

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

Division No. 2967

In the Matter of the Application of UNITED RAILROADS OF SAN FRANCISCO for an order authorizing the issue of \$1,800,000.00 six per cent two-year notes.) Application No. 1992.

In the Matter of the Application of MARKET STREET RAILWAY COMPANY for an order authorizing the issue of five per cent gold bonds of the face value of \$2,250,000.00.) Application No. 1993.

William M. Abbott and Charles P. Bells for petitioners.

BY THE COMMISSION.

O P I N I O N.

The above entitled proceedings were consolidated for hearing and decision.

The petition in Application No. 1992 alleges, in effect, that Market Street Cable Railway Company, on October 27, 1882, issued its first mortgage 6 per cent gold bonds of the total face value of \$3,000,000.00, which bonds were to mature on January 1, 1913; that said bonds are secured by a deed of trust or mortgage dated October 27, 1882, covering all the properties and franchises of Market Street Cable Railway Company; that on or before the date of maturity of said bonds, \$1,200,000.00 thereof were paid and cancelled, leaving for payment \$1,800,000.00 thereof; that the holders of said \$1,800,000.00 of bonds require payment thereof on December 15, 1915; that United Railroads of San Francisco is the owner and in possession of all the franchises, rights and properties of Market Street Cable Railway Company and has assumed said company's debts and liabilities, including its bond issue; that United Railroads of San Francisco desires to postpone the time for the payment of the bonds of Market Street Cable Railway

for a period of ten months, until October 15, 1916; that for the purpose of providing moneys with which to pay said bonds, United Railroads of San Francisco desires to secure an order authorizing it at any time on or before October 15, 1916, to issue its notes for \$1,800,000.00, said notes to run for a period of two years from the date thereof, to bear interest at the rate of 6 per cent per annum, and to be secured by 2250 of the 5 per cent first consolidated ^{mortgage} bonds of Market Street Railway Company, due September 1, 1924; and that since December 31, 1912, the outstanding indebtedness against the properties of United Railroads of San Francisco has been reduced \$3,795,000.00.

The petition in Application No. 1993 alleges, in effect, that Market Street Railway Company was formed by the consolidation and amalgamation of several street railway corporations owning and operating street railways in the City and County of San Francisco, including, among others, Market Street Cable Railway Company; that Market Street Railway Company succeeded to all the debts, properties, assets and franchises of its various predecessor companies, including Market Street Cable Railway Company; that the deed of trust or mortgage of Market Street Railway Company to Union Trust Company of San Francisco, dated July 12, 1894, provides in part that bonds of Market Street Railway Company may be issued to take ~~xxxx~~ up the then outstanding bonds of a number of predecessor companies, including Market Street Cable Railway Company; that on March 18, 1902, Market Street Railway Company sold all its property to United Railroads of San Francisco, including the properties formerly owned by Market Street Cable Railway Company; that Market Street Railway Company desires to issue 2250 of its 5 per cent gold bonds as collateral security on the \$1,800,000 of notes which United Railroads of San Francisco desires to issue for the purpose of paying Market Street Cable Railway Company ~~xxx~~ bonds of the face value of \$1,800,000.00; and that 7341 bonds

of Market Street Railway Company, having a total face value of \$7,341,000.00, have heretofore been issued.

A public hearing on these applications was held in San Francisco on December 8, 1915, before the Commission en banc.

United Railroads of San Francisco, in its annual report for the year ending June 30, 1915, reports capital stock as follows:

Table No. I.

UNITED RAILROADS OF SAN FRANCISCO

Capital Stock.

<u>Class of stock</u>	<u>Authorized</u>	<u>Outstanding</u>
Common	\$18,800,000	\$18,800,000
Second preferred	20,000,000	20,000,000
First preferred	<u>5,000,000</u>	<u>5,000,000</u>
Total,	\$43,800,000	\$43,800,000

The annual report of United Railroads of San Francisco for the year ending June 30, 1915, reports this stock to be held as follows:

Table No. II.

UNITED RAILROADS OF SAN FRANCISCO
OWNERSHIP OF ITS STOCK.

