

No. 25489

SOLVAY PROCESS COMPANY *v.* DELAWARE, LACKAWANNA & WESTERN RAILROAD COMPANY ET AL.

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*Submitted January 4, 1933. Decided March 9, 1933*

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Rate charged on a carload of calcium chloride from Solvay, N. Y., to Salem, Va., found unreasonable, but not unduly prejudicial. Reparation awarded.

*N. D. Chapin* for complainant.

*W. J. Larrabee* for defendants.

## REPORT OF THE COMMISSION

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND MAHAFFIE

BY DIVISION 4:

The shortened procedure was followed herein. No exceptions were filed to the examiner's proposed report.

Complainant corporation alleges by complaint filed August 20, 1932, that the applicable sixth-class rate of 46 cents per 100 pounds charged on one carload of calcium chloride shipped June 4, 1931, from Solvay, N. Y., to Salem, Va., was unreasonable and unduly prejudicial.

The shipment weighed 101,170 pounds and moved over defendants' lines. Reparation is sought to the basis of a commodity rate 28.5 cents established from and to these points on November 6, 1931.

Calcium chloride is a by-product obtained in the manufacture of soda products and is used extensively for the laying of dust or as a curing agency in the construction of concrete highways. It is usually accorded the same rates as apply on soda products, such as caustic soda. Before this shipment moved, the carriers agreed to establish on soda products, including calcium chloride, a commodity rate of 28.5 cents from Solvay and Syracuse, N. Y., to Roanoke, Va., and points near Roanoke to which the same class rates applied. The sixth-class rate of 46 cents applied from Solvay and Syracuse to Roanoke and Salem. The first-class rate was \$1.50. The 28.5-cent rate was established from Solvay and Syracuse to Roanoke on June 17, 1931, and to Salem on November 6, 1931, as above indicated.

In central territory the recognized basis for rates on caustic soda is 85 per cent of the sixth-class rates. *Hooker Electro Chemical Co. v. A. C. R. R. Co.*, 83 I. C. C. 196, 198. In trunk-line territory this 191 I. C. C.

commodity usually moves on commodity rates, but complainant states that these commodity rates do not bear any fixed relationship to class rates.

Complainant has competitors at Barberton, Ohio, and South Charleston, W. Va. At the time of movement, a rate of 29 cents applied from these points to Salem. Effective July 3, 1931, the rate from South Charleston to Salem became 25 cents.

Defendants offered no evidence. They had submitted previously a special-docket application seeking authority to pay reparation based on the 28.5-cent rate which was denied. In *Mathieson Alkali Works v. Louisville & N. R. Co.*, 153 I. C. C. 784, division 5 prescribed 25 per cent of first class on various soda products, including chloride of sodium, from Solvay and other points in official territory to destinations in the Southern States, except Virginia. Upon this meager record we are not warranted in departing from the basis found reasonable in that proceeding.

We find that the rate assailed was unreasonable to the extent that it exceeded 37.5 cents but that it was not unduly prejudicial; that complainant made the shipment as described and paid and bore the charges thereon; and that it was damaged thereby and is entitled to reparation in the amount of \$85.99, with interest.

An order awarding reparation will be entered.

191 I. C. C.