2-1-1950

Administrative Law -- Interstate Commerce Commission -- Carriers -- Blanket Area Rates

Charles L. Fulton
NOTES AND COMMENTS

Administrative Law—Interstate Commerce Commission—Carriers—Blanket Area Rates

The ascertainment of rates offering maximum congruity among the competing interests of producer, carrier and consumer has long been a challenge to the Interstate Commerce Commission. Particularly in the
field where developed natural resources can find a market only at some distant point has the problem of rate regulation been difficult.

In *Ayrshire Collieries Corp. v. United States* the Commission faced the problem of determining a rate structure for coal-producing areas in Illinois, Indiana, and Kentucky, with markets located in northern Illinois and Wisconsin. Sections of each state were grouped together, and all the mines within one section given the same rate to the particular destination. Rates from each such area to the point of consumption were then approved, but the differences in rates assigned to the areas were admittedly not wholly explainable on their respective distances from the destination points.2

Grouping all the mines in a particular area and giving each the same flat rate to a given point has long been practiced.3 So-called blanket areas are frequently set up by the carriers acting on their own initiative, and where this has not been done, it may be required by the Commission.4

The Commission has found the blanket areas highly desirable because they encourage a more even and fuller development of the region; simplify marketing by allowing dealers a wider range in their choice of materials; and, by pitting in competition producers throughout the producing district, stimulate rivalry, and thus provide a guaranty against exorbitant prices and undue profits.5 To the carriers, blanket area rates offer through uniform treatment of all shippers in a large section certain administrative conveniences; through the right to haul at the same rate though the line may be located more distant from the producer than some other railroad, certain competitive advantages; and through resulting production stimuli greater business potential.6 The propriety of so establishing areas is now firmly settled in the field of administrative rate making.

After the producing area is divided into blanket areas, the Commis-

---

1 69 S. Ct. 278 (1949). The case before the Commission is reported as Coal to Beloit, Wis., and Northern Illinois, 263 I. C. C. 179 (1945).
2 Coal to Beloit, Wis., and Northern Illinois, *supra* note 1, at 185. For example, rates approved from the Boonville group to Beloit were $2.39 per ton for a distance of 415 miles, while rates from the Fulton-Peoria group were set at $1.80 per ton for a distance of 170 miles. Note that in the former case the distance is almost two and one-half times that of the latter, yet the rate is only one and one-third larger.
sion as a part of the process of establishing flat rates from each to the consuming point, attempts to correlate the charges to be assigned to the different blanket areas in such a manner that the over-all rate making scheme best serves the interests of all concerned.

The fact that rates as finally approved reflect conclusions not premised wholly on consideration of the interests of the producer and carrier does not establish their invalidity. In determining rate differentials the Commission has not only their interests to protect—the consumer is also entitled to consideration.\(^7\) Where he buys in an intensively competitive market, rates assume increasingly significant proportions, because the variance in price of a few cents per ton is often sufficient to divert a contract from one producer to another.\(^8\) To make rates with a primary regard for distance could eventually have the effect of eliminating practically all competition between producers,\(^9\) with obviously undesirable consequences to the consumer.

Recognizing this as an integral phase of the overall rate-making problem, the Commission has consistently given weight to the consumer's interests, even when the resulting rate differentials are disproportionate to those which consideration only of distance and transporatation factors would dictate.\(^10\) This practice is specifically approved by the court in the instant case.\(^11\)

The influence of competition in the Commission's rate fixing process found an interesting but typical\(^12\) application in *Birch Valley Lumber Co. v. S. C. & M. R. R.*\(^13\) There the blanket area of the B. & O. R. R., main line serving the timber-growing region involved, was extended only to lumber producers located on its main or trunk lines. Producers B and D were well within the general blanket area, but were some 7 to 9 miles from the B. & O. They had to pay in addition to the group rate the charges of the S. C. & M., which carried their products to a point on the B. & O. The Commission found that in order to compete with other producers B and D had to base their prices on the group rate and absorb the charges of the S. C. & M., with the undesirable prospect of possibly being driven out of business. The Commission concluded that although the charges of the S. C. & M. were not unreasonable, the refusal of the B. & O. to extend the group rate to B and D was

\(^7\) Coal to Illinois and Wisconsin, 232 I. C. C. 151 (1939); Andy's Ridge Coal Co. v. So. Ry., 18 I. C. C. 405 (1910).

\(^8\) Coal to Beloit, Wis., and Northern Illinois, 263 I. C. C. 179, 195 (1945).


\(^10\) *Id.* at 240; Waukesha Lime and Stone Co. v. Chicago, M. & St. P. Ry., 26 I. C. C. 515, 518 (1913).

\(^11\) 69 S. Ct. 278, 288.

\(^12\) See also Indian Creek Valley Lumber Co. v. B. & O. R. R., 126 I. C. C. 161 (1927); Tioga Coal Co. v. B. & O. R. R., 101 I. C. C. 611 (1925); Swift Lumber Co. v. F. & G. R. R., 61 I. C. C. 485 (1921).

\(^13\) 144 I. C. C. 419 (1928).
unduly prejudicial to them and unduly preferential to their competitors, and entered an order requiring that their rates not exceed the rates charged other competitors in the same general origin territory.

Decisions of the ICC are not necessarily final and may be taken before the federal courts. But once it is determined that the Commission is acting within its statutory authority, the court's power to review its findings of fact and rulings is extremely limited.\footnote{14} Congress intended to commit these problems to a permanent expert body and the courts recognize that they have neither the "technical competence nor the legal authority to pronounce upon the wisdom of the course taken by the Commission."\footnote{15} Numerous examples of court deference to the administrative expertise of the Interstate Commerce Commission reveal a marked indisposition even to consider the amount of weight given to each of the factors used in determining the justifiableness of a rate, and this proposition seems particularly applicable where the problem involved concerns fixing of rates for competing areas.\footnote{16}

By reaffirming in the instant case its policy of rare interference with the Commission's rulings, the court facilitates the reaching of the soundest possible solution to a problem for which it can hardly be hoped to find a perfect one.

CHARLES L. FULTON.

Anti-trust Laws—Requirements Contracts—Tests of Illegality

Section 3 of the Clayton Act\footnote{1} declares, \textit{inter alia}, that "It shall be unlawful for any person engaged in commerce, in the course of such commerce, to lease or make a sale or contract for sale of goods . . . whether patented or unpatented . . . on the condition, agreement or understanding that the lessee or purchaser thereof shall not use or deal in the goods . . . of a competitor . . . of the lessor or seller, where the effect of such lease, sale, or contract for sale . . . may be to substantially lessen competition or tend to create a monopoly in any line of commerce."

Since its passage in 1914, the United States Supreme Court, while not always denominating them, has had occasion to deal with two sepa-


\footnote{15} Board of Trade of Kansas City v. United States, 314 U.S. 534, 548 (1942).

\footnote{16} United States v. Ill. Central R.R., 263 U.S. 515 (1924). Also see the statement of Mr. Justice Douglas in the instant case: "We would depart from our competence and our limited function in this field if we undertook to accommodate the factors of transportation conditions, distance and competition differently than the Commission has done in this case. That is a task peculiarly for it." 69 S. Ct. 278, 289.

\footnote{1} 38 \textsc{Stat.} 731 (1914), 15 U. S. C. §14 (1946).