

ORIGINAL

Decision No. 1247.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application :  
 of OAKLAND, ANTIOCH AND EASTERN : Application No. 939.  
 RAILWAY for authority to issue :  
 bonds and notes. :

Jesse E. Steinhart, for applicant.

LOVELAND, Commissioner.

O P I N I O N

This is an application by Oakland, Antioch and Eastern Railway for authority to issue \$500,000.00 in bonds for the purpose of providing money for additional construction and equipment and, previous to the sale of these bonds, to pledge them with other bonds as collateral security for an issue of \$700,000.00 of notes.

It is the intention to use the proceeds from the sale of these notes toward the liquidation of the floating indebtedness of Oakland, Antioch and Eastern Railway and Oakland and Antioch Railway. This floating indebtedness amounts to \$1,299,964.72. This floating indebtedness will be further lessened through an assessment on applicant's stock amounting to \$400,000.00.

The financial affairs of Oakland, Antioch and Eastern Railway and its subsidiary, Oakland and Antioch Railway, have been reviewed by this Commission in its decisions upon applications nos. 608 and 666. A brief summary will, therefore, suffice for the purposes of this application.

Oakland, Antioch and Eastern Railway, of itself, and through stock ownership in other railroads, operates a standard gauge electric railway approximately 100 miles in length between Oakland and Sacramento with branches extending to Antioch and Danville. Through a contract with the San Francisco, Oakland and San Jose Consolidated Railway, the applicant operates, by electric

line and ferry boats, between Oakland and San Francisco, thus giving it a through connecting service from San Francisco and Oakland to the points mentioned.

Oakland, Antioch and Eastern Railway has an authorized issue of 100,000 shares of stock of the par value of \$100.00 per share, all of which is outstanding.

Applicant's indebtedness may be summarized:

Oakland and Antioch Railway bonds outstanding.....	\$2,000,000.00
Oakland, Antioch and Eastern Railway bonds outstanding.....	2,500,000.00
San Ramon Valley Railroad bonds outstanding.....	<u>100,000.00</u>
Total bonds.....	\$4,600,000.00
Floating indebtedness, ap- proximately.....	<u>1,300,000.00</u>
Total all indebtedness.....	<u>\$5,900,000.00</u>

As security for its floating indebtedness in the sum of \$1,300,000.00, applicant has pledged \$1,256,000.00 of bonds. It holds in its treasury \$244,000.00 of bonds authorized by this Commission but not yet sold.

It is the desire of the applicant to use the proceeds from the sale of the \$500,000.00 of bonds, which it now asks authority to issue, for the following items:-

Grading.....	\$ 25,000.00
Additional Ballast.....	23,000.00
Ties.....	10,000.00
Rails.....	8,000.00
Special work.....	25,000.00
Frogs and switches.....	6,000.00
Roadway tools.....	2,000.00
Steel bridges and trusses.....	6,000.00
Pile and frame trestles.....	96,000.00
Culverts.....	2,000.00
Signal Apparatus.....	12,000.00
Distribution system.....	70,000.00
Substation buildings.....	<u>6,000.00</u>
Amount carried forward.....	\$ 291,000.00

Amount brought forward.....	\$ 291,000.00
Station buildings and fixtures.....	20,000.00
Substation equipment.....	48,000.00
Shop equipment.....	4,000.00
Freight cars.....	40,000.00
Electric locomotives.....	20,000.00
Miscellaneous equipment.....	8,000.00
	<u>\$ 431,000.00</u>

The application requests, however, that authority be granted at the present time to pledge these \$500,000.00 of bonds as collateral security together with other bonds of like character previously authorized by this Commission so that the total may be \$1,167,000.00 of such bonds.

It is the intention to pledge these bonds in the sum of \$1,167,000.00, or such part thereof as may be necessary, as collateral security for an issue of \$700,000.00 of 6% four-year notes and to issue and sell these notes at 96½% of their face value under the terms of a trust agreement between Oakland, Antioch and Eastern Railway and Union Trust Company of San Francisco, dated February 1, 1914.

It is provided in this trust agreement that notes may be issued up to the total of \$700,000.00, 200 of such notes to be in denominations of \$500.00, and 600 in denominations of \$1,000.00.