<u>NAME OF STOCKHOLDER</u>	<u>COMMON SHARES</u>	<u>SECOND PREFERRED SHARES</u>	<u>FIRST PREFERRED</u>
United Railway Investment	-	-	50,000 (1)
P. M. Hoskins	79,500 (1)	200,000 (1)	-
S.F. Electric Railways	99,975	-	-
Chas. N. Black	1	-	-
John A. Buck	1	-	-
Washington Dodge	1	-	-
A. W. Foster	1	-	-
B. S. Guinness	1	-	-
Jesse W. Lillienthal	1	-	-
J. C. McKinstry	1	-	-
A. H. Payson	1	-	-
Henry F. Scott	1	-	-
L. S. Sherman	1	-	-
George B. Wilcott	1	-	-

(1) - Reported by California Railway & Power Company as its property.

In the second annual report of California Railway and Power Company to its stockholders for the year ending June 30, 1915, the claim is made that the company owns five million dollars, par value, of first preferred stock, twenty million dollars, par value, of second preferred stock and \$7,950,000 par value of the common stock of United Railroads of San Francisco. California Railway and Power Company also owns \$9,997,500.00 par value, of stock of San Francisco Electric Railways, which company, as appears above, owns \$9,997,500.00, par value, of common stock of the United Railroads of San Francisco.

With reference to the apparent discrepancy as to the ownership of the stock of United Railroads of San Francisco, as between the annual report of United Railroads of San Francisco, filed with this Commission, and the second annual report of California Railway and Power Company to its stockholders, Mr. B. S. Guinness testified that while the stock of United Railroads of San Francisco or a portion thereof, may stand in the name of other corporations or individuals, the entire stock is, in effect, owned by California Railway and Power Company.

California Railway and Power Company has issued \$2,800,000.00 of 7 per cent cumulative prior preference stock, \$6,874,400.00 of 7 per cent cumulative preferred stock and \$40,000,000.00 of common stock. Mr. Guinness testified that the prior preference stock is in the hands of the public but that the remaining stock is owned by United Railways Investment Company.

United Railways Investment Company has issued preferred stock of the par value of \$16,000,000.00 and common stock of the par value of \$20,400,000.00. Mr. Guinness testified that the stock of United Railways Investment Company is in the hands of the general public, but that the banking firm of Ladenburg, Thalmann & Company of New York, together with its associate banks, holds the control of the stock.

In its annual report for the year ending June 30, 1915, United Railroads of San Francisco reports its "bonded and long term" indebtedness as follows:

Table No. III.

UNITED RAILROADS OF SAN FRANCISCO
BONDED AND LONG TERM INDEBTEDNESS.

NAME & CHARACTER OF OBLIGATION	DATE OF ISSUE	DATE OF MATURITY	Rate of Interest	PAR VALUE AUTHORIZED	TOTAL PAR VALUE ISSUED	TOTAL PAR VALUE REACQUIRED	TOTAL PAR VALUE OUTSTANDING
Market Street Ry. Co.	7/12/94	9/1/24	5	\$17,500,000	7,341,000	--	7,341,000
United Railways of San Francisco	6/7/02	4/1/27	4	35,275,000	23,359,000	1,505,000	23,542,000
Omnibus Cable Company	4/2/88	4/2/18	6	2,000,000	2,000,000	--	1,980,000
Sutter Street Railway Co.	5/1/98	5/1/18	5	1,000,000	1,000,000	--	1,000,000
Market Street Cable Ry. Co.	10/27/02	12/15/16	6	3,000,000	3,000,000	1,200,000	1,800,000
Ferries & Cliff House Ry. Co.	3/1/89	12/31/16	6	650,000	650,000	250,000	400,000
Ten Year Gold Notes	2/1/06	2/1/16	5	1,000,000	1,000,000	--	1,000,000
Equipment Notes of 1910	6/15/10	8 yr. serial	6	400,000	400,000	250,000	150,000
Equipment Notes of 1912	7/1/12	10 yr. serial		300,000	300,000	90,000	210,000
Total				\$61,125,000	41,050,000	3,295,000	37,423,000

The United Railroads of San Francisco reports its current liabilities as of June 30, 1915, as follows:

Table No. IV.

UNITED RAILROADS OF SAN FRANCISCO
CURRENT LIABILITIES.

