

ORIGINAL

BEFORE THE RAILROAD COMMISSION  
OF THE STATE OF CALIFORNIA. A2

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In the Matter of the Application of )  
 FRESNO INTERURBAN RAILWAY COMPANY ) Application No. 1416.  
 for authority to issue stocks and )  
 bonds. )

C. O. Whittemore and J. B. Rogers for applicant.

LOVELAND, Commissioner.

O P I N I O N .

This Commission has heretofore, in the matter of Application No. 1084, authorized Fresno Interurban Railway Company to issue \$110,000 of bonds and \$58,000 of stock for the purpose of building a line of railway from Fresno to Clovis, a distance of approximately nine miles. The applicant now comes before the Commission with a revised plan. This revised plan provides for the construction of a line of railway from Fresno to Centerville Citrus District, with a branch to Clovis and another branch to what is known as the "Gould Colony", embracing a total mileage of twenty-six miles. The applicant estimates that it can construct its railway on a basis of \$17,300 per mile or for a total of \$449,800.

In order to finance this project, the applicant proposes to issue 2,125 shares of common stock of the par value of \$100 per share or a total par value of \$212,500; and to issue \$350,000 of first mortgage, 6 per cent, 25 year bonds. These securities, sold at 80 per cent of par, would net the applicant \$450,000. It is also proposed by Fresno Interurban Railway Company to provide for the refunding of the \$350,000 of bonds through an issue of \$350,000 of 6 per cent cumulative preferred stock, to be sold at par. The ap-

plicant proposes to sell this preferred stock to land owners along the line of its proposed railway. The details of this proposal are embraced in a contract, a copy of which has been filed in connection with the present application, as Exhibit "A", to which reference is hereby made.

The necessary detailed engineering data and traffic figures have not been presented for the purposes of this hearing, the applicant desiring that this Commission at this time pass generally upon the form of financing proposed, and thereafter consider in detail the estimates and other detailed information which will be furnished. Any order that may be issued in this case must be, therefore, merely preliminary. A final determination of the issues will require further hearing and supplemental orders.

The contract under which the applicant proposes to sell its preferred stock contemplates the purchase of this stock by land owners along the route of the proposed railway. The stock is to be sold at par; 10 per cent is to be paid, within thirty days after the line has been completed to the realty holdings involved; the unpaid portions of the subscriptions are to be secured by liens on the real estate of the subscribers; the remaining 90 per cent of the subscriptions is to be payable within ten years, interest at 6 per cent, payments of all kind to be made to the Mercantile Trust Company of San Francisco, as trustee.

As payments are made, receipts will be issued by the company entitling the subscriber to 6 per cent interest per annum upon the amount of his subscription. The fund thus accumulated through these subscriptions and payments for the preferred stock are to be used first to pay any operating deficits that may arise, and unearned interest on applicant's bonds. The balance thereafter remaining shall, from time to time, be used for the purpose of retiring applicant's bonds. The stock subscription will not be binding unless subscriptions shall be obtained for the entire \$350,000 of preferred stock.

The contract provides further that any surplus earned by the company shall be used first, for the payment of the dividends upon the preferred stock, next for the payment of 6 per cent dividends on the common stock, and any sums thereafter remaining shall be applicable to both the preferred and the common stocks.

It is further provided that when the company shall pay to the preferred stockholders their full 6 per cent dividends and, in addition, the par value of their stock, the preferred stock shall be canceled.

The proposed issue of securities as here presented is intended not only to provide for the additional construction necessary to complete the line as now contemplated, but also to refund outstanding stocks and bonds of the applicant.

It is in testimony that the payments for the preferred stock from land holders whose lands may be directly affected by the construction of the railroad, would amount to approximately \$6 per acre, whereas it is in testimony that the average present worth of the land from the owners of which subscriptions will be received is \$250 per acre. It is also in testimony that these holdings would be enhanced in value by the construction of this railway and that marketing facilities would be improved.

This Commission has stated in many decisions its belief that land owners who profit by the construction of new electric lines might properly bear a portion of the burden of their construction. In many instances they may be obliged to look for their reward from the enhanced value of their realty and not from the stock which they obtain. Accordingly, I am prepared to recommend that this Commission approve, in general, the plan as here proposed. At the same time I desire to direct applicant's attention to the fact that many of the matters embraced in its plan of financing should be more definitely and concretely stated.

