

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of OCEAN SHORE RAILROAD COMPANY for authority to execute notes aggregating \$52,602.64, for the purchase of equipment.

Application No. 601.

ORIGINAL

McCutchen, Olney & Willard and J. M. Mannon, Jr., for applicant.

THELEN, Commissioner.

OPINION.

This is an application for authority to issue eight promissory notes for the sum of \$2873.36 each, totalling the sum of \$22,986.88, being balance of money due on two certain locomotives, and eight promissory notes for the sum of \$5701.97 each, or a total of \$29,615.76, to pay for forty certain freight cars which have been ordered by applicant.

The contract for the two locomotives was entered into on May 8, 1913, between applicant and The Baldwin Locomotive Works of Philadelphia. The contract provides that the title shall remain in The Baldwin Locomotive Works until the purchase price has been fully paid. The Railroad Company agrees to pay to the seller the sum of \$10,766.66 in cash, on June 8, 1913, and the balance in notes, which notes are to be payable on September 8, 1913, and quarterly thereafter up to and including June 8, 1915. These notes are to be in the sum of \$2873.36 each, which sum includes interest at the rate of .6%. A copy of the contract is attached to the application and marked "Exhibit A." The locomotives are already in service on applicant's line of railroad between San Francisco and Santa Cruz and are necessary for applicant's business.

The forty freight cars are covered by agreement dated February 26, 1913, between the American Car & Foundry Company and the applicant herein, a copy of which agreement is attached to the application and marked "Exhibit B." This agreement provides, in effect, that the Car Company is to sell to the Railroad Company forty freight

cars of the types specified in the contract. \$13,806.33 is to be paid in cash and the remainder of the purchase price is to be represented by eight notes in the sum of \$5701.97 each, the first of these notes to be payable three months after the date of average delivery of the cars and the others to be payable at intervals of three months thereafter. The applicant has been obliged to use a large number of foreign line freight cars and paid therefor last year 55¢ per day for each car, and this year 45¢ per day. For the four months of July, August, September and October of last year, applicant paid for the use of foreign line freight cars the sum of \$5704.00. It thus appears, that for these four months alone, the amounts paid by applicant for foreign line cars, on a 6% basis, amount to an investment of over \$60,000. The entire price to be paid for the forty cars which it is now proposed to purchase, is \$43,424.09. The evidence shows that applicant cannot secure from foreign line companies all the cars needed by it in the prompt conduct of its business. Applicant has deposited in a bank in this city, the cash payment to be made on the cars, and expects delivery of the last of the cars prior to August 20, 1913.

The contracts, both for the locomotives and the freight cars, were let after bids had been received from three manufacturers in each case.

I am satisfied that the equipment which it is desired to purchase is necessary for the conduct of applicant's business and that the price for which it is to be secured is reasonable.

This Commission, in Application No. 82, being an application of the present applicant to incur a certain bonded indebtedness in the amount of \$700,000, on the 1st day of April, 1913, made its order suspending further proceedings until the Superior Court had rendered its decision in the case pending before it raising the issue of the legality of the authorization of the bonds. If the Commission had made its order granting the application in that case, the Railroad Company would have been authorized to incur a bonded

indebtedness affecting property which the protestants claimed belonged to the predecessor of the Ocean Shore Railroad Company and not to that Company itself. That proceeding must be distinguished from the present proceeding, for the reason that in the present proceeding there is no doubt that the property, when acquired, will belong to the present applicant and will be paid for by it, and that the protestants in Case No. 62 will not have an interest therein. This Commission is anxious to do what it can to help the Ocean Shore Railroad Company get on its feet, and for that reason is glad that it is not necessary to defer action in the present proceeding.

While some of the notes which are to be issued run for a period of one year or less, so that this Commission's consent to their issuance is not necessary, under the provisions of Section 52 of the Public Utilities Act, the Commission's authorization will cover all the notes, so as to avoid confusion.

I find that the purposes for which the proceeds of the notes are to be used are not in whole or in part reasonably chargeable to operating expenses or to income and recommend that the application be granted.

I submit herewith the following form of order:

O R D E R.

OCEAN SHORE RAILROAD COMPANY having applied to the Railroad Commission for authority to issue its promissory notes, as will hereinafter appear in greater detail, for the purchase of certain equipment, and a public hearing having been held upon said application, and the Commission finding that the purposes for which the proceeds of said notes are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

IT IS HEREBY ORDERED, that OCEAN SHORE RAILROAD COMPANY be and the same is hereby authorized to issue its promissory notes in the amounts and for the purposes and on the conditions as follows, to-wit:

1. OCEAN SHORE RAILROAD COMPANY is hereby authorized to issue eight (8) certain promissory notes for the sum of two thousand eight hundred seventy-three & 36/100 (\$2873.36) dollars each, including interest at the rate of six (6%) per cent per annum, the first note to mature on September 8, 1913, and the remaining notes to mature on the 8th day of each third month thereafter, said notes to be payable to the order of The Baldwin Locomotive Works, in payment of two (2) certain locomotives, all in accordance with agreement dated May 8, 1913, by and between The Baldwin Locomotive Works and Ocean Shore Railroad Company, which agreement is attached to the application in this proceeding and marked "Exhibit A."

2. OCEAN SHORE RAILROAD COMPANY is hereby authorized to issue eight (8) certain promissory notes in the sum of three thousand seven hundred one & 97/100 (\$3,701.97) dollars each, including interest at the rate of six (6%) per cent per annum, the first of said notes to be payable three (3) months after the date of the average delivery of the freight cars hereinafter referred to, and the remaining notes maturing at intervals of three (3) months thereafter, the proceeds from said notes to be used only for the acquisition of forty (40) certain freight cars, all as specified in agreement dated February 26, 1913, between the American Car & Foundry Company and Ocean Shore Railroad Company, which agreement is attached to the application in this proceeding and marked "Exhibit B."

3. OCEAN SHORE RAILROAD COMPANY shall, on the 25th day of each month, report to the Railroad Commission with reference to the disposition of the notes hereby authorized, in accordance with the provisions of this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. This order shall not become effective until applicant has paid the minimum fee specified in Section 57 of the Public Utilities Act.

5. The authority hereby given to issue notes shall

apply only to notes issued by said Company on or before the 1st day of January, 1914.

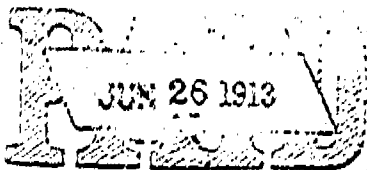
The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of June, 1913.

John W. Fisher
H. D. Island
Max Thelen

Commissioners.

Railroad Commission State of California



BY _____
Assistant Secretary.