

FINANCE DOCKET No. 10377

DELAWARE, LACKAWANNA & WESTERN RAILROAD
COMPANY EQUIPMENT-TRUST CERTIFICATES

Submitted July 13, 1935. Decided July 16, 1935

Order of **May 2, 1934**, 199 I. C. C. 582, modified so as to limit to not exceeding \$3,619,000 the amount of Delaware, Lackawanna & Western Railroad equipment-trust certificates of 1934, series A, in temporary or definitive form, or both, in respect of which the Delaware, Lackawanna & Western Railroad Company is authorized to assume obligation and liability, and so as to permit the temporary certificates to be amended by the applicant's waiving the right of redemption. Previous reports, 199 I. C. C. 582 and 664.

William S. Jenney for applicant.

SECOND SUPPLEMENTAL REPORT OF THE COMMISSION

DIVISION 4, COMMISSIONERS MEYER, PORTER, AND MAHAFFIE

BY DIVISION 4:

Our order herein of **May 2, 1934**, 199 I. C. C. 582, authorized The Delaware, Lackawanna and Western Railroad Company, the applicant herein, to assume obligation and liability in respect of not exceeding \$3,623,000 of Delaware, Lackawanna & Western Railroad equipment-trust certificates of 1934, series A, to be sold at par in connection with the procurement of equipment. By supplemental order in this proceeding entered on **May 23, 1934**, 199 I. C. C. 664, the applicant was authorized to assume obligation and liability in respect of not exceeding \$1,043,000 of such certificates, series B, to be sold at par to aid in financing the reconstruction of equipment.

By supplemental application filed on **June 27, 1935**, the applicant requests modification of the order of **May 2, 1934**, so as to authorize it to assume obligation and liability in respect of Delaware, Lackawanna & Western Railroad equipment-trust certificates of 1934, series A, in temporary or definite form, or both, without the right of redemption, and so as to limit its authorization to assume obligation and liability in respect thereof to the aggregate face amount of \$3,619,000.

The total amount of the series-A certificates to be issued has been determined to be \$3,619,000. The Public Works Administration, which holds all the outstanding temporary series-A certificates, has requested the applicant to eliminate therefrom and from the equipment-trust agreement of **May 7, 1934**, under which they were issued, 207 I. C. C.

the provision that the certificates are subject to redemption in whole or in part at the option of the applicant on any dividend date.

Both of these modifications will be provided for by a proposed supplemental agreement, amendatory to the lease and agreement dated May 7, 1934, constituting the equipment trust of 1934, series A, and will be entered into by the original parties to the trust agreement and the United States of America, represented by the Federal Emergency Administrator of Public Works. The applicant's right of redemption will be waived by canceling the provisions for redemption contained in article twelfth of the trust agreement and by an appropriate legend to be stamped or imprinted upon the face of the temporary certificates, heretofore issued in substantially the form shown in the proposed supplemental agreement. This agreement will also provide that the final payment to be made by the applicant on October 1, 1949, will be \$135,000, instead of \$139,000 as stated in the report accompanying our order of May 2, 1934, *supra*.

We find that the assumption of obligation and liability by The Delaware, Lackawanna and Western Railroad Company in respect of not exceeding \$3,619,000 of Delaware, Lackawanna & Western Railroad equipment-trust certificates of 1934, series A, in temporary or definitive form, or both, and modified 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 supplemental order will be entered.

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