

Decision No.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

ORIGINAL

Decision No. 20883

In the matter of the application)
of FRESNO INTERURBAN RAILWAY)
COMPANY for authority to issue)
stocks and bonds.)

Application No. 1084

J.B. Rogers, for applicant.

LOVELAND, Commissioner.

FIFTH SUPPLEMENTAL OPINION.

The applicant herein is constructing a standard gauge electric line of railway between Fresno and Clovis, Fresno County, a distance of approximately nine miles. A contract was entered into between the applicant and Mahoney Brothers for the completion of this railway line at a total cost of \$145,000. In orders heretofore issued up to November 5, 1914, this Commission had authorized the applicant to issue \$110,000 of its first mortgage 6 per cent. 10-year bonds to be sold at not less than 90 per cent. of face value, and 580 shares of its capital stock of the par value of \$100 per share to be sold at not less than \$80 per share. If sold at this minimum price the result would have been as follows:

\$110,000 bonds @ 90, - - - - -	\$99,000
580 shares of stock at \$80 - - - - -	46,400
Total amount to be realized, - - - - -	\$145,400

This exceeded the contract price for the road by \$400.

The applicant, however, subsequently set forth the necessity of additional expenditures and thereafter applied to this Commission on November 5, 1914 for authority to issue, in addition to the securities heretofore authorized, 20 shares of its capital stock to be sold at \$80 per share and \$14,700 of its bonds to be sold

at 90 per cent. of face value.

A hearing was held upon this application, and in connection with data filed it came to the attention of this Commission that the applicant had issued for the purposes of incorporation, 100 shares of its capital stock and had received therefor \$10 per share. Thereupon, in Decision No. 1990, rendered December 8, 1914, this Commission, in lieu of the 20 shares of stock and the \$14,700 of bonds applied for, authorized the applicant to issue 100 shares of stock at not less than \$80 per share to replace the 100 shares of stock which had been sold at \$10 per share. The effect of this would have been to give the applicant an additional \$7,000 with which to meet its contemplated expenditures. These intended expenditures consisted of \$4,700 for the purchase of equipment and \$10,600 for engineering, administration, legal and contingent costs.

Under date of December 12, 1914, Fresno Interurban Railway Company filed a supplemental application requesting that this Commission's order (Decision No. 1990) authorizing 100 shares of stock to replace the shares issued for purposes of incorporation be vacated, and requesting again that authority be granted to the applicant to issue \$14,700 of its 10-year 6 per cent. bonds to be sold at 90 per cent. of face value and 20 shares of its capital stock to be sold at \$80 per share.

It was proposed that the proceeds from the sale of these securities should be used for the purpose of purchasing equipment to cost \$4,700 and for the payment of certain administration, engineering, legal and contingent costs set out in detail in the sum of \$12,300. There is evident need for the equipment and I pass, therefore, to a consideration of other items.

The applicant submits the following summary of proposed expenditures:

Administration -

San Francisco office, - - - - -	\$ 37.50	
Fresno office, - - - - -	12.50	
Accountant, - - - - -	75.00	
Stenographer, - - - - -	50.00	
Stationary, stamps, etc., - - - - -	15.00	
President, - - - - -	<u>200.00</u>	
		\$570.00

Legal -

Retention Fee, - - - - -	40.00	
Sundry Filings, etc., - - - - -	<u>15.00</u>	
		55.00

Engineering -

Chief Engineer, - - - - -	200.00	
Electrical Engineer, - - - - -	75.00	
Field Assistants, - - - - -	200.00	
Livery and Sustenance, - - - - -	150.00	
Traveling Expenses, - - - - -	100.00	
Sundry Materials, - - - - -	<u>25.00</u>	
		750.00

Total estimated Monthly Expense, - - - - \$1,175.00

Total for eight months construction period, - - - \$9,400.00

Contingent -

To provide for possible unforeseen contingent expense not contemplated in Contract, such as additional industrial trackage, the possible crossing of Southern Pacific Company's tract, at or near Clovis, etc., say 2% of contract price, - - - - - \$2,900.00

Total, - - - - - \$12,300.00

It appears to me that in view of the contract which this applicant has with Mahoney Brothers, previously approved by this Commission, there is no necessity for administration, legal and engineering expenditures as herein presented. Contingent expense, of course, must be met if it occurs.