Notes payable United Railway Investment Company Three notes due Jan. 1, 1913, each for \$185,000 Note due June 1, 1913 for \$185,000	\$740,000.00
Note payable to California Coast Railway and Power Company	1,925,000.00
Note payable to Wells-Fargo-Nevada National Bank.	50,000.00
Note payable to Sutter Street Railway Company. . .	15,120.00
Notes payable to General Electric Company.	5,062.50
Audited Vouchers and Wages Unpaid.	537,010.00
Matured interest, dividends and rents unpaid . . .	48,430.00
Accrued interest, dividends and rents payable. . .	<u>496,746.63</u>
Total.	\$ 3,817,369.13

United Railroads of San Francisco reports current assets as of June 30, 1915, amounting to \$1,050,656.86, thus leaving a net current indebtedness amounting to \$2,766,692.27.

To summarize, the net indebtedness of United Railroads of San Francisco, on June 30, 1915, was

Bonds and other long term debt.....	\$37,423,000.00
Current debt (net)	2,766,692.27
	<hr/>
Total.....	\$40,189,692.27

For the fiscal years 1912, 1913, 1914 and 1915, and for the four months ending October 31, 1915, United Railroads of San Francisco reported earnings and expenses as follows:

TABLE NO. V.

UNITED RAILROADS OF SAN FRANCISCO

EARNINGS AND EXPENSES

ITEM	1912	1913	1914	1915	4 Months Ending: October 31, 1915
Operating Revenue	\$8,173,113.91	\$8,589,247.66	\$8,515,893.73	\$8,030,997.80	\$2,828,185.88
Operating Expense	4,256,739.36	4,705,828.61	4,722,736.86	4,757,826.54	1,676,651.80
Net Operating Revenue	3,916,374.55	3,883,418.95	3,793,156.87	3,273,171.26	1,151,534.08
Miscellaneous Income:					
Interest on Deposits	6,367.93	3,157.59	110.79	--	--
Income from Securities Owned	35,688.49	47,682.65	47,172.05	181,074.93	--
Other Miscellaneous Income	21,426.08	7,685.94	3,232.19	12,329.47	65,669.62
Total	63,482.50	58,526.18	50,515.03	193,404.40	65,669.62
GROSS INCOME	3,979,857.05	3,941,945.13	3,843,671.90	3,466,575.66	1,217,203.70
DEDUCTIONS FROM GROSS INCOME:					
Taxes	402,000.00	453,200.00	503,800.00	516,000.00	172,000.00
Interest on Funded Debt	1,950,731.65	1,817,176.58	1,719,964.65	1,691,660.77	574,910.55
Interest on Floating Debt	49,162.21	150,487.53	206,294.35	197,693.59	46,329.29
Rents for Leased Lines	84,600.00	77,300.00	126,600.00	181,936.97	58,800.00
Other Deductions from Income	--	--	5,573.38	--	--
Total	2,486,493.86	2,498,166.11	2,562,232.38	2,587,291.33	852,039.84
NET INCOME	1,493,363.19	1,443,779.02	1,281,439.52	879,284.33	365,163.86
DISPOSITION OF NET INCOME:					
Reserve for Mortgage Sinking Fund	387,462.76	405,720.97	382,134.50	4,912,648.76	--
Dividends 7% on First Preferred Stock	350,000.00	350,000.00	350,000.00	--	--
Dividends 10% on Preferred Stock	--	200,000.00	--	--	--
Reserved under Order Railroad Commission	--	--	--	--	183,333.33
Total	737,462.76	955,720.97	732,134.50	4,912,648.76	183,333.33
SURPLUS FOR YEAR	755,900.43	488,058.05	549,305.02	4,033,384.43 (1)	181,830.53
SURPLUS BEGINNING OF YEAR	292,212.58	623,798.68	462,139.24	1,018,632.81	--
SURPLUS BEFORE MAKING PROFIT & LOSS ADJUSTMENTS	1,048,113.01	1,111,856.73	1,011,444.26	2,890,776.42 (1)	--
ADDITIONS TO PROFIT AND LOSS:	929,580.59	1,158,902.47	306,403.01	123,955.20	--
REDUCTION FROM PROFIT AND LOSS:	1,353,894.92	1,808,619.96	299,214.46	1,288,870.97	--
SURPLUS END OF YEAR	623,798.68	462,139.24	1,018,632.81	4,179,147.39 (1)	--

(1) Deficit.

