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Decision No. 7741.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of)
SOUTHERN PACIFIC COMPANY)
for the approval of a lease of rail-)
road equipment and an agreement pro-)
viding for the construction of such)
equipment and the issuance of trust)
certificates, Series "E".)

Application No. 5810.

Guy V. Shoup, for applicant.

LOVELAND, Commissioner.

O P I N I O N.

This is an application for an order of this Commission approving a certain lease of railroad equipment, dated June 1, 1920, from Commercial Trust Company to Southern Pacific Company, and an agreement dated June 1, 1920, between Harry E. Righter and Andrew S. Hannum with Commercial Trust Company and Southern Pacific Company, in so far as said lease and agreement, -Exhibit "A"- relate to equipment to be used wholly for intrastate purposes within the State of California, and authorizing the issue of 7 per cent Southern Pacific Company equipment trust certificates, Series "E", at 96½ per cent of their face value plus accrued dividends, to the extent that the issue of said equipment trust certificates is necessary to procure the equipment to be used wholly for intrastate purposes within the State of California; and further authorizing Southern Pacific Company to guarantee the payment of said equipment trust certificates and the dividend coupons attached thereto.

Applicant reports that the equipment now owned by its

lessor and proprietary companies and used in the conduct of their business as common carriers is not and will not be sufficient for the proper and efficient transportation of freight and passenger traffic over the operated lines of applicant, its lessor and proprietary companies. Arrangements have therefore been made to acquire additional railroad equipment, the estimated cost of which is approximately \$22,500,000.00. To enable it to purchase this equipment, applicant intends to issue \$15,000,000.00 of equipment trust certificates at 95½ per cent of their face value plus accrued dividends. The equipment trust certificates mature at the rate of \$1,250,000.00 per annum from June 1, 1924, to June 1, 1935, both inclusive. The balance of the purchase price will be paid in cash.

The testimony shows that most of the equipment will be used in interstate commerce, or in states other than California. The equipment which will be used wholly for intrastate purposes within the State of California consists of:

10 electric trailer coaches lettered "P.E.".....	\$260,000
49 Electric Motor Cars.....	331,534
12 lettered "F.T.Co."(Fresno Traction Co.)	
15 lettered "S.E.R.R."(Stockton Electric)	
22 lettered "S.J.R.R."(San Jose Railroad)	
49 Electric Motor Cars lettered "P.E.".....	326,680
20 Interurban Electric Motor Cars lettered "P.E.".....	900,000
2 Electric Locomotives lettered "P.E.".....	<u>85,000</u>
Total,	\$1,903,214

The Commission, in Decision No. 947, dated September 15, 1913, (Vol. 3, Opinions and Orders of the Railroad Commission of California, p. 562) in effect, held that it had no jurisdiction over the issue of equipment trust certificates issued for the purpose of acquiring equipment to be used in interstate commerce, or in states other than California. I am in accord with this view, and

believe that the Commission's jurisdiction applies only to the execution of the lease and agreement, the issue of equipment trust certificates and the guarantee of the payment of such certificates by the Southern Pacific Company, in so far as those matters relate to the purchase of equipment to be used wholly for intrastate purposes within the State of California. The order herein will, among other things, authorize the issue of \$1,903,214.00, face value, of equipment trust certificates, an amount which represents the cost of the equipment to be used wholly for intrastate commerce within the State of California.

I herewith submit the following form of Order:

O R D E R

SOUTHERN PACIFIC COMPANY having applied to the Railroad Commission for an order authorizing it to enter into a lease of railroad equipment and an agreement covering the issue of equipment trust certificates and guarantee the payment of such equipment trust certificates as indicated in the foregoing opinion, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of equipment trust certificates herein authorized is reasonably required by applicant and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

IT IS HEREBY ORDERED that SOUTHERN PACIFIC COMPANY be, and it is hereby, granted authority to enter into a lease of railroad equipment from Commercial Trust Company, and to enter into an agreement with Harry E. Richter and Andrew S. Hannum and Commercial Trust Company, said proposed lease and agreement to be substantially in the form of the lease and agreement heretofore filed with this Commission in this proceeding and marked Exhibit "A", it being

understood that the authority herein granted to enter into said lease of railroad equipment and agreement relates only to equipment to be used wholly for intrastate purposes within the State of California.

IT IS HEREBY FURTHER ORDERED that Southern Pacific Company be, and it is hereby, granted authority to guarantee the payment of 7 per cent equipment trust certificates in the amount of \$1,903,214.00 and dividend warrants attached thereto, the issue of which equipment trust certificates is hereby authorized for the purpose of enabling applicant to acquire equipment to be used wholly for intrastate purposes in the State of California.

The authority herein granted is subject to the further conditions, as follows:

1. The equipment trust certificates herein authorized to be issued shall be sold for not less than 96½ per cent of their face value, plus accrued dividends, and the proceeds used to pay in whole or in part for the equipment set forth in the foregoing opinion, which equipment will be used wholly for intrastate purposes within the State of California.

2. Southern Pacific Company shall keep such record of the issue and sale of the equipment trust certificates herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth 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.

3. The authority herein granted will not become effective until applicant has paid the fee prescribed in the Public Utilities Act.

4. The authority herein granted will apply only

to such equipment trust certificates as may have been issued on or before December 1, 1920.

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 June, 1920.

SEE # 1452 ⁰⁹/₁₀₀
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Commissioners.