

Decision No. 7104BEFORE THE RAILROAD COMMISSION OF THE  
STATE OF CALIFORNIA.**ORIGINAL**

In the matter of the application of )	
CALIFORNIA SOUTHERN RAILROAD COMPANY )	
to issue securities and construct )	Application No. 5117
grade crossings. )	

Ward Chapman, for applicant.

BRUNDIGE, Commissioner.

O P I N I O N

California Southern Railroad Company asks permission to extend its main line of railway from Blythe southwesterly, a distance of about 7.1 miles; construct four highway crossings at grade; issue not less than \$35,000. of its first mortgage 6% bonds, not exceeding \$100,000. of its second mortgage 6% bonds and such an amount of common stock as the Railroad Commission may deem proper.

Applicant now operates a line of railway extending from Rice, a station on the Santa Fe, on the Parker cut off in Riverside County, to Blythe, a distance of 42.41 miles. This line has been operated for a little more than three years. The proposed extension will bring the terminus of applicants railway well towards the center of the Palo Verde Valley and should result in a very material increase in revenue.

Applicant reports \$162,500. of stock; \$213,000. of its first mortgage bonds; and \$262,000. of its second mortgage

bonds outstanding.

In Exhibit B attached to the petition, applicant reports that The Atchison, Topeka and Santa Fe Railway Company has agreed to loan Blythe Construction Company for the purpose of enabling it to acquire rails, fastenings, etc., necessary to build the extension, not exceeding \$35,000., such loan to be evidenced by a 6% note payable on or before January 1, 1922. The testimony shows that the Santa Fe demands that all first mortgage bonds of the California Southern Railroad Company which the Commission may authorize to be issued in this proceeding, be deposited as security for the payment of the note; and, further, that the payment of the note be guaranteed by California Southern Railroad Company and by J.M. Neeland. A. E. Warmington, Secretary of California Southern Railroad Company, testified that the only way it was possible to finance the purchase of the rails and ties necessary to build the extension, was through the issue of evidences of indebtedness of Blythe Construction Company, and having such evidences of indebtedness bear the endorsement of the railroad company and that of J.M. Neeland.

The record shows that all rights of way have been secured by Blythe Construction Company. Attached to the petition and marked "Exhibit A" is a copy of the proposed contract under the terms of which, Blythe Construction Company agrees to build the extension. The contract, among other things, provides that;-

"The construction price which the Railroad Company agrees to pay to the Construction Company shall be a sum equal to the fair and reasonable value of the entire system, and depot buildings so constructed when completed, including the fair market value of the real properties acquired, comprising the terminal grounds, rights of way, station sites and sidings, culverts, bridges and all other structures incident to said railroad, based upon the cost of duplication thereof, plus 20%, as additional compensation to the construction company for its services under this contract."

At the hearing, counsel for applicant explained that it was not the intention of the construction company to make any profit either on materials or labor, and that the line as completed, would be turned over to the railroad company at cost to the construction company, plus a reasonable value for the rights of way and 20% allowed for the services of the construction company under the contract.

In the petition the cost of the line is estimated at \$140,000., while G.W.Rice, engineer in charge of the construction work, estimated the cost at the hearing at \$171,000. Applicant does not ask permission to issue stock and bonds against these estimates, but against actual expenditures. It intends to file with the Commission from time to time statements showing the amount of money actually expended in the construction of this extension and at the time such statements are filed, ask the Commission for supplementary orders in this proceeding, authorizing the disposition of stocks and bonds. The construction expenditures should be recorded in accordance with Classification of Accounts of the Interstate Commerce Commission and adopted by this Commission.

Under the contract, the railroad company reserves the right to pay the whole or any part of the construction price, either in cash or in its 6% second mortgage bonds, or in shares of stock at 80. It occurs to me that this reservation, for practical purposes, is meaningless, for the reason that both the railroad company and the construction company are controlled by the same people. In fact, it appears in the record that it is the intention to appropriate the surplus earnings of the railroad to pay for the building of the extension. In other words, if those in control of the construction company conclude that it is

to their advantage to accept payment in cash, they also being in control of the railroad company, can quite readily cause the railroad company to take the necessary action providing for the payment of the building of the line in cash, rather than in bonds and stock. There is, of course, no objection to the investment of the surplus earnings of the railroad in this extension, but whether payment is made in cash or stock and bonds, the cost of the extension should be reported to the Commission.

