

Decision No. 33617

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of DUMBARTON BRIDGE COMPANY, a corporation, for an order authorizing the extension and modification of applicant's outstanding bonds, and the issue of such extended and modified bonds in exchange for applicant's present bonds, and approving the terms and conditions of such issuance and exchange.

ORIGINAL

Application No. 23684

Broebeck, Phleger and Harrison  
by T. R. Moyer, for Applicant

Adolph Kessler, a stockholder,  
in propria persona.

RILEY, COMMISSIONER:

O P I N I O N

The Commission by its order of September 10, 1940, set the above entitled matter for public hearing before me for October 14, 1940. By the same order it directed Dumbarton Bridge Company to publish a notice of such hearing once a week for three successive weeks in "The Recorder," a newspaper of general circulation, published in the City and County of San Francisco, California, and by mailing on or before September 20, 1940, postage prepaid, a copy of said notice of hearing, addressed to all known holders of bonds of said Dumbarton Bridge Company, as said holders are known to said Dumbarton Bridge Company. The hearing was held at the time and place designated by said order of September 10, 1940. At such hearing applicant submitted evidence showing that it complied with the instruc-

tions of the Commission as to the publishing and mailing of said notice of hearing. No one appeared at said hearing in opposition to the granting of applicant's request.

Dumbarton Bridge Company is a corporation organized under the laws of California. It now is and for some time past has been engaged in the business of operating the Dumbarton Bridge, a vehicular toll bridge over and across San Francisco Bay, connecting the Counties of Alameda and San Mateo under a franchise granted by the Board of Supervisors of San Mateo County. The franchise expires on or about December 20, 1974.

For 1939, 1938 and 1937, applicant reports earnings and expenses as follows:

<u>Item</u>	<u>1939</u>	<u>1938</u>	<u>1937</u>
Tolls	\$107,427.85	\$107,922.80	\$124,066.27
Operating expenses	<u>46,731.88</u>	<u>47,147.10</u>	<u>45,963.67</u>
Gross operating profit before depreciation	\$ 60,695.97	\$ 60,775.70	\$ 78,102.60
Administrative and general expense	<u>7,254.33</u>	<u>7,534.95</u>	<u>8,446.98</u>
Gross profit before depreciation	\$ 53,441.64	\$ 53,240.75	\$ 69,655.62
Other deductions	<u>467.57</u>	<u>447.44</u>	<u>924.85</u>
	\$ 52,974.07	\$ 52,793.31	\$ 68,730.77
Other income	<u>82.27</u>	<u>762.39</u>	<u>254.10</u>
Profit before provision for depreciation and interest	\$ 53,056.34	\$ 53,535.70	\$ 68,984.87
Depreciation	43,380.05	43,885.85	44,152.07
Interest on bonds	28,937.46	31,160.64	34,082.01
Bond discount and expense	<u>2,210.47</u>	<u>2,463.39</u>	<u>3,069.96</u>
	<u>\$ 75,027.98</u>	<u>\$ 77,509.88</u>	<u>\$ 81,304.04</u>
Net loss	<u>\$ 21,971.64</u>	<u>\$ 23,974.18</u>	<u>\$ 12,319.17</u>

Dumbarton Bridge Company has issued and outstanding \$2,391,670 par value of common stock. In its balance sheet it shows capital stock discount of \$1,195,760.

In 1925, Dumbarton Bridge Company issued and sold \$900,000 First Mortgage 6½% Serial Gold Bonds, dated January 1, 1925. Under the terms of the trust indenture securing the payment of the bonds, bonds in the amount of \$25,000 mature on January 1 of each of the years from 1930 to 1933, both inclusive, and bonds in the amount of \$50,000 on January 1 of each of the years from 1934 to 1949, both inclusive. The company has regularly paid, when due, the interest on said bonds and has also paid the principal of all of said bonds that has matured to date. As of August 31, 1940, there remained outstanding \$447,000 of said bonds. However, \$31,500 of said \$447,000 of bonds are owned by the company, leaving \$415,500 in the hands of the public.

Because of decreasing revenues, applicant may find it difficult to meet the payment of all the bonds (\$50,000) due on January 1, 1941, or the payment of the later annual maturities. It is believed, however, that its income is and will be sufficient to meet the interest requirements on the outstanding bonds and permit some payment on the principal of the bonds. Because of this situation, applicant desires permission to solicit its bondholders and ask them to sign an agreement which will extend the maturity date of all of the bonds deposited under the agreement to January 1, 1951, and modify in several other respects provisions of the trust indenture securing the payment of its bonds. Attention will be called only to the more important modifications contained in the extension agreement. In the extension agreement filed in this proceeding as Exhibit A, the company agrees to deposit with the Trustee as a sinking fund, for the benefit of all

bonds outstanding under the trust indenture (including those whose holders have not agreed to the extension agreement as well as those whose holders have agreed thereto) either in cash or in bonds at their principal amount, on or before March 31 of each year, beginning March 31, 1941, an amount equal to 75% of the amount by which its revenues for the preceding calendar year exceed its expenditures for said year (amortization and depreciation not being classed as expenditures), determined in accordance with the methods of accounting now employed by the company. So long as the company is not in default under the extension agreement, to the knowledge of the Trustee, any cash held by the Trustee in the sinking fund shall be used by the Trustee to purchase bonds then outstanding on tenders invited by the Trustee at the lowest offered prices but not in excess of their principal amount.

