

FINANCE DOCKET No. 3204.

BONDS OF OSWEGO & SYRACUSE RAILROAD.

IN THE MATTER OF THE JOINT APPLICATION OF THE OSWEGO & SYRACUSE RAILROAD COMPANY FOR AUTHORITY TO ISSUE CERTAIN BONDS AND THE DELAWARE, LACKAWANNA & WESTERN RAILROAD COMPANY TO GUARANTEE THEM.

Submitted September 11, 1923. Decided September 20, 1923.

1. Authority granted to the Oswego & Syracuse Railroad Company to issue not exceeding \$1,193,000, principal amount, of first and refunding 5 per cent bonds to be delivered to the Delaware, Lackawanna & Western Railroad Company, lessee, in refundment of certain obligations.
2. Authority granted to the Delaware, Lackawanna & Western Railroad Company to assume obligation and liability, as guarantor, in respect of said bonds.

William S. Jenney for applicants.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER.

BY DIVISION 4:

The Oswego & Syracuse Railroad Company, hereinafter called the Oswego, and the Delaware, Lackawanna & Western Railroad Company, hereinafter called the Lackawanna, common carriers by railroad engaged in interstate commerce, have filed a joint application under section 20a of the interstate commerce act, in which the Oswego asks authority to issue \$2,000,000 of first and refunding mortgage bonds, \$1,193,000 to be issued forthwith, and \$807,000 to be placed in its treasury to provide for future capital requirements, and the Lackawanna asks authority to assume obligation and liability, as guarantor, in respect of \$2,000,000 of such bonds. No objection to the granting of the application has been presented to us.

The Oswego was incorporated under an act of the Legislature of New York passed April 29, 1839, providing for the construction of a railroad from Oswego to Syracuse, N. Y. Pursuant to the authority of the act and amendments thereof, the Oswego constructed a single-track railroad in the years 1847-48 between those points and operated it from its completion about October 16, 1848, until March 1, 1869, when it was turned over to the Lackawanna pursuant to the 82 I. C. C.

terms of a lease between the two companies dated February 13, 1869, a copy of which was filed in this proceeding. Since March 1, 1869, however, it has been operated solely by the Lackawanna as a branch line of its system from Syracuse to Oswego, 35.526 miles in length.

The Oswego has outstanding \$1,320,400 of capital stock, consisting of 26,408 shares of the par value of \$50 a share; \$438,000 of first consolidated mortgage 7 per cent bonds; \$668,000 of construction mortgage 5 per cent bonds; and a note for \$87,134 given to the Lackawanna for advances made by it and used for construction purposes on the Oswego.

By the terms of the lease, the Lackawanna is obligated to pay all bonds of the Oswego and a dividend of 9 per cent on its capital stock; and the Oswego is obligated to deliver to the Lackawanna upon its request bonds or other securities to pay for the advances made by the latter and charged to construction account, and to enable the Lackawanna to pay the bonds of the Oswego at maturity.

The Lackawanna has paid all the \$438,000 of first consolidated mortgage 7 per cent bonds and \$629,000 of construction-mortgage 5 per cent bonds. Of the construction-mortgage bonds \$39,000 had not been presented for payment, but will be paid by the Lackawanna on presentation and surrender. The Lackawanna holds these paid bonds and has requested the Oswego to issue bonds to it in reimbursement for these payments and for the note of \$87,134 given for advances for construction.

In compliance with the request of the Lackawanna, the Oswego proposes to issue \$1,193,000 of first and refunding mortgage bonds, which will be secured by a mortgage to be made by the Oswego to the Farmers' Loan & Trust Company of New York, trustee. They will be dated as of the date of issue or the date of the mortgage, will mature 50 years from date, will bear interest at the rate of 5 per cent per annum, and will be delivered to the Lackawanna at par.

The Lackawanna asks authority to guarantee both principal and interest of \$2,000,000 of the bonds, the entire amount which may be issued under the mortgage, and to indorse such guaranty on each bond substantially in the form set forth in the application, but our authority for such guaranty shall not extend beyond the \$1,193,000 of bonds herein authorized to be issued.

While it is within our province to give the authorization and consent under section 20a of the interstate commerce act, it is not to be understood that by giving such authority we pass upon or in any wise determine or affect the nature of the rights or liens to be enjoyed by the bonds, or the priority of the liens under the mortgage in its relation to other liens.

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We find that the proposed issue of \$1,193,000 of first and refunding mortgage 5 per cent gold bonds by the Oswego & Syracuse Railroad Company and the proposed assumption of obligation and liability as guarantor in respect thereof by the Delaware, Lackawanna & Western Railroad Company as aforesaid (a) are for a lawful object within their corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by them of service to the public as common carriers, and which will not impair their ability to perform that service, and (b) are reasonably necessary and appropriate for such purpose.

An appropriate order will be entered.

COMMISSIONER POTTER did not participate in the disposition of this case.

ORDER.

Entered September 20, 1923.

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 report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

It is ordered, That, for the purpose of refunding certain of its outstanding obligations, the Oswego & Syracuse Railroad Company be, and it is hereby, authorized to issue not exceeding \$1,193,000, principal amount, of its first and refunding mortgage 5 per cent gold bonds, under and pursuant to, and to be secured by, its first and refunding gold-bond mortgage, to be dated as of the date of execution to the Farmers' Loan & Trust Company of New York, trustee, said bonds to be dated as of the date of issue and/or the date of the mortgage, to mature 50 years from date, to bear interest at the rate of 5 per cent per annum, payable semiannually, and to be delivered to the Delaware, Lackawanna & Western Railroad Company at par to refund certain indebtedness to that company, as set forth in the application and aforesaid report.

It is further ordered, That the Delaware, Lackawanna & Western Railroad Company be, and it is hereby, authorized to assume obligation and liability as guarantor in respect of the payment of the principal and interest of not exceeding \$1,193,000, principal amount, of Oswego & Syracuse Railroad Company's first and refunding mortgage 5 per cent gold bonds, by indorsing upon each of said bonds its guaranty of the payment of such principal and interest in the form set forth in the application.

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It is further ordered, That said bonds shall not be sold, pledged, re-pledged, or otherwise disposed of by the applicants, or either of them, unless and until so ordered by this commission.

It is further ordered, That, within 10 days after the execution thereof, the Oswego & Syracuse Railroad Company shall file with this commission a verified copy of said mortgage in the form in which it was executed.

It is further ordered, That the applicants shall report concerning the matters herein involved in conformity with the commission's order dated May 25, 1922, respecting applications filed under section 20a of the interstate commerce act.

And it is further ordered, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

82 I. C. C.