United Railroads of San Francisco reports its assets
as of June 30, 1914 and June 30, 1915, as follows:

Table No. VI.

UNITED RAILROADS OF SAN FRANCISCO
ASSETS JUNE 30, 1914 and JUNE 30, 1915.

A S S E T S	1914	1915	INCREASE or DECREASE
<u>INVESTMENTS:</u>			
Road & Equipment	82,411,601.93	81,349,227.85	1,062,374.08 -
Sinking Funds	1,978,921.72	1,977,828.64	1,093.08 -
Deposits in lieu of mortgaged property sold	-	10,000.00	10,000.00 +
<u>INVESTMENT IN AFFILIATED COMPANIES</u>			
Stocks	1,350.00	1,350.00	-
Bonds	309,055.63	213,674.50	95,291.13 -
Notes	418,784.77	418,784.77	-
<u>OTHER INVESTMENTS</u>			
Stocks	854,028.40	2,628.40	851,400.00 -
Total Investments	85,973,742.45	83,973,584.16	2,000,158.29 -
<u>CURRENT ASSETS:</u>			
Cash	58,848.97	212,986.92	154,137.95 +
Special Deposits	1,834.15	1,834.15	-
Loans & Notes Receivable	16,512.41	2,314.95	14,197.46 -
Miscellaneous Accounts Receivable	175,075.14	213,452.98	38,377.84 +
Materials & Supplies	635,426.28	579,385.29	56,040.99 -
Interest, Dividends & Rents Rec.	1,279.33	38,605.57	37,326.24 +
Other Current Assets &	2,127.00	2,077.00	50.00 -
TOTAL CURRENT ASSETS	891,103.28	1,050,656.86	159,553.58 +
<u>UNADJUSTED DEBITS:</u>			
Rents & Insurance Premiums paid in advance	13,376.73	14,449.50	1,072.77 +
Discount on Funded Debt	948,338.10	876,580.33	71,757.77 -
Other Unadjusted Debits	90,955.70	64,461.50	26,494.20 -
Total Unadjusted Debits	1,052,670.53	955,491.33	97,179.20 -
GRAND TOTAL	87,917,516.26	85,979,732.35	1,937,783.91 -

United Railroads of San Francisco reports its liabilities as of June 30, 1914, and June 30, 1915, as follows:

Table No. VII.

UNITED RAILROADS OF SAN FRANCISCO
LIABILITIES JUNE 30, 1914 and JUNE 30, 1915.

LIABILITIES	1914	1915	INCREASE or DECREASE
Capital Stock	\$43,800,000.00	\$42,948,600.00	\$ 851,400.00
<u>Long Term Debt:</u>			
Funded Debt Unmatured	37,763,000.00	37,423,000.00	340,000.00-
Notes to Affiliated Company	810,000.00	740,000.00	70,000.00-
Total Long Term Debt	38,573,000.00	38,163,000.00	410,000.00-
<u>Current Liabilities</u>			
Loans & Notes Payable	2,085,120.00	1,995,182.50	89,937.50-
Audited Accounts & Wages Payable	652,966.02	537,010.00	115,956.02-
Matured Interest, dividends & rents unpaid	42,610.00	48,430.00	5,820.00 x
Accrued Interest, dividends & rents payable	502,985.20	496,746.63	6,238.57-
Total Current Liabilities	3,283,681.22	3,077,349.13	206,332.09
MISCELLANEOUS DEFERRED LIABILITIES:	62,623.90	62,816.40	192.50+
<u>UNADJUSTED CREDITS:</u>			
Operating Reserves			
Accrued Depreciation (road & equipment)			
Reserve for amortization of franchise	454,791.53	880,990.03	426,198.50x
Accrued Depreciation (miscellaneous physical property)			
Tax Liability	220,093.35	229,634.28	-
Other Unadjusted Credits	7,221.55	9,550.57	2,329.02x
Total Unadjusted Credits	682,106.43	1,120,174.88	438,068.45x
<u>CORPORATE SURPLUS:</u>			
Sinking Fund Reserves	405,290.57	4,786,939.33	4,381,648.76x
Profit & Loss	1,110,814.14	4,179,147.39-	5,289,961.53-
TOTAL CORPORATE SURPLUS	1,516,104.71	607,791.94	908,312.77-
<u>GRAND TOTAL</u>	87,917,516.26	85,979,732.35	1,937,783.91-

