

No. 31331

G & A TRUCK LINE, INC., v. DELAWARE, LACKAWANNA &
WESTERN RAILROAD COMPANY ET AL.

Submitted April 5, 1954. Decided June 7, 1954

Rate on pulpboard or fiberboard, in carloads, from East Stroudsburg and Stroudsburg, Pa., to South Bend, Ind., found to be unreasonably low. Minimum reasonable rate prescribed.

George J. Bolender for complainant.

Richard E. Costello for defendants.

REPORT OF THE COMMISSION

DIVISION 2, COMMISSIONERS ALLDREDGE, ARPAIA, AND FREAS

BY DIVISION 2:

The modified procedure was followed. No exceptions were filed to the report proposed by the examiner. Requested findings not specifically discussed in this report nor reflected in our findings or conclusions have been considered and found not justified.

The complainant, a contract carrier by motor vehicle, alleges by complaint filed on August 7, 1953, that a rate of 64.4 cents,¹ minimum 45,000 pounds, applying on pulpboard or fiberboard, herein called pulpboard,² from East Stroudsburg and Stroudsburg, Pa., to South Bend, Ind., over lines of the defendants, is unreasonably low, and that its maintenance constitutes an unlawful and destructive competitive practice, in violation of section 1 of the Interstate Commerce Act, and is inconsistent with the national transportation policy. We are asked to prescribe a lawful minimum rate.

The Wabash Railroad Company was permitted to intervene, but individually took no further part in the proceeding.

For the initial transportation of this traffic by the complainant, a schedule naming a rate of 60 cents was filed but was protested by certain trunkline rail carriers and suspended. In *Paperboard, G & A Truck Line, Inc.*, 51 M. C. C. 168, division 3 found that rate unjust and unreasonable, and ordered cancellation of the proposed schedule, without prejudice to the filing of a new schedule in conformity with the view expressed that fair competition with the railroads required a rate not lower than 66 cents.

¹ Rates, charges, and costs are stated per 100 pounds.

² The tariff description is "Pulpboard or Fibreboard, N.O.I.B.N., in Official Classification, paper or pulp lined or not lined, fibre content consisting of not less than 80% wood pulp, waste paper, or straw pulp or mixture thereof, not corrugated or indented."

The complainant thereupon established a rate of 66 cents, minimum 25,000 pounds, effective February 20, 1950, and began hauling the traffic which previously had moved exclusively by rail. More than 50 percent of the traffic was moved by the complainant until May 15, 1953, when the assailed rail rate became effective. Since that date, despite diligent efforts, the complainant has not received any of the traffic. The rail rate, minimum 36,000 pounds, was 66 cents, and subjected to the Ex Parte No. 175 surcharge became 75.9 cents on May 2, 1952. The complainant's rate, 70 cents on February 12, 1952, was increased to 76 cents on April 30, 1953, in the belief that lawfulness required a rate substantially the same as by rail.

Based on a weight of 48,465 pounds, the average of shipments made during September 1953, the rate of 64.4 cents yields \$312.11 a car and 41.9 cents a car-mile for the distance of 745 miles over the lines of The Delaware, Lackawanna and Western Railroad Company, herein called the Lackawanna, to Black Rock, N. Y., the Wabash to Pine, Ind., thence the New Jersey, Indiana & Illinois Railroad Company to South Bend. The average freight expense per loaded car-mile, for the year 1952, was 31.627 cents for the Lackawanna and 26.758 cents for the Wabash. Based on operations for the year 1951, with adjustments to reflect wage and price levels as of January 1, 1953, the actual out-of-pocket rail cost for transporting an average shipment of 48,465 pounds in a boxcar 745 miles is stated to be 44.08 cents.

The normal rail class 25-J exceptions rating on pulpboard, between a representative number of points in central and eastern territories, reflects an average rate of 76.7 cents for a comparable distance, or approximately 16 percent more than the assailed rate. There are no commodity rates on pulpboard from eastern trunkline territory to central territory. Only a few commodity rates on pulpboard between points in central territory are shown of record. These range from 22 to 40 percent lower than the normal exceptions rates.

Considerable handling is required by the shipper in loading rail cars. The total loading and unloading cost for shipments by rail is shown to be 10.65 cents, and for shipments by truck, 2.24 cents, a difference of 8.41 cents. Using these figures as factors, an equality of shipper costs would require a rail rate 8.41 cents lower than the truck rate of 76 cents. It is indicated that a portion of the claimed loading cost can be attributed to antiquated construction at the shipper's plant which had been abandoned.

The assailed rate is 11.6 cents lower than the present truck rate and 12.3 cents lower than the class 25-J exceptions rate average of 76.7 cents on pulpboard between eastern trunkline and central territories for an average haul of 729.2 miles. A rate 10 percent lower than this average, or 69 cents, is the equivalent of a rate of 60 cents plus the Ex

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Parte No. 175 increase, and would be about 9 percent lower than the rail rate in effect prior to the reduction made on May 15, 1953, and 9 percent lower than the complainant's present rate. Such a rate, based on a weight of 48,465 pounds, would yield \$334.09 a car and 44.9 cents a car-mile, and would not be below a minimum reasonable level.

We find that the assailed rate is unreasonably low. We further find that, in the stated circumstances, a minimum reasonable rate for application on this traffic from East Stroudsburg and Stroudsburg to South Bend is 60 cents, plus the surcharge authorized in Ex Parte No. 175.

An order for the future will be entered.

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