The extension agreement further provides that so long as the company is not in default under its terms, the company may, at its option, on any date, redeem and pay the bonds deposited under the extension agreement at their face value and accrued interest. Unless all of the outstanding bonds are redeemed, the bonds shall be redeemed in their numerical order. Under the indenture as it now reads, the bonds may be redeemed at the option of the company upon payment of the principal thereof, the accrued interest, and a premium equal to 5% of the face value of the bonds redeemed.

The company, in submitting the extension agreement to its bondholders, advises them that it has no power to declare the extension agreement operative unless and until, on or before January 1, 1941, (or such later date as may be fixed by the company by notice in writing to the bondholders, but in any event not later than July 1, 1941) the holders of at least 76% of the

principal amount of all bonds now issued and outstanding shall have agreed to the extension agreement. The matter of declaring the extension agreement operative rests with the management of the company. This reservation is made because of the fact that the company's bonds mature serially. Unless the bonds deposited under the extension agreement are fairly equally distributed over the various maturities, the company may find it inadvisable to declare the extension agreement effective even though consented to by the holders of 76% of the bonds outstanding.

The company is not asking its bondholders to accept a lower interest rate on its outstanding bonds. They will continue to bear interest at the rate of 6 $\frac{1}{2}$ % per annum, payable semi-annually

I have considered the provisions of the extension agreement filed in this proceeding, and the evidence submitted in support of such agreement. It occurs to me that the agreement is fair and reasonable to the company's bondholders, and that it should be permitted to solicit its bondholders' consent to the execution of such agreement.

In its petition applicant asks permission to issue extended and modified bonds in exchange for its outstanding bonds. The record shows that the bondholders will be asked to deposit their bonds with the American Trust Company, Depository, who will issue to them a deposit receipt in the form of the deposit receipt filed in this proceeding as Exhibit 3. If the plan is declared effective, the American Trust Company will attach to the deposited bonds, a copy of the extension agreement and return said deposited bonds, together with the extension agreement attached thereto, to the bondholders upon surrender of their deposit receipts. There will also be attached to the bonds such additional interest

coupons as may be necessary. It appears further from the record that there will be stamped on the face of the bond, a legend reading as follows:

"This bond is subject to an extension agreement, dated as of January 1, 1941, hereto attached, and a copy of which is on file with the Trustee."

It does not appear to me that the deposit of the bonds with the American Trust Company, and their delivery to the bondholders in the event the company's extension agreement is declared effective, constitutes an issue of bonds. The order herein will provide for the exchange and delivery of the extended bonds.

It is, of course, the province of the bondholder and not of this Commission to determine whether he will deposit his bonds.

I herewith submit the following form of order:

#### O R D E R

Dumbarton Bridge Company having asked permission to solicit its bondholders for the purpose of obtaining their consent to the amendment of its trust indenture, dated January 1, 1925, as indicated in the extension agreement filed in this proceeding as Exhibit A and in the indenture filed as Exhibit E, for the purpose of extending the maturity date of its outstanding bonds and to modify in other respects, as set forth in said Exhibits A and E, the terms and conditions under which said bonds are issued, and to approve the terms and conditions of such issue and exchange of bonds, a public hearing having been held by me on October 14, 1940, after due notice thereof, and having

considered the evidence submitted at such hearing, I find that said extension agreement and modifications of the company's trust indenture are fair as to the terms and conditions of the exchange and delivery of bonds and the issue of deposit receipts referred to in the foregoing opinion, and that the company should be authorized to proceed with its plans to extend the maturity date of its bonds and the modification of its trust indenture, therefore

IT IS HEREBY ORDERED as follows:

1. Dumbarton Bridge Company may, after the date hereof and prior to December 31, 1940, solicit the holders of its bonds for the purpose of obtaining their consent to the execution of an extension agreement substantially in the same form as the extension agreement filed in this proceeding as Exhibit A.

2. Dumbarton Bridge Company may, after the date hereof and on or before December 31, 1940, issue deposit receipts similar in form to the deposit receipt filed in this proceeding as Exhibit 3.

3. Dumbarton Bridge Company may, after the date hereof and on or before December 31, 1940, execute an indenture substantially in the same form as the indenture filed in this proceeding as Exhibit E.

4. Dumbarton Bridge Company may after the date hereof and on or before January 15, 1941, deliver its extended and modified bonds in conformity with said extension agreement in exchange for its present outstanding bonds deposited with American Trust Company.

5. Dumbarton Bridge Company shall, on or before January 31, 1941, file a report with the Railroad Commission showing the names of its bondholders to whom it has delivered bonds due January 1, 1951, the amount of bonds owned by each such

bondholder, and a statement showing in detail the expenses incurred by it to carry said extension agreement into effect.

6. Within thirty (30) days after said extension agreement has been declared effective, Dumbarton Bridge Company shall file with the Commission two certified copies of said extension agreement and two certified copies of said indenture.

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 22<sup>nd</sup> day of October, 1940.

Ray L. Riley  
Frank M. ...  
...  
Justus J. Caseman  
Commissioners.