

FINANCE DOCKET No. 8801
MORRIS & ESSEX RAILROAD COMPANY BONDS

Submitted July 10, 1931. Decided July 20, 1931

1. Authority granted to the Morris & Essex Railroad Company to issue \$10,000,000 of construction-mortgage gold bonds, series C, and to deliver them at par to the Delaware, Lackawanna & Western Railroad Company in partial reimbursement of expenditures for additions and betterments.
2. Authority granted to the Delaware, Lackawanna & Western Railroad Company to assume obligation and liability as guarantor in respect of such bonds.

William S. Jenney for applicants.

REPORT OF THE COMMISSION

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND MAHAFFIE

BY DIVISION 4:

The Morris & Essex Railroad Company, hereinafter called the Morris & Essex, a corporation organized for the purpose of engaging in transportation by railroad subject to the interstate commerce act, and The Delaware, Lackawanna & Western Railroad Company, hereinafter called the Lackawanna, a common carrier by railroad engaged in interstate commerce, have, by joint application, duly applied for authority under section 20a of the interstate commerce act for the Morris & Essex to issue \$10,000,000 of construction-mortgage gold bonds, series C, and for the Lackawanna to assume obligation and liability as guarantor in respect thereof. No objection to the granting of the application has been presented to us.

The properties of the Morris & Essex are leased to the Lackawanna in perpetuity under a lease dated December 10, 1868, and have been operated by that company since January 1, 1869. The Morris & Essex is obligated, under the terms of the lease, to issue its securities to the Lackawanna in reimbursement for expenditures made by the latter for additions and betterments to the demised properties. Of such expenditures made to November 1, 1928, there remained unpaid \$1,207,221.51, and between that date and January 1, 1931, additional expenditures, detailed in the application, amounting to \$13,274,631.65, were made, a total of \$14,481,853.16. With the exception of an item of \$7,591.59 for removing piles not used in the construction of a pier, the expenditures appear to be properly

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capitalizable. In partial reimbursement for these expenditures the Lackawanna has requested the issue and delivery by the Morris & Essex of \$10,000,000 of construction-mortgage bonds. The Lackawanna requests authority to assume obligation and liability as guarantor in respect of that amount of bonds. No arrangements have been made by the Lackawanna for the sale of the proposed bonds.

The series-C bonds will be issued under and pursuant to, and will be secured by, the construction mortgage made under date of November 2, 1925, by the Morris & Essex to the Farmers' Loan & Trust Company (now City Bank Farmers Trust Company), trustee. They will be issued as coupon bonds in the denomination of \$1,000, will be dated November 1, 1930, will bear interest at the rate of 4½ per cent per annum, payable semiannually on May 1 and November 1, will be redeemable as a whole after November 1, 1955, at 105 per cent of par and accrued interest, and will mature November 1, 1975. The Lackawanna will indorse on the bonds, substantially in the form given in the application, its guaranty of the payment of the principal thereof and of the interest thereon.

We find that the proposed issue of \$10,000,000 of construction-mortgage gold bonds, series C, by The Morris and Essex Railroad Company and the proposed assumption of obligation and liability as guarantor in respect thereof by The Delaware, Lackawanna and Western Railroad Company, as aforesaid (a) are for lawful objects within their respective corporate purposes, and compatible with the public interest, which are necessary and appropriate for and consistent with the proper performance by them of service to the public as common carriers, and which will not impair their ability to perform that service, and (b) are reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

ORDER

Entered July 20, 1931

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

It is ordered, That, for the purposes set forth in the application and report aforesaid, The Morris and Essex Railroad Company be,
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and it is hereby authorized to issue \$10,000,000 of construction-mortgage gold bonds, series C, under and pursuant to, and to be secured by, the construction mortgage made by it under date of November 2, 1925, to the Farmers' Loan & Trust Company (now City Bank Farmers Trust Company), trustee; said bonds to be issued as coupon bonds in the denomination of \$1,000, to be dated November 1, 1930, to bear interest at the rate of 4½ per cent per annum, payable semiannually, to be redeemable as a whole after November 1, 1955, at 105 per cent of par and accrued interest, to mature November 1, 1975, and to be delivered at par to The Delaware, Lackawanna and Western Railroad Company to reimburse that company in part for expenditures made for additions and betterments as set forth in the report aforesaid.

It is further ordered, That The Delaware, Lackawanna and Western Railroad Company be, and it is hereby, authorized to assume obligation and liability as guarantor in respect of \$10,000,000 of The Morris and Essex Railroad Company construction-mortgage gold bonds, series C, hereinbefore authorized, by indorsing thereon, substantially in the form given in the application, its guaranty of the payment of the principal of and interest on said bonds.

It is further ordered, That, except as herein authorized, said bonds shall not be sold, pledged, repledged, or otherwise disposed of by the applicants, or either of them, unless and until so ordered by this commission.

It is further ordered, That the applicants shall report concerning the matters herein involved in conformity with the commission's order dated February 19, 1927, respecting applications filed under section 20a of the interstate commerce act.

And it is further ordered, That nothing herein shall be construed to imply any guaranty or obligation as to said bonds, or interest thereon, on the part of the United States.

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