

## FINANCE DOCKET No. 2443.

NEW YORK, LACKAWANNA & WESTERN RAILWAY  
STOCK AND BONDS.

IN THE MATTER OF THE JOINT APPLICATION OF THE NEW YORK, LACKAWANNA & WESTERN RAILWAY COMPANY AND THE DELAWARE, LACKAWANNA & WESTERN RAILROAD COMPANY FOR AUTHORITY FOR THE FORMER TO ISSUE CAPITAL STOCK AND FIRST AND REFUNDING MORTGAGE BONDS, AND FOR THE LATTER TO ASSUME OBLIGATION AND LIABILITY, AS GUARANTOR, IN RESPECT THEREOF.

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*Submitted January 5, 1923. Decided January 20, 1923.*

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Previous order, 72 I. C. C., 351, authorizing the issue by the New York, Lackawanna & Western Railway Company of not exceeding \$10,000,000 of first and refunding mortgage 5 per cent bonds at par, and the assumption of obligation and liability in respect thereof by the Delaware, Lackawanna & Western Railroad Company, as guarantor, modified (1) so as to permit the railway company to issue at not less than 90.85 per cent of par, in lieu of said 5 per cent bonds, not exceeding \$10,000,000 of first and refunding mortgage 4½ per cent bonds, series B; and (2) so as to permit the railroad company to assume obligation and liability, as guarantor, in respect of said 4½ per cent bonds.

*William S. Jenney* for applicants.

## SUPPLEMENTAL REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

By DIVISION 4:

By a supplemental application duly filed in this proceeding on January 5, 1923, the New York, Lackawanna & Western Railway Company, hereinafter called the railway company, and the Delaware, Lackawanna & Western Railroad Company, hereinafter called the railroad company, have requested that our order herein dated August 2, 1922, 72 I. C. C., 351, authorizing, among other things, the railway company to issue, at par, not exceeding \$10,000,000 of first and refunding mortgage bonds for the purpose of redeeming, paying, or refunding a like aggregate amount of construction-mortgage bonds and terminal and improvement mortgage bonds, and authorizing the railroad company to assume obligation and liability, as guarantor, in respect of said bonds, be modified (1) so as to permit the railway company to issue for like purpose, in lieu of said 5 per cent bonds, not exceeding \$10,000,000 of first and refunding mortgage 4½

per cent bonds, series B, said bonds to be sold or exchanged at not less than 90.85 per cent of par; and (2) so as to permit the railroad company to assume obligation and liability, as guarantor, in respect of said 4½ per cent bonds. No objection to the granting of the application, as modified by the supplemental application, has been presented to us.

The railway company represents that it has not issued any of the securities authorized by our order of August 2, 1922, above referred to, and now desires that we authorize it to substitute and issue, in lieu of the \$10,000,000 of bonds authorized by the second ordering paragraph of said order, \$10,000,000 of 4½ per cent bonds. With the exception of the rate of interest and the designation of series, the proposed bonds are to be identical in all respects with the bonds which the railway company is now authorized to issue and in respect of which the railroad company is now authorized to assume obligation and liability. The railroad company will guarantee the payment of the principal and interest of the 4½ per cent bonds.

The applicants state that, in their judgment, the issue of first and refunding 4½ per cent bonds is for the best interest of both companies, and that they believe the proposed bonds can be sold on better terms than a like amount of 5 per cent bonds. If the bonds are sold at 90.85 per cent of par, the annual cost will be 5 per cent of the principal amount of bonds. The applicants state, however, that, in their opinion, the 4½ per cent bonds can be sold at a higher price than 90.85 per cent of par.

Any difference between the amount realized from the sale of the proposed bonds and the amount required to redeem and pay the construction-mortgage bonds and the terminal and improvement mortgage bonds will be advanced by the railroad company, which, as lessee of the railway company's property, is to pay the interest on the bonds and to provide for the amortization of discount suffered in the sale.

We find (1) that the proposed issue by the railway company of not exceeding \$10,000,000 of first and refunding mortgage 4½ per cent bonds, and (2) the proposed assumption of obligation and liability in respect thereof by the railroad company, as guarantor, (a) are for lawful objects within their respective corporate purposes and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by the railroad company of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

76 I. C. C.

## SUPPLEMENTAL ORDER.

*Entered January 20, 1923.*

Further investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a supplemental report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That the order of this commission herein, dated August 2, 1922, be, and it is hereby, modified so that the second ordering paragraph thereof shall read as follows:

*It is ordered,* That the New York, Lackawanna & Western Railway Company be, and it is hereby, authorized to issue not exceeding \$10,000,000, principal amount, of first and refunding mortgage bonds, series B, under and pursuant to, and to be secured by, said proposed first and refunding mortgage to the Farmers' Loan & Trust Company; said bonds to be dated May 1, 1923, to bear interest at the rate of 4½ per cent per annum, payable semiannually on May 1 and November 1 in each year, and to mature May 1, 1973; or, to issue not exceeding \$5,000,000 of common capital stock in shares of the par value of \$100 each, and such an amount of first and refunding mortgage bond as, together with said stock, shall not exceed \$10,000,000; the certificates representing said shares to be in the form submitted with the application; said bonds to be sold or exchanged at not less than 90.85 per cent of par, and said stock to be sold or exchanged at not less than par, so far as may be necessary, but in an aggregate amount not exceeding \$10,000,000, par value, of such bonds and stock, for the purpose of purchasing, paying, retiring, or refunding certain construction-mortgage bonds and certain terminal and improvement mortgage bonds of the applicant, as set forth in the application and said report.

*And it is further ordered,* That, except as herein modified, said order of August 2, 1922, shall remain in full force and effect.

76 I. C. C.