Decision No. 340

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BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of Northern Electric Railway Company, a corporation, for an order authorizing the issue of bonds.

Application No. 246

Charles W. Slack and T. T. C. Gregory for applicant.

O P I N I O N

Edgerton, Commissioner.

This is an application by Northern Electric Railway Company for an order authorizing the validation of $5,104,000 face value of its bonds heretofore issued for the purpose of being pledged as collateral security for loans, and authorizing the issue and sale of $8,000,000 face value of its bonds and the issue and sale of $2,604,000 face value of its bonds now pledged as security and the issue and sale of $225,000 face value of its bonds, and authorizing the execution of an indenture of amendment and supplement to its trust deed.

The condition of the capitalization of applicant is as follows:

Bonds of applicant:	
Authorized	$25,000,000.00
Outstanding	171,000.00
Issued as collateral	5,001,000.00
Underlying bonds closed issue:	
Outstanding	2,026,000.00
Issued as collateral	1,569,000.00
In escrow for exchange of Chico Electric Railway bonds	46,000.00
Floating indebtedness as of June, 1912	5,159,671.35
Capital stock:	
Authorized	25,000,000.00
Issued	25,000,000.00

Applicant is engaged in the operation of a standard gauge

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electric railway in the Counties of Glenn, Butte, Sutter, Yuba and Sacramento with several branches in the counties named.

Its line now terminates at Sacramento and it desires to effect a direct connection over its own lines between the City of Sacramento and all the territory through which it operates with the City of San Francisco and territory intervening between Sacramento and San Francisco so as to provide a continuous service over its own lines between San Francisco and all points which it serves. Its plan is to extend its line from Sacramento to the City of Vallejo, in the County of Solano, thence by line of boats to conduct freight and passengers to San Francisco.

Arrangements have been made to sell a portion or all of the proposed bond issue in Europe and hence request is made for authorization by this Commission to execute an indenture of amendment and supplement to trust deed, dated December 2, 1907, permitting the bonds of the original authorization to be issued in foreign moneys the equivalent of the face value of the bonds authorized in the original trust deed. Applicant has filed a copy of this proposed indenture of amendment and supplement, and desires to issue bonds under its terms.

The building of this extension will be of great benefit to the road as a whole because it will provide a continuous service from the point of origin to destination, giving applicant the benefit of the entire income from the haul. In addition there will be a considerable amount of new territory served between San Francisco and Sacramento.

It has been impossible to determine with any exactness, from the data furnished by applicant, what the physical values of its properties are, and as it is apparent that serious and costly delay in constructing this road might result if action on this application were delayed for a period of several months, which would be needed to make the physical valuation, the conclusion has been reached that in view of the undoubted benefits to be realized by applicant and the public, through the bringing of this line to San Francisco, and considering the guarantees provided by the financiers back of this project, an order allowing bonds to be sold for the building of this extension should be made.

There should be an assurance of the payment of bond interest until the road of applicant earns sufficient to meet its obligations and to that end the financiers spoken of above, and who are E. R. Lilienthal, E. J. de Sabla Jr, Louis Sloss and W. P. Hammon, should either personally or by way of an appropriate fund guarantee the payment of the interest of applicant's bonds for a period of 10 years.

In order to provide that the financial condition of applicant will grow constantly better, at least $750,000 of its bonded indebtedness should be amortized over a period of not longer than 10 years and this should be accomplished either by retiring that amount of bonds or by the investment of that amount of money in the properties during this period. This result should be guaranteed by the same financiers above mentioned.

Applicant proposes to sell $8,000,000 of its bonds for the price of not less than 80 per cent of the face value. With the money derived from $5,500,000 thereof it proposes to build its line from Sacramento to Vallejo and from the proceeds of $2,500,000 thereof, proposes to pay off a part of its floating indebtedness and thereby release and have returned to it $2,500,000 face value of its bonds now held as collateral.