The amended articles of incorporation should describe accurately the nature of the preferred stock issue. The trust deed

should contain specific provisions for the sinking fund, so that bonds may be retired as the preferred stock is issued, the intention being to refund the bonds through the issue of preferred stock. I believe also the contract filed as Exhibit "A" should be amended to the end that no stock should be issued against such portions of the fund as may be used for the payment of operating deficits or for the payment of bond interest.

I recommend also that the form of certificate which the applicant proposes to issue for partial payments upon the stock be wholly in the nature of a receipt and not in the form of a stock certificate.

In recommending the approval, in general, of the plan as presented, I desire that the applicant herein understand that I do so merely as a preliminary authorization, so that it may proceed, if it so elects, to take the subscriptions to its preferred stock.

It will be necessary in a subsequent hearing for this applicant to present full and complete information bearing upon its entire project before a final order will be issued which will authorize the actual issue of the securities herein requested. This was explained to the applicant at the hearing and I believe is well understood. The Commission, by preliminary order in this matter, in nowise commits itself to a favorable determination of the basic issues involved. With this understanding, I recommend that the application be granted and submit the following form of order:

O R D E R .

FRESNO INTERURBAN RAILWAY COMPANY having applied to this Commission for authority to issue 2,125 shares of common stock of the par value of \$100 per share; \$350,000 of its first mortgage 6 per cent, 25 year bonds, and \$350,000 of its 6 per cent cumulative preferred stock,

And a hearing having been held and it appearing that the purposes for which it is proposed to issue the said stock and said

bonds are not in whole or in part chargeable to operating expenses or to income,

IT IS HEREBY ORDERED that Fresno Interurban Railway Company be given authority and it is hereby given authority to issue 2,125 shares of the par value of \$100 per share, or a total par value of \$212,500.

IT IS FURTHER ORDERED that Fresno Interurban Railway Company be granted authority and it is hereby granted authority to issue \$350,000 of its first mortgage 6 per cent, 25 year bonds.

IT IS FURTHER ORDERED that Fresno Interurban Railway Company be granted authority and it is hereby granted authority to issue 3,500 shares of its 6 per cent cumulative preferred stock, or a total par value of \$350,000.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The common stock herein authorized to be issued shall be sold so as to net the applicant not less than \$80 per share.

(2) The bonds herein authorized to be issued shall be issued so as to net the applicant not less than 80 per cent of face value.

(3) The preferred stock herein authorized to be issued shall be sold so as to net the applicant not less than the par value thereof.

(4) The common stock and the bonds herein authorized to be issued shall be used for the purpose of refunding, share for share, and bond for bond, 580 shares of stock and \$110,000 of bonds heretofore authorized by this Commission in Application No. 1084, to be issued by this applicant. The proceeds from the balance of said common stock and said bonds shall be used only as shall hereafter be directed by this Commission.

(5) The \$350,000 of 6 per cent preferred stock herein authorized shall be used only for the purpose of refunding the

\$350,000 of applicant's bonds herein authorized, in such manner as shall be hereafter approved by this Commission.

(6) The authority herein granted is conditioned upon the submission by the applicant to this Commission and the approval thereof by this Commission of -

(a) Applicant's amended articles of incorporation providing the exact conditions surrounding the preferred stock which applicant proposes to issue.

(b) Applicant's mortgage and deed of trust securing its bonds.

(c) A modified form of contract for the sale of its preferred stock which shall provide for the issue of preferred stock only for moneys used for paying off applicant's bonds, and which shall eliminate provisions in said contract which now provide that stock may be issued for moneys used to pay operating deficits and bond interest.

(d) A form of receipt to be issued by applicant for partial payments for preferred stock.

(7) None of the stock and none of the bonds herein authorized to be issued shall be issued until this Commission shall have issued a supplemental order finding that the applicant herein has complied with all of the conditions enumerated in this order.

(8) The authority herein granted shall apply to such bonds and to such stocks as shall have been issued on or before November 15, 1915.

(9) The authority herein granted is conditioned upon the payment of the fee prescribed under the Public Utilities Act.

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 23<sup>rd</sup> day  
of November, 1914.

H. D. Howard  
W. H. Gordon  
W. H. Thelen  
Edwin O. Edgerton

Commissioners.