

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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In the matter of the application of  
HUENEME, MALIBU & PORT LOS ANGELES  
RAILWAY to sell property and of  
HUENEME, MALIBU & SOUTHERN RAILWAY  
to purchase property and issue stock.

)  
)  
) Application No. 2093.  
)

Decision No. 2166

Marshal Stimson and  
O'Melveny, Stevens and  
Milliken by Sayre Macneil,  
for applicants.

BY THE COMMISSION:

O P I N I O N.

HUENEME, MALIBU & PORT LOS ANGELES RAILWAY, hereinafter referred to as the Port Los Angeles, was incorporated in September, 1903, with a capital stock of \$750,000. divided into 7500 shares of the par value of \$100. each, for the purpose of constructing a railroad extending from what is known as the Long Wharf at Port Los Angeles northwest of Santa Monica, Los Angeles County, along the shore of the Pacific Ocean to Hueneme, Ventura County, a stated distance of 55 miles.

About fifteen miles of the road has been completed of a standard gauge with standard ties and sixty pound rails with wooden bridges and trestles of a substantial character. All of the construction has been upon the Malibu ranch and extends from about the easterly line of the ranch which is about seven miles northwesterly of Port Los Angeles and connects with a private wharf on the Malibu ranch. About five miles of the road was built in each of three years 1906, 1907 and 1908, as required by law. The rolling stock consists principally of flat cars used in the construction of the line. The railroad has been

used principally for transporting materials and supplies during the construction of the road and in transporting goods upon and about the Malibu ranch, owned by the stockholders of applicants. The ranch has an ocean frontage of about thirty miles along the shore line and a length along the air line location of the road of about 21 miles. In rare instances goods have been transported for some tenants on the ranch. No request to transport goods has ever been refused.

The road as originally projected was intended to ultimately connect Santa Barbara and Ventura with Los Angeles through a connection with the Southern Pacific or what is now the Pacific Electric System at Port Los Angeles.

The stockholders of the Port Los Angeles wish to proceed with the construction of the road and as a preliminary seek to remove any doubt which may possibly rest upon its titles and corporate