

# ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA:

Decision No. 1888

In the Matter of the Application of COLUSA AND HAMILTON RAILROAD COMPANY, SOUTHERN PACIFIC RAILROAD COMPANY and SOUTHERN PACIFIC COMPANY for an order authorizing a lease by Colusa and Hamilton Railroad Company to Southern Pacific Railroad Company of its railroad, rights, powers, immunities, privileges, franchises and other property, real, personal and mixed, except cash, securities, moneys due and to become due, bills and accounts receivable, books, papers and records, and authorizing and approving assignment of said lease by Southern Pacific Railroad Company to Southern Pacific Company.

Application No. 1005.

Guy V. Shoup for applicant.

THELEN, Commissioner.

### O P I N I O N.

This is an application for an order of this Commission authorizing the lease by Colusa and Hamilton Railroad Company of all the property and rights of the Colusa and Hamilton Railroad Company, with certain unimportant exceptions, and the assignment of said lease by Southern Pacific Railroad Company to Southern Pacific Company.

Colusa and Hamilton Railroad Company was incorporated under the laws of this State on July 18, 1911, for the purpose of constructing a single or double line of railroad of standard gauge, together with a line of telephone or telegraph for use in connection therewith, from a connection with the line of railroad of the Southern Pacific Railroad Company at or near Harrington, Colusa county, California, thence running in a general northeasterly and northerly direction to a point at or near Hamilton, Glenn county, California, to a connection with the tracks of the Southern Pacific Railroad Company, the estimated length being about 61 miles. The

company was incorporated by officials of the Southern Pacific Company as a subsidiary corporation. The Southern Pacific Company owns all the stock and has furnished all the money for the construction of the railroad. The railroad has now been completed a distance of some 38.613 miles continuously northerly from Harrington to Princeton and the Southern Pacific Company desires to open this portion of the line to operation. Nearly all of the right of way for the remaining portion of the road has been secured, nearly all the grading has been completed and practically all of the track material necessary to complete the road is on hand. The completion of the road to Hamilton is being delayed by certain condemnation proceedings for the acquisition of some three miles of the remaining right of way.

The applicants allege that the cost of the road to date has been \$1,167,572.36, and that the cost to complete the road is estimated at \$550,000.

The parties now ask authority to execute a lease of this road from Colusa and Hamilton Railroad Company to the Southern Pacific Railroad Company in substantially the form attached to the petition as Exhibit "A," and to execute an assignment of said lease from Southern Pacific Railroad Company to Southern Pacific Company in substantially the form which is attached to the petition herein as Exhibit "B."

The lease from the Colusa and Hamilton Railroad Company to the Southern Pacific Railroad Company is to cover the former's entire contemplated railroad between Harrington and Hamilton, a distance of 61.257 miles, and is to include all the property, real, personal and mixed, rights, privileges and franchises of the leased line or lines, except the franchise to be a corporation, and except cash or securities on hand, moneys due or to become due, bills and accounts receivable, and books, papers and records. The term of the lease is to be five years from January 1, 1914. As full compensation for the lease, the Southern Pacific Railroad Company

agrees to pay to the lessor annually an amount equal to 6 per cent per annum on the cost of the road as so far constructed, together with 6 per cent per annum on such amounts as may hereafter be properly charged on account of said road to capital account, betterments and additions. The Southern Pacific Railroad Company agrees to operate the railroad or to cause the same to be operated and to pay the expenses of operation, maintenance, repairs and renewals thereof and all the additional expenses connected therewith, and all sums which may legally be assessed as or for taxes or assessments upon the demised premises or any part thereof. The lease contains other provisions to which it is not necessary at this time to refer.

This lease is made to the Southern Pacific Railroad Company for the reason that this company owns the existing line of railroad running through Harrington and Hamilton, and the assignment of the lease from Southern Pacific Railroad Company to the Southern Pacific Company is to be made for the reason that the Southern Pacific Railroad Company owns but does not operate lines of railroad, while the Southern Pacific Company is primarily an operating company.

Colusa and Hamilton Railroad Company has issued no bonds. Its entire indebtedness is represented by open account for the moneys which the Southern Pacific Company has expended in the construction of the road.

I find that the public convenience will be served by granting the application, on condition, however, that this Commission shall at all times have the right to make a supplemental order or orders modifying the terms of the lease. This Commission has as yet made no valuation of the property of the Colusa and Hamilton Railroad Company and we do not at the present time know whether the cost of said road, given by the Southern Pacific Company as \$2,167,572.36, is a just and reasonable cost. The sum includes several items which are now being carefully scrutinized by this Commission in certain physical valuation cases now pending before it. The Commission should reserve the right to modify the sum to be paid as rental

in case it be hereafter determined that alteration should be made in said sum of \$1,167,572.36, and to make such other alterations as from time to time may appear to be necessary and reasonable.

I recommend that the application be granted on the condition specified in the order, and submit herewith the following form of order:

O R D E R

COLUSA AND HAMILTON RAILROAD COMPANY, SOUTHERN PACIFIC RAILROAD COMPANY and SOUTHERN PACIFIC COMPANY having applied for an order authorizing the lease by Colusa and Hamilton Railroad Company to Southern Pacific Railroad Company of all the rights and property of the Colusa and Hamilton Railroad Company, with certain exceptions, as appears from a form of lease which is attached to the petition herein and marked "Exhibit A", and authorizing the assignment of said lease by Southern Pacific Railroad Company to Southern Pacific Company, as appears from "Exhibit B", attached to the petition herein, and a public hearing having been held on said application and the Commission finding that public convenience and necessity will be subserved by the granting of said application on the condition hereinafter specified:

IT IS HEREBY ORDERED that said application be and the same is hereby granted, the leases to be in substantially the form attached to the petition herein, and marked "Exhibit A" and "Exhibit B", respectively, but only on the condition that this Commission reserves the right, from time to time, to prescribe such alterations or changes in said lease and said assignment of lease as to it may seem necessary and proper.

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 17th day  
of March, 1914.

A. S. Lovland

Max Thelen

Edwin C. Edgerton

Commissioners.