Applicant has issued and pledged as collateral certain of its bonds prior to March 23, and thereafter received back said bonds and subsequent to March 23, 1912, under a misapprehension of the law, again issued and pledged said bonds without the authorization of this Commission. It has now requested that this latter issuance of said bonds be validated, and as it appears clear that such validation would only maintain the status of applicant, this request should be granted.

Applicant had in June, 1912, a floating indebtedness of $5,159,671, which is drawing interest at a greater rate than is proposed to be paid on the bonds asked to be sold, hence the conversion of floating indebtedness into a bonded indebtedness will be of benefit to the corporation, not only by way of reducing interest, but also by way of extending the time in which the money must be paid. This reasoning applies to the request of applicant that it be allowed to sell $2,604,000 face value of its bonds which will remain pledged as collateral and with the proceeds from the sale of which bonds a large part of the remaining floating indebtedness of applicant is to be paid, but in order that a decided benefit will result from this latter sale of bonds, it should be provided that they be sold at not less than 85 per cent of their face value.

Applicant's final request is that it be allowed to issue and sell $225,000 face value of bonds in addition to those heretofore mentioned, for the purpose of providing money for improvements made and to be made to its existing and operating roads. These improvements consist of various items of stations built, switching tracks constructed, etc. Provided that these bonds are sold at a minimum of 85 per cent of their face value, this request should be granted.

The following form of order is herewith submitted:

O R D E R

Application having been made to the Railroad Commission of the State of California by Northern Electric Railway Company for an order authorizing the execution of an indenture of amendment and supplement to its existing trust deed and authorizing the validation of $5,104,000 face value of its bonds heretofore issued for the purpose of being pledged as collateral security for loans and authorizing the issue and sale of $8,000,000 face value of its bonds and authorizing the issue and sale of $2,604,000 face value of its bonds now pledged as collateral security for loans and authorizing the issue and sale of $225,000 face value of its bonds,

And a hearing having been duly held and it appearing to the Commission that the money to be secured by the issue of said bonds is necessary and reasonably required by said company for the discharge of its obligations and for the construction of its plant and appliances, and that the purposes for which the proceeds of said bonds are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

IT IS HEREBY ORDERED by the Railroad Commission of the State of California:

1. Northern Electric Railway Company is hereby authorized to execute and deliver indenture of amendment and supplement to its deed of trust to Mercantile Trust Company of San Francisco, as trustee, dated December 2, 1907, in form and substance substantially identical with the indenture of amendment and supplement heretofore filed in this proceeding. A certified copy of said indenture of amendment and supplement as executed shall be filed with this Commission before any of the bonds hereby authorized are issued. thereunder.

2. All of the bonds issued under the authority of this order shall be issued subject to and in compliance with the terms of the trust deed of applicant made to the Mercantile Trust Company of San Francisco, as trustee, dated December 2, 1907, or the indenture of amendment and supplement mentioned in paragraph 1 hereof, which said indentures provide for the issuance of bonds payable 40 years from date, bearing interest at the rate of 5 per cent per annum, payable semi-annually on the 1st day of each succeeding June and December.

3. Northern Electric Railway Company is hereby authorized to issue bonds of the face value of $8,000,000, on

the following express conditions precedent, and not otherwise, to-wit:-

(a) Said bonds may all be sold but only so as to net applicant in cash not less than 80 per cent of the face value thereof plus accrued interest.

(b) Of the bonds so authorized, bonds of the face value of $2,500,000 may be exchanged in equivalent value or amount for applicant's bonds now outstanding as collateral, the latter thereupon to be cancelled, or in lieu of such exchange said bonds may be sold for an amount in cash not less than that specified in (a), the cash realized therefrom shall be used to discharge existing indebtedness of applicant.

