

*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.



FINANCE DOCKET No. 9049

NEW YORK, ONTARIO & WESTERN RAILWAY COMPANY  
ASSUMPTION OF OBLIGATION AND LIABILITY

*Submitted December 22, 1931. Decided December 28, 1931*

Authority granted to assume obligation and liability, as indorser, in respect of not exceeding \$1,610,000 of promissory notes to be issued by the Scranton Coal Company.

*Charles L. Andrus* for applicant.

REPORT OF THE COMMISSION

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND MAHAFFIE

BY DIVISION 4:

The New York, Ontario and Western Railway Company, a common carrier by railroad engaged in interstate commerce, has duly applied for authority under section 20a of the interstate commerce act to assume obligation and liability, as indorser, in respect of \$1,670,000 of promissory notes to be issued by the Scranton Coal Company. No objection to the granting of the application has been presented to us.

The Scranton Coal Company is a corporation organized under the laws of the State of Pennsylvania for the purpose of owning coal mines and the production of coal therefrom. Its entire capital stock is owned by the applicant, and the coal produced from its mines is largely shipped by purchasers thereof at the mines over the lines of the applicant.

The applicant states that it made advances to the coal company to aid that company to meet its operating expenses and to pay taxes, and as evidence of its indebtedness the latter company has issued and delivered to the applicant its promissory notes, payable to the order of the applicant, aggregating as of the date of the application \$1,670,000. Since the filing of the application the applicant states that the aggregate amount of the notes outstanding has been reduced to \$1,610,000. All bear interest at the rate of 6 per cent per annum.

180 I. C. C.

Of the notes outstanding, an aggregate amount of \$950,000, payable on demand, is held by Dickson & Eddy; \$610,000 is held by the Chase National Bank, \$300,000 of which is due on demand, and the remaining \$310,000 is in four notes maturing on various dates prior to January 1, 1933; and \$50,000 is held by the Bank of Manhattan Trust Company and is due March 8, 1932.

The above notes were negotiated by the applicant and indorsed by it without obtaining our authority to assume obligation and liability, as indorser. The applicant now proposes to have the outstanding notes of the coal company canceled, to have new notes made by that company payable to the order of the applicant, which proposes to indorse them and to substitute them for the notes now held by the parties listed above, and seeks authority to assume obligation and liability, as indorser, in respect thereof.

Upon the facts presented we find that the assumption of obligation and liability, as indorser, by the New York, Ontario and Western Railway Company in respect of not exceeding \$1,610,000 of promissory notes to be issued by the Scranton Coal Company as aforesaid (a) is for a lawful object within its corporate purposes, and compatible with the public interest, which is necessary and appropriate for and consistent with the proper performance by it 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 purpose.

An appropriate order will be entered.

COMMISSIONER EASTMAN dissents.

---

ORDER

*Entered December 28, 1931*

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 the New York, Ontario and Western Railway Company be, and it is hereby, authorized to assume obligation and liability, as indorser, in respect of not exceeding \$1,610,000 of promissory notes to be issued by the Scranton Coal Company as set forth in the application and report aforesaid, by placing its indorsement upon each of said notes.

180 I. C. C.

*It is further ordered,* That, except as herein authorized, the applicant shall not assume obligation and liability in respect of any of said notes.

*It is further ordered,* That the applicant shall report concerning the matters herein involved in conformity with the commission's order dated February 19, 1927, 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 notes, or interest thereon, on the part of the United States.

180 I. C. C.