It will be observed that for the year ending June 30, 1915, a sinking fund reserve amounting to \$4,786,939.33 is set up. The annual report for the year ending June 30, 1915, sets forth securities and other investments in the sinking funds amounting to \$1,976,789.96. By reason of the absence of the original books of account of United Railroads of San Francisco for the years 1907, 1908, 1909, 1910 and 1911, the Railroad Commission has been unable to ascertain the items which enter into the total sinking fund reserve reported as \$4,786,939.33, or the amount of this total which is to be credited to each bond issue. United Railroads of San Francisco has been directed to supply the information necessary for a satisfactory determination of these questions.

It will also be observed that the annual report for the year ending June 30, 1915, shows a total deficit of \$4,179,147.39. Whether a larger deficit in fact exists can not be determined until the original books of account of United Railroads of San Francisco, hereinbefore referred to, have been produced. In response to a question from the Commission at the hearing with reference to the legality, under the law of this State, of any further declarations of dividends until this deficit has been converted into a surplus, Mr. Jesse W. Lillienthal, President of United Railroads of San Francisco, stated that the legality of the declaration of any such dividend until this deficit has been converted into a surplus is so doubtful that he ~~thought~~ would not advise his fellow directors to declare any further dividend until this deficit has been made good.

As stated in the petitions herein, the bonds of Market Street Cable Railway Company, totalling three million dollars, became due on January 1, 1915. Bonds of the face value of \$1,200,000.00 were paid and cancelled. United Railroads of San Francisco made an arrangement with E. H. Rollins & Sons by which

the holders of the remaining \$1,800,000.00 of bonds agreed to defer claims for payment until December 15, 1913. This arrangement is set forth in agreement dated December 27, 1912, between United Railroads of San Francisco and E. H. Rollins & Sons, a copy of which agreement is on file herein. On November 15, 1913, United Railroads of San Francisco entered into a further agreement with E. H. Rollins & Sons, in which agreement E. H. Rollins & Sons agreed that they would secure a further waiver of presentation for payment until December 15, 1915. Under this agreement, interest coupons at the rate of 6 per cent per annum covering the period from December 15, 1913 to December 15, 1915, were issued by United Railroads of San Francisco. The interest was to be paid semi-annually on June 15, and December 15, in each of the years 1914 and 1915. These interest coupons were attached by E. H. Rollins & Sons to each of the outstanding 1800 bonds. Application was not made to this Commission for authority to issue any of these coupons. They clearly constituted evidence of indebtedness. Consequently, under the provisions of Section 52 of the Public Utilities Act, the coupons payable at periods in excess of 12 months from the date of issue, namely, the coupons payable on June 15, 1915 and December 15, 1915, were absolutely void. The parties to this transaction issued these coupons on advice of counsel that such action could legally be taken without securing authorization from the Railroad Commission. We are satisfied that the parties did not intend to violate the Public Utilities Act, and for that reason, do not consider it necessary to go into the matter further.

On March 1, 1914, \$650,000.00, face value, of first mortgage bonds of Ferries and Cliff House Railway Company, one of the predecessor companies of United Railroads of San Francisco,

