

FINANCE DOCKET No. 5055
BONDS OF MORRIS & ESSEX R. R.

Submitted November 7, 1925. Decided November 19, 1925

1. Authority granted to the Morris & Essex Railroad Company to issue \$11,582,000 of construction-mortgage gold bonds; said bonds to be delivered at par to the Delaware, Lackawanna & Western Railroad Company in settlement of certain expenditures for additions and betterments.
2. Authority granted to the Delaware, Lackawanna & Western Railroad Company to assume obligation and liability, as guarantor, in respect of such bonds.

William S. Jenney for applicants.

REPORT OF THE COMMISSION

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND WOODLOCK

BY DIVISION 4:

The Morris & Essex Railroad Company, hereinafter called the Morris, and the Delaware, Lackawanna & Western Railroad Company, hereinafter called the Lackawanna, common carriers by railroad engaged in interstate commerce, have duly filed a joint application under section 20a of the interstate commerce act in which the Morris seeks authority to issue \$11,582,000 of construction-mortgage gold bonds and the Lackawanna seeks authority to assume obligation and liability, as guarantor, in respect thereof. No objection to the granting of the application has been presented to us.

The properties of the Morris are leased to the Lackawanna in perpetuity under a lease dated December 10, 1868, and have been operated by the latter since January 1, 1869. The record shows that the Morris is indebted to the Lackawanna for expenditures made for additions and betterments to April 30, 1925, in the sum of \$12,055,851.33, and the Lackawanna has requested the delivery to it of \$11,582,000 of construction-mortgage bonds in partial settlement of such expenditures. The Lackawanna seeks authority to assume obligation and liability, as guarantor, in respect of the principal and interest on such bonds. No arrangements for the sale of the proposed bonds by the Lackawanna have been made.

The bonds will be issued under the construction mortgage which the Morris proposes to execute to the Farmers' Loan & Trust Company, of New York, trustee, under date of November 2, 1925. The
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mortgage authorizes the issue of not exceeding \$35,000,000 of bonds, which may be issued in series, and bear such interest rate and date of maturity as may be prescribed by the board of directors or the executive committee, which date shall be subsequent to January 1, 1954, and prior to January 1, 1987. The bonds for the issue of which authority is now sought will be dated November 2, 1925, will bear interest at the rate of 5 per cent per annum, and will mature November 1, 1955. The Lackawanna will indorse thereon substantially in the form set forth in the application its guaranty of the payment of both principal and interest of such bonds.

We find that the proposed issue of bonds by the Morris and the proposed assumption of obligation and liability, as guarantor, in respect thereof by the Lackawanna, as aforesaid, (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 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 purposes.

An appropriate order will be entered.

COMMISSIONER EASTMAN dissents.

ORDER

Entered November 19, 1925

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 purposes set forth in the aforesaid report, the Morris & Essex Railroad Company be, and it is hereby, authorized to issue \$11,582,000 of its construction-mortgage gold bonds under and pursuant to, and to be secured by, its construction mortgage to be made under date of November 2, 1925, to the Farmers' Loan & Trust Company, trustee; said bonds to be dated November 2, 1925, to bear interest at the rate of 5 per cent per annum, and to mature November 1, 1955; said bonds to be delivered to the Delaware, Lackawanna & Western Railroad Company at par.

It is further ordered, That the Delaware, Lackawanna & Western Railroad Company be, and it is hereby, authorized to assume obliga-

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tion and liability, as guarantor, in respect of the principal of and interest on \$11,582,000 of Morris & Essex Railroad Company construction-mortgage 5 per cent bonds, by indorsing thereon its guaranty substantially in the form set forth in the application.

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

It is further ordered, That the applicants shall report concerning the matters herein involved in conformity with the commission's order dated July 22, 1924, 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.

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