It is further provided that for every note so issued there shall be deposited with the trustee first mortgage thirty-year 5% bonds of Oakland, Antioch and Eastern Railway equal in face value to 166 2/3% of the face value of such notes as may be issued. The notes are to be callable: the first year at 100½, the second year at 100½, and the third and fourth years at par.

It is further stipulated in the trust agreement that these notes may be converted into the bonds which are pledged as security therefor upon the basis of 85% of face value for the bonds as against 96½% of face value for the notes.

In previous orders, the Commission has fixed the minimum price at which Oakland, Antioch and Eastern Railway shall sell its bonds at 80% of the par value thereof. In observing this provision, it will be necessary for applicant to fix, as the maximum commission that may be paid for the sale of its notes, a sum, which, under the conversion plan provided for in the trust agreement, heretofore referred to, will net to applicant at least 80% of the face value of the bonds which may be exchanged for notes.

It is altogether desirable that Oakland, Antioch and Eastern Railway should clear up or greatly reduce its floating indebtedness. It is applicant's belief that it will be able to liquidate the notes, which it now asks for authority to issue, by either their conversion into bonds or the sale of these bonds.

Since this Commission, on August 19, 1913, authorized the applicant herein to issue \$1,000,000.00 of its first mortgage bonds, it has levied and collected an assessment of \$500,000.00 on its capital stock. It has now levied a second assessment of \$4.00 per share which it believes will bring into its treasury approximately \$400,000.00. It will thus have raised \$900,000.00 from its stock.

Previous to the effective date of the Public Utilities Act, this company had issued the full amount of its authorized capital stock, a portion for preliminary and promotion work, but the greater portion as a bonus with the bonds.

In adopting the policy of stock assessment, I believe this company has greatly strengthened its financial condition. Too often such enterprises are overburdened and wrecked at the beginning by large issues of bonds to meet early necessities which should be defrayed through money raised from stock. It is certainly a sound judgment that strives to keep fixed charges within a reasonable limit. Many a worthy enterprise has been dedicated almost at its inception to failure through the pyramidding of

bond issues for preliminary expenditures and initial losses.

This road is still in process of construction and its limited operation for the past six months does not afford an adequate basis upon which to predicate a judgment as to its future, and the Commission does not assume, therefore, to pass upon the value of its securities, but it does, nevertheless, invite to the attention of such other utilities as may be in need thereof the unquestioned advantages of a policy of stock assessment.

The applicant has not submitted the detailed engineering data covering its proposed construction, nor has it submitted the detailed specifications for such equipment as it proposes to purchase.

The Order to be issued will authorize the pledging of the \$500,000.00 of bonds desired for this construction work and this equipment, but the authority to sell these bonds or to issue them in exchange for applicant's notes will be issued only after the Engineering Department of this Commission has had full opportunity to pass upon the detailed data to be submitted. The work covered in this program of construction and the equipment are needed by applicant and are proper purposes, as specified in the Public Utilities Act, for the issue of bonds.

It appears also that the floating indebtedness, heretofore mentioned, of applicant and Oakland and Antioch Railway was incurred for items properly chargeable to capital account, and the refunding of this indebtedness through the pledge of bonds and the issue of notes is, therefore, also in accordance with the provisions of the Public Utilities Act.

I find, therefore, that the purposes for which it is proposed to issue \$500,000.00 in bonds and to issue \$700,000.00 in notes are not reasonably chargeable to operating expenses or to income.

The Order herein will approve applicant's trust agree-

ment with Union Trust Company of San Francisco in so far as this Commission has the authority to so approve, with the understanding that the applicant will not issue any of its bonds in exchange for notes until it shall have received a Supplemental Order from the Commission approving the detailed engineering data to be filed, and with the reservation that such approval is given in so far as the terms of said trust agreement are not in conflict with the so-called Income Tax Law of the United States.

I recommend that, with the above conditions, the application be granted, and submit the following form of Order:-

#### O R D E R

Oakland, Antioch and Eastern Railway having applied to this Commission for authority to issue \$500,000.00 of its first mortgage 5% thirty-year bonds under its mortgage and deed of trust to Union Trust Company of San Francisco, dated October 1, 1911, a copy of which is on file with this Commission; and to pledge said bonds, together with other bonds under said mortgage heretofore authorized by this Commission to a total of \$1,167,000.00 of all such bonds, as collateral security for an issue of notes under a trust agreement between Oakland, Antioch and Eastern Railway to Union Trust Company of San Francisco, dated February 1, 1914; and to issue \$700,000.00 of its 6% four-year collateral trust notes under said agreement between Oakland, Antioch and Eastern Railway and Union Trust Company of San Francisco;

And a hearing having been held, and it appearing that the purposes for which said bonds and said notes are to be issued are not, in whole or in part, chargeable to operating expenses or to income;

IT IS HEREBY ORDERED: That Oakland, Antioch and Eastern Railway be granted, and it is hereby granted, authority to issue \$500,000.00 of its first mortgage 5% thirty-year bonds under its mortgage and deed of trust to Union Trust Company of San

Francisco, dated October 1, 1911.

