	2.65
Newton, N. J.: D., L. & W. (Sussex branch).....	¹⁰ 112	¹¹ 3.65				
Lafayette, N. J.: D., L. & W. (Sussex branch).....						
Branchville, N. J.: D., L. & W. (Sussex branch).....						
Sparta Junction, N. J.: N. Y., S. & W. (main line).....						
L. & H. R. (main line).....					⁷ 148	2.65
Franklin, N. J.: N. Y., S. & W. (Hanford branch).....						
D., L. & W. (Sussex branch).....						
L. & H. R. (main line).....	⁶ 125	2.65	¹⁸ 110	2.65	⁷ 155	2.65
Hamburg, N. J.: N. Y., S. & W. (Hanford branch).....						
L. & H. R. (main line).....	⁶ 127	2.65	¹⁸ 112	2.65	⁷ 157	2.65
Sussex, N. J.: N. Y., S. & W. (Hanford branch).....						
L. & N. E. (main line).....	³ 107	2.65	⁴ 122	2.65		
Andover, N. J.: D., L. & W. (Sussex branch).....						
L. & H. R. (main line).....	⁶ 112	2.65			⁷ 142	2.65
Augusta, N. J.: D., L. & W. (Sussex branch).....						
L. & N. E. (main line).....	³ 98	2.65	⁴ 112	2.65		
Monroe, N. J.: D., L. & W. (Sussex branch).....						
L. & H. R. (main line).....	123	2.65				

³ L. V., Lizard Creek Junction, Pa., L. & N. E.

⁴ C. R. R. of N. J., Bethlehem Junction, Pa., L. & N. E.

⁶ L. V., Easton, Pa., L. & H. R.

⁷ Reading, Allentown, Pa., C. R. R. of N. J., Easton, Pa., L. & H. R.

¹⁰ L. V., Phillipsburg, Pa.

¹¹ Combination rates.

¹⁸ C. R. R. of N. J., Easton, Pa., L. & H. R.

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