

INVESTIGATION AND SUSPENSION DOCKET No. 6341  
FREIGHT IN TRAILERS ON FLATCARS, DELAWARE,  
LACKAWANNA & WESTERN RAILROAD COMPANY

*Submitted July 18, 1955. Decided August 17, 1955*

Proposed reduced charge for split pickup services within the terminal area of the point of origin, with the addition of one more stop for partial loading of foodstuffs, canned, preserved, or prepared, from New York, N. Y., to Chicago, Ill., Cleveland, Ohio, Detroit, Mich., and St. Louis, Mo., in connection with freight loaded in or on trailers and transported on flatcars found not shown to be just and reasonable. Schedules ordered canceled and proceeding discontinued.

*Richard E. Costello* for respondent.

*H. C. Loadman, Jr.*, for protestant.

REPORT OF THE COMMISSION

DIVISION 3, COMMISSIONERS ARPAIA, CLARKE, AND FREAS

BY DIVISION 3:

The modified procedure was followed. Due and timely execution of our functions requires that no proposed report be issued in this proceeding.

By schedules filed to become effective on February 16, 1955, The Delaware, Lackawanna and Western Railroad Company proposed reduced rates of 99 and 90 cents on iron and steel articles, in carloads, minima 20,000 and 32,000 pounds, respectively, from Syracuse, N. Y., to Chicago, Ill.; and a reduced split pickup charge and the addition of one more stop for partial loading of foodstuffs, canned, preserved or prepared, from New York, N. Y., to Chicago, Ill., Cleveland, Ohio, Detroit, Mich., and St. Louis, Mo. Upon protest of the Eastern Central Motor Carrier Association, Inc., the operation of the said schedules was suspended to and including September 15, 1955. The proposal to reduce rates on iron and steel articles was withdrawn and will not be further considered.

The rates on foodstuffs apply on movements in or on trailers-on-flatcars. Respondent's tariff now provides that one stop will be permitted within the confines of the primary point of origin (which on traffic originating in the New York terminal area includes stopping in the Hoboken-Jersey City terminal area) for the purpose of picking up a component part of a shipment. The permitted stop is in addition to the initial pickup. A charge of \$14.25 is provided for

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the stop in addition to all other lawful charges. It is proposed that two stops, in addition to the initial pickup stop be permitted, for a charge of \$10 for each stop exclusive of the first pickup stop.

The respondent states that the split pickup charge is proposed in order to meet the competition of Packer's Express, Inc., and the Emery Transportation Company. Packer's Express tariff provides in part that when more than 1 pickup is made at point of origin and when more than 1 delivery is made at final destination, a charge of \$10 for each stop will apply exclusive of the first pickup and final delivery. The Emery Transportation Company likewise provides a charge of \$10 for each stop, exclusive of original pickup and delivery. It is limited to four such stops, excluding final delivery.

It is indicated that in most instances two stops for partial loading of foodstuffs in addition to the initial pickup stop are required, since the different grades and kinds of foodstuffs to be shipped may arrive in steamers in the New York Harbor that are discharged at various piers. It is stated that Packer's Express and Emery Transportation Company now handle most of this traffic, and that the charge proposed is designed to meet this competition. No comparisons are made of respondents rates from the origin to the destinations with those of the competitors.

Protestant states that its members have long ignored the low stop-off charges of Packers' Express and Emery Transportation Company and now maintain a stopoff charge of \$14.25 for partial loading or for partial unloading. It points out that its members and the rail carriers provide a stopoff charge of \$14.25 for partial loading and unloading of other commodities in addition to foodstuffs; and it is apprehensive lest establishment of the reduced charge here will result in requests for like reductions on other commodities. It urges, therefore, that establishment of the proposed charge would constitute a destructive competitive practice, and, further, that establishment of the proposed charge is not justified because respondent has failed to show that such charge will cover the cost of the service to be rendered.

The evidence of record affords no basis for a conclusion as to the compensatory character of charge proposed and the competitive necessity therefor.

We find that the charge proposed is not shown to be just and reasonable. An order will be entered requiring cancellation of the suspended schedules and discontinuing the proceeding.

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