

Upon the facts presented we approve, as desirable for the improvement of transportation facilities, railroad maintenance by the Gulf, Mobile and Northern Railroad Company as proposed in the application and described in this report.

An appropriate certificate of approval will be issued.

FINANCE DOCKET No. 10946

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

Submitted September 24, 1935. Decided October 11, 1935

Authority granted to assume obligation and liability, as guarantor, in respect of the payment of principal and interest of a proposed note in the face amount of \$650,000 to be issued by the Scranton Coal Company to evidence a loan of like amount by the Reconstruction Finance Corporation.

Elbert N. Oakes for applicant.

REPORT OF THE COMMISSION

DIVISION 4, COMMISSIONERS MEYER, PORTER, AND MAHAFFIE

BY DIVISION 4:

The New York, Ontario and Western Railway Company, on September 7, 1935, applied for authority to assume obligation and liability, as guarantor, in respect of the payment of principal and interest of a proposed note in the face amount of \$650,000, evidencing a loan of like amount to the Scranton Coal Company by the Reconstruction Finance Corporation. No objection to the application has been offered.

A statement of the incorporation of the Scranton Coal Company, of its affiliation with the applicant, and of its activities is given in our report of December 28, 1931, in *New York, O. & W. Ry. Co. Assumption of Obligation*, 180 I. C. C. 163.

The coal company applied to the Finance Corporation for a loan, which was authorized in the amount of \$650,000, subject to certain conditions, among which are that the applicant herein obtain authority for and assume obligation and liability as unconditional guarantor in respect of the payment of the principal amount of the note evidencing the loan, and that it unconditionally guarantee punctual payment, when due, of interest at 5 percent per annum thereon and minimum payments of \$130,000 a year on account of the principal thereof, including the final balance.

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The balance sheet of the coal company as of June 30, 1935, shows current assets \$202,553.54, of which \$20,391.38 represents cash and \$143,168.24 accounts receivable, mining properties \$10,179,335.71, other assets \$100,776.88, and unadjusted debits \$15,515.82. Current liabilities are \$1,007,300.81, of which \$48,097.05 represents notes payable, \$412,894.14 audited accounts and wages payable, \$512,922.49 taxes prior to 1935, and accrued interest \$33,387.13. The funded debt totals \$3,825,000, of which \$600,000 is represented by first-mortgage bonds and \$3,225,000 by second-mortgage bonds, the latter being held by the applicant. Deferred liabilities consist of advances, notes, and accounts to the applicant aggregating \$2,632,874.99, and to others \$1,187,199.24, a total of \$3,820,074.23. Unadjusted credits total \$36,424.95, reserves \$1,610,293.10, capital stock \$200,000, and the deficit is \$911.14.

The tax liability is to be liquidated by a cash payment from the loan to be received from the Finance Corporation and the transfer of property not required by the coal company to the city and school district of Scranton. There will also be paid from the loan \$50,000 to reduce pressing obligations to general creditors, \$300,000 for payment to that extent of first-mortgage obligations now due, and \$160,000 to provide capital necessary to enable the coal company to continue to economically mine and market anthracite coal.

The loan of \$650,000 by the Finance Corporation will be evidenced by a note of the coal company, secured by a mortgage upon its property, which will bear interest at the rate of 5 percent per annum, and will mature five years from date. The principal is to be reduced by the payment of a minimum amount of \$130,000 annually, which is to be obtained by the setting aside by the coal company of 30 cents a ton on all coal mined from its own and leased property, which, upon the basis of present annual production, should retire the loan in approximately three years. The guaranty of payment by the applicant will run directly to the Finance Corporation, its successors and assigns, and is to be accomplished by executing an instrument of guaranty substantially in the form given in the application.

The applicant receives substantial revenue from the transportation of coal from the mines of the coal company, reserves of minable coal therefrom now being reduced to 9,000,000 tons, with an annual rate of production of 700,000 tons. The inaccessibility of the reserves has increased the cost of production and will shortly limit the annual output to 400,000 tons. To enable it to continue its present rate of production and pay its obligations, the coal company recently leased an additional reserve of 20,000,000 tons of coal. The

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loan from the Finance Corporation is essential to make this reserve available and indirectly to enable the applicant to continue on its present revenue basis.

We find that the assumption of obligation and liability, as guarantor, by the New York, Ontario and Western Railway Company in respect of the payment of principal and interest of a proposed note in the face amount of \$650,000 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.

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