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An examination of the items submitted by the applicant disclosed that Mr. J.B. Rogers is to be paid a salary of \$200 per month as president of this railway. In addition, it is proposed that he receive a salary of \$200 per month as Chief Engineer of the railway. It is also proposed that he receive a salary of \$40 per month as attorney for the railway. It is further intended that he should receive an allowance of \$100 per month for traveling expenses. This makes a total of \$540 per month to continue over a period of eight months and to be charged to the construction cost of this railway. I find that many items such as livery and sustenance would be payable on behalf of Mr. J.B. Rogers.

The Commission has previously authorized the issue of securities in connection with this project to, Mr. Rogers as follows:

Salary as engineer at \$600 per month	
for 10 months, -----	\$6,000.00
Traveling expenses in the sum of, -----	2,176.90
Percentage of promotion fees amounting to, -----	<u>4,163.33</u>
Total, -----	\$12,340.23

Other general expense items have also been authorized on behalf of Mr. J.B. Rogers. Liberal promotion allowances have also been made on behalf of others connected with this enterprise.

It is now proposed that the Commission should authorize additional compensation and expenses for Mr. Rogers in a sum between \$6,000 and \$7,000. This Commission has always been willing and ready to recognize promotion effort, but it cannot go to the extremes herein requested. A promotion charge cannot be converted into something else by a mere change of nomenclature.

As this Commission has previously given its authorization for stock sufficient to cover the cost of the equipment which the applicant now desires to acquire, further issues of securities will, of course, not be necessary for this same purpose. To this extent at least - that is, to the extent of providing for an issue of securities sufficient to cover the cost of this equipment in the sum of \$4,700- - I believe Decision No. 1990 of this Commission should stand.

As to the other purposes for which stock and bonds are herein requested covering administration, legal, engineering and contingent costs, I am of the opinion that a very large proportion represents intended payments for the account of Mr. J.B. Rogers that should not be sanctioned by this Commission. As has been previously stated, such contingent expense as may arise must be met, but it need not be anticipated at this time. I am, therefore, of the opinion that this supplemental application should be denied.

The applicant also requests that this Commission vacate its fourth supplemental order in this proceeding in which 100 shares of stock were authorized to be sold at not less than \$80 per share to replace 100 shares of stock issued at the time of incorporation at \$10 per share. This request will be denied, but I shall recommend that the order referred to be amended so that no stock shall be issued against engineering, administration, legal and contingent costs upon the showing so far made.

Under an agreement between Mahoney Brothers, contractors, and Fresno Interurban Railway, Mahoney Brothers have accepted the securities of the applicant in payment for services in building the line. It appears that at the time

of the last hearing upon this matter, the applicant had issued a portion of the bonds authorized, but had issued none of the stock authorized by this Commission. It was the intention of the Commission that these securities should be issued together so that at any time the face value of the bonds outstanding should be not more than approximately twice the face value of the stock outstanding.

The applicant, therefore, should issue no more bonds until it shall have issued stock equal to 50 per cent. in par value of the bonds outstanding and should thereafter issue its bonds and stock in proportion of approximately \$2 face value of bonds to \$1 par value of stock.

Accordingly I submit the following form of order:

O R D E R

Fresno Interurban Railway Company having made application to this Commission under date of December 12, 1914, asking for authorization to issue 20 shares of its capital stock to be sold at \$80 per share and \$14,700 of its 10-year 6 per cent bonds to be sold at 90 per cent. of face value for the purpose of providing funds for the purchase of equipment and for the payment of certain engineering, administration, legal and contingent costs, and a hearing having been held,

IT IS HEREBY ORDERED for the reasons set forth in the preceding opinion that this application be and the same is hereby denied.

The foregoing Fifth Supplemental Opinion and Order are hereby approved and ordered filed as the Fifth Supplemental Opinion and Order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of January, 1915.

Max Thelen
A. S. Loveland

Edwin O. Edgerton
Francis R. Decker

Commissioners.