IT IS FURTHER ORDERED: That Oakland, Antioch and Eastern Railway be granted, and it is hereby granted, authority to pledge said \$500,000.00 of its first mortgage 5% thirty-year bonds, herein referred to, and to pledge such other of its first mortgage 5% bonds, heretofore authorized by this Commission to be issued in this Commission's decisions Nos. 771 and 891 upon applications nos. 608 and 666, respectively, as may be necessary to make the total of all such bonds pledged \$1,167,000.00 of such issue of bonds, said bonds to be pledged under the terms of a trust agreement between Oakland, Antioch and Eastern Railway and Union Trust Company of San Francisco, dated February 1, 1914, a copy of which has been filed with this Commission in connection with the application herein and to which reference is hereby made.

IT IS FURTHER ORDERED: That Oakland, Antioch and Eastern Railway be granted, and it is hereby granted, authority to issue \$700,000.00 face value of its four-year 6% collateral trust notes under said trust agreement between Oakland, Antioch and Eastern Railway and Union Trust Company of San Francisco, dated February 1, 1914.

Said authority herein given to pledge said bonds and to issue said notes is given upon the following conditions and not otherwise:-

(1) If said \$500,000.00 of bonds herein authorized to be issued are sold, the proceeds to be derived therefrom shall be used for additions and betterments and equipment for applicant's line of railway, as specified in the Opinion herein, in the amount of \$431,000.00.

(2) Said \$500,000.00 of bonds shall not be sold until this Commission shall have issued a Supplemental Order approving the detailed engineering data and specifications for the additions and betterments and equipment herein referred to.

(3) If applicant shall sell its bonds, such bonds shall be sold at a price which shall net applicant not less than 80% of the par value thereof.

(4) Said notes in the sum of \$700,000.00, herein authorized to be issued, shall be sold so as to net applicant not less than 96½% of the face value thereof, less commission. Said commission shall not be greater than a sum which would net applicant 80% of the face value of its bonds if said bonds were issued for notes at the ratio specified in applicant's trust agreement, heretofore referred to, between Oakland, Antioch and Eastern Railway and Union Trust Company of San Francisco, dated February 1, 1914.

(5) Applicant shall apply the proceeds to be derived from the sale of its notes in the sum of \$700,000.00 toward the liquidation of its floating indebtedness as filed with this Commission in connection with the application herein and marked Exhibit B.

(6) Oakland, Antioch and Eastern Railway shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds and notes hereby authorized to be issued; and on or before the 25th day of each month the company shall make verified reports to the Commission stating the sale or sales of said bonds and notes during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which Order, in so far as applicable, is made a part of this Order.

(7) In addition to its report, as specified in subsection no. (6) above, applicant shall, on the 25th day of each month, for the month preceding, file with the Commission a statement of the numbers of the bonds pledged as collateral security



or sold under this Order.

(8) The approval herein given the trust agreement between Oakland, Antioch and Eastern Railway and Union Trust Company of San Francisco, under which said \$700,000.00 of notes are to be issued, is given in so far as said trust agreement is not in conflict with the Income Tax Law of the United States of America, and on the condition that neither this Commission nor any other public body shall be bound thereby to recognize, as a fixed charge against applicant's earnings, any tax that it may elect to pay on said issue of \$700,000.00 of notes under the Income Tax Law of the United States of America.

(9) The authority herein given shall apply to such bonds and such notes as may be issued on or before January 1, 1915.

(10) The authority hereby given to issue bonds shall not become effective until applicant has paid the fee prescribed by Section 57 of the Public Utilities Act as amended.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3rd day of February, 1914.

Wm. M. Kuhlman  
W. A. Howard  
Edwin D. Edgerton  
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Commissioners.