(c) Of the bonds so authorized the proceeds from the sale of the bonds of the face value of $5,500,000 and bearing numbers 5501 to 11000, inclusive, shall be used for the acquisition of property and the construction, completion, extension and improvement of facilities, namely, for the purpose of constructing a standard gauge electric railroad from the City of Sacramento to the City of Vallejo with branch lines to the cities of Suisun and Vacaville for the items specified in "Estimates of Cost of Constructing Main Line - Sacramento to Vallejo and Suisun and Vacaville Branches" filed with this Commission as part of the applicatim.

4. Northern Electric Railway Company is hereby authorized to issue bonds of the face value of $225,000, on the following express conditions precedent, and not otherwise, to-wit:

(a) Said bonds may be sold, but only so as to net applicant in cash not less than 85 per cent of the face value thereof plus accrued interest. Pending sale these bonds may be pledged at not less than 60%.

(b) The proceeds of the sale or pledge of the bonds so authorized shall be used for the acquisition of property and the construction, completion, extension and improvement of facilities on the existing roads of ~~thx~~ applicant.

5. Such of applicant's bonds as it has heretofore issued for purposes other than sale, being bonds numbered 1 to 5275, inclusive, except bonds numbered 1 to 66, 110-3, 116-7, 140-2, 147-50, 176-7, 712, 1072-3, 1076, 1127, 1133-52, 1158-71, 2131-68, 2424-5, 2527, 2551-2, 2563, 2791-6, 3333, which bonds have been sold, and except such of said bonds as may be cancelled under paragraph 3-b of this order, may continue to be issued by applicant as collateral for a period of one year from the date of this order without securing the further order of this Commission, in so far as affects the issue of such bonds, on condition that the indebtedness to be secured by the bonds shall not be less than 60 per cent of the face value of the bonds so to be issued.

6. Northern Electric Railway Company is hereby authorized to issue bonds of the face value of $2,604,000 which bonds are now pledged as collateral and are included within the numbers 1 to 5275, inclusive.

(a) Said bonds may be sold, but only so as to net applicant in cash not less than 85 per cent of the face value thereof plus accrued interest.

(b) The cash realized therefrom shall be used to discharge existing indebtedness of applicant.

7. Before any of said bonds may be issued, applicant shall present for the approval of the Commission a guarantee either by way of the personal obligation of E. R. Lilienthal, E. J. de Sabla Jr, Louis Sloss and W. P. Hammon, or by the creation of a million dollar fund of securities that the interest on the outstanding bonds of applicant will be paid for a period of 10 years from date of issuing said bonds. It may be provided that the guarantee may be released upon a showing that applicant has earned bond interest for a period of 12 consecutive months.

8. Before any of said bonds may be issued, ap-

plicant shall submit for the approval of this Commission the personal guarantee of E. R. Lilienthal, E. J. de Sabla Jr., Louis Sloss and W. P. Hammon, to the effect that applicant will invest in its plant at least $75,000 a year for a period of 10 years next ensuing the commencement of operation of the extension mentioned in 3-c, or that applicant will retire an amount of bonds equal to $75,000 face value per year for said period.

9. The issue of such of applicant's bonds as have heretofore been issued for use as collateral subsequent to March 23, 1912, without authorization of this Commission is hereby validated in so far as affects the Public Utilities Act.

10. Northern Electric Railway Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of said bonds hereby authorized to be issued, and on or before the 25th day of each month shall make a verified report to the Commission stating the sale or sales or other disposal of said bonds during the previous month, the terms and conditions of sale or other disposition, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which, in so far as applicable, is made a part of this order.

11. The authority hereby given shall apply only to bonds issued prior to November 1, 1913.

12. The effectiveness of this order is conditioned upon the prior payment to the Commission of the fee specified in Section 57 of the Public Utilities Act.

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 18th day of November, 1912.

H. D. Loveland
Alex Gordon
Edwin O. Edgerton
Commissioners.

Railroad Commission State of California
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BY H. Hutchinson Assistant Secretary.

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