The construction contract also provides that if a dispute arises as to the valuation of any part of the structure, or as to the contract price, or if the contract price ascertained or agreed upon is not approved by the Railroad Commission, then such contract price shall be fixed by the appraisement made by the Railroad Commission or approved by the Railroad Commission, or else by a disinterested appraiser, or appraisers to be designated or appointed by or through, or with the consent of the Railroad Commission.

The order herein will provide that no stock or second mortgage bonds shall be disposed of by applicant in any manner whatsoever, until statements showing in detail the actual construction expenditures have been filed with, and approved by the Commission. The Commission can not, until it is furnished with the actual expenditures, and advised of the nature of the construction, determine whether 20 per cent is a reasonable profit to be paid the construction company for its services.

At the hearing this application was amended so as to include the construction of four highway crossings at grade. Consideration has been given to this matter, and I believe that under the circumstances, this portion of the application should be granted, subject to the conditions mentioned in the order.

I herewith submit the following form of order.

O R D E R

California Southern Railroad Company, having applied to the Railroad Commission for permission to issue stocks and bonds, construct an extension of its line of railway, and build such line of railway across public highways at grade, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of such stock and bonds, the sale of which may hereafter be authorized, is reasonably required for the purpose or purposes specified in this order, and that the expenditures for such purpose or purposes are not in whole or in part, reasonably chargeable to Operating Expenses or to Income:

IT IS HEREBY ORDERED that California Southern Railroad Company be, and it is hereby, authorized to guarantee the payment of the \$35,000. note issued by Blythe Construction Company to The Atchison, Topeka and Santa Fe Railway Company, referred to in Exhibit B attached to the petition herein; to issue \$35,000. of its first mortgage 6% bonds, not exceeding \$100,000. of its second mortgage 6% bonds, and not exceeding \$50,000. of its common capital stock, upon the following conditions and not otherwise:-

1. The first mortgage bonds herein authorized shall be delivered to The Atchison, Topeka and Santa Fe Railway Company and held by it as collateral security for the payment of the \$35,000. note issued by Blythe Construction Company, and upon the payment of such note, the \$35,000. of bonds shall be returned to the treasury of California Southern Railroad Company, and thereafter issued only as authorized by the Railroad Commission.

2. The second mortgage bonds and the common stock herein authorized, or such other amount of stock and bonds as may be authorized by a supplemental order, shall be sold by applicant

for not less than 80% of their par value and the proceeds used for the purpose of acquiring the line of railway referred to in this petition, provided, however, that none of such bonds and stock be actually disposed of in any manner whatsoever until the Commission has made a supplemental order or orders in this proceeding finding that a specific amount of money has actually been expended on said extension and specifying the amount of bonds and stock which may be sold or otherwise disposed of because of such expenditures.

3. All initial expenditures incurred in connection with the construction of the extension herein referred to, shall be recorded, as required by the Interstate Commerce Commission's Classification of Accounts.

4. The authority herein granted to issue bonds will not become effective until California Southern Railroad Company has paid the fee prescribed by the Public Utilities Act.

5. California Southern Railroad Company shall keep such record of the issue of the stock and bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the 25th day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

6. The authority herein granted will apply only to such stock and bonds as may be issued on or before October 1, 1920.

IT IS HEREBY FURTHER ORDERED that permission be, and it is hereby granted, to California Southern Railroad Company to construct its track at grade across the highways referred to in its Exhibit No. 1, <sup>and in the testimony herein</sup> subject to the following con-

ditions;-

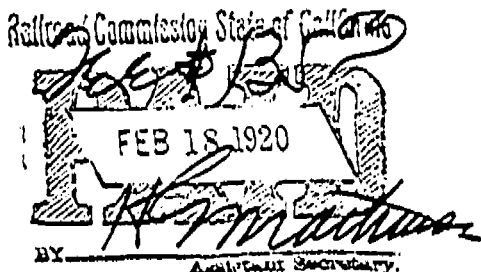
a. The entire expense of constructing such crossings, together with the cost of their maintenance, in good and first class condition, for the safe and convenient use of the public, shall be borne by the applicant.

b. The crossings shall be constructed of a width and type of construction to conform to that portion of the road to be crossed now graded, or with grades of approach not exceeding 4%; shall be protected by a suitable crossing sign, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

c. The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings, as it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

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 5th day of February, 1920.



Edwin O. Edgerton  
H. J. Loveland  
Frank P. Fisher  
H. C. Brundage  
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Commissioners.