became due. At this time, \$50,000 of said bonds were paid and cancelled. On January 21, 1914, an agreement was entered into between United Railroads of San Francisco, party of the first part, and Anglo & London-Paris National Bank and N. W. Halsey & Company, parties of the second part, under which the parties of the second part agreed to purchase the outstanding bonds of the face value of \$600,000 and to waive and postpone presentation thereof for payment, as well as any right of foreclosure until December 31, 1914. Two interest coupons were attached to each of said bonds, but as the term of the coupons was less than 12 months, this Commission's consent to the issue of said coupons was not necessary. On December 13, 1914, United Railroads of San Francisco entered into an agreement with E. H. Rollins & Sons, reciting that the United Railroads of San Francisco was to pay and cancel an additional \$200,000, face value, of said bonds, and desired an extension of time on the remaining \$400,000, face value. E. H. Rollins & Sons agreed to waive presentation of payment and foreclosure until December 31, 1916, if semi-annual interest at the rate of 6 per cent should be regularly paid in the meantime. In accordance with this agreement, United Railroads of San Francisco issued four interest coupons which were attached to each of the outstanding 400 bonds. These interest coupons were payable semi-annually on June 30, 1915, December 31, 1915, June 30, 1916 and December 31, 1916. As the interest coupons payable June 30, 1916 and December 31, 1916, were for terms in excess of 12 months, and as the Railroad Commission's consent was not secured, these interest coupons are absolutely void. These interest coupons should be called in and cancelled and United Railroads of San Francisco should at once take steps to comply with the provisions of Section 52 of the Public Utilities Act.

The holders of the outstanding bonds of Market Street Cable

Railway Company amounting to \$1,800,000.00, now demand payment. United Railroads of San Francisco is of the opinion that if it can secure from this Commission an order authorizing the issue of notes for \$1,800,000.00 at any time on or before October 15, 1916, for the purpose of paying these bonds, a further extension of the time for paying said bonds may be secured. United Railroads of San Francisco accordingly asks for an order authorizing the issue of its 6% gold notes of the face value of \$1,800,000.00, maturing two years from the date of issue, these notes to be secured by 5% first mortgage bonds of Market Street Railway Company of the face value of \$2,250,000.00. No definite arrangements have as yet been made for the sale of these notes. No testimony was presented with reference to the price at which the notes are to be sold. No plan was presented for the payment of these notes if they should be authorized and issued. The Commission drew attention at the hearing to the fact that a number of additional obligations of United Railroads of San Francisco will shortly be payable. On February 1, 1916, ten year gold notes of United Railroads of San Francisco of the face value of \$1,000,000.00 become due. On December 31, 1916, the remaining outstanding bonds of Ferries and Cliff House Railway Company, of the face value of \$400,000.00 are payable. Furthermore, United Railroads of San Francisco owes United Railways Investment Company \$740,000.00, of which amount \$555,000.00 was due on January 1, 1913, and \$185,000.00 was due on June 1, 1913. When asked whether any arrangement had been made to pay these obligations as well as the notes for the issue of which application is now being made, Mr. B. S. Guinness, who represents the controlling interest in these properties, stated that no such arrangement had been made and that he assumed that a reorganization would be necessary in order to take care of the maturing obligations of United Railroads.

of San Francisco. This Commission will expect United Railroads of San Francisco to present a plan for meeting the obligations herein authorized to be incurred. A number of the important franchises of United Railroads of San Francisco will expire in and within a few years after 1929.

The earnings of United Railroads of San Francisco are such that if dividends are not paid on the stock a considerable portion of the maturing obligations of United Railroads of San Francisco can be paid from earnings.

On February 4, 1913, this Commission rendered its Decision No. 439 on Application No. 283, denying the application of United Railroads of San Francisco for authority to issue \$2,350,000.00 6% five year notes to be used in the purchase of Market Street Cable Railway Company bonds and Park and Cliff House Railway Company bonds.

After referring to the absence of the original books of account of United Railroads of San Francisco for the years 1907, 1908, 1909, 1910 and 1911, to the necessity of having these books in order to determine satisfactorily the financial condition of United Railroads of San Francisco and to the absence of any satisfactory explanation as to why these books were not in the possession of their owner, United Railroads of San Francisco, and had not been submitted to the Commission, the Commission said (Vol. II, Opinions and Orders Railroad Commission of California, p. 140, 147):

"Upon the failure of applicant to produce the books, as requested, it was announced that no order would be made granting this application and in view of the fact that these books have not been produced, although ample time has been given, it is the conclusion of this Commission that this application should be denied and that it be understood that no favorable action will be taken by this Commission on any application presented by the United Railroads, or its subsidiaries, until the information demanded by the Commission has been furnished."

Mr. B. S. Guinness testified that he is and has been a director of the United Railroads of San Francisco and United

✓ Railway Investment Company, an officer of California Railway and Power Company and a partner of Ladenburg, Thayerman & Company. He testified that he had been informed that these books had been in the possession of Haskins & Sells, in New York, and that they had been delivered by Haskins & Sells to Patrick Calhoun or to a representative of Mr. Calhoun. These books are the property of United Railroads of San Francisco and not of Mr. Calhoun. The owners of this property knew, at least subsequent to the decision of February 4, 1915, that the Railroad Commission requires these books in order to ascertain the true financial condition of United Railroads of San Francisco. Mr. Guinness testified that he and his associates had asked Mr. Calhoun for the books but they had been put off. This Commission is not satisfied that the eastern owners of this property have made reasonable efforts to secure and produce these books. While it is not the function of this Commission to indicate to United Railroads of San Francisco and to the owners of its stock the precise means to be used to secure these books, the Commission will expect them to use every effort in their power, both legal and otherwise, to procure these books and return them to California to the possession of the United Railroads of San Francisco. A condition to this effect will be inserted in the order herein.

In view of the financial condition of United Railroads of San Francisco, in so far as it can be determined in the absence of the original books of account, herein referred to, the Commission can not authorize an issue of bonds of Market Street Railway Company to be used as collateral security, in excess of the face value of the notes to be issued by United Railroads of San Francisco, for the reason that such issue would, if the pledge were foreclosed, result in a substantial increase in the bonded indebtedness of United Railroads of San Francisco.

ORDER

UNITED RAILROADS OF SAN FRANCISCO having applied to the Railroad Commission for an order authorizing the issue, on or before October 15, 1916, of its 6% gold notes of the face value of \$1,800,000.00, maturing two years from the date of issue, and MARKET STREET RAILWAY COMPANY having applied for an order authorizing the issue of its first mortgage 5% gold bonds of the face value of \$2,250,000.00, to be used as collateral security for said issue of notes, and a public hearing having been held on said applications, and the Railroad Commission finding that the purposes for which the proceeds of said issue of notes and bonds are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

IT IS HEREBY ORDERED AS FOLLOWS:

United Railroads of San Francisco is hereby authorized, on or before October 15, 1916, to issue \$1,800,000.00, face value, of promissory notes, bearing interest at the rate of 6% per annum, maturing two years from the date of issue, and Market Street Railway Company is hereby authorized to issue \$1,800,000.00, face value, of its 5% first mortgage bonds, secured by a deed of trust or mortgage, dated July 12, 1894, from Market Street Railway Company to Union Trust Company of San Francisco, to be used as collateral security for said notes of \$1,800,000.00 on the following conditions and not otherwise, to wit:

1. The proceeds from the issue of said \$1,800,000.00 of promissory notes by United Railroads of San Francisco shall be used only for the purpose of purchasing and cancelling the remaining outstanding bonds of Market Street Cable Railway Company in an amount not to exceed the sum of \$1,800,000.00.

2. United Railroads of San Francisco and Market Street Railway Company shall not issue the notes and bonds herein referred

to until the Railroad Commission has made a supplemental order reciting that United Railroads of San Francisco has produced its original books of account for the years 1907, 1908, 1909, 1910 and 1911, or that United Railroads of San Francisco has taken and is taking the necessary steps, legal and otherwise, to secure the return to its possession of said books.

3. United Railroads of San Francisco and Market Street Railway Company shall not issue the notes and bonds herein referred to until the Railroad Commission has made a supplemental order reciting that United Railroads of San Francisco has filed with the Railroad Commission a stipulation authorized by its board of directors and satisfactory in form, to the effect that during the life of said notes United Railroads of San Francisco will hold for or apply to the payment of said notes such portion of the net income of United Railroads of San Francisco as may be directed by the Railroad Commission.

4. United Railroads of San Francisco and Market Street Railway Company shall not issue the notes and bonds herein referred to until the Railroad Commission has made its supplemental order reciting the price at which said notes shall be issued.

Dated at San Francisco, California, this 11th day of December, 1915.

Max Thelen
H. H. Howard
Edwin O. Edgerton
Francis A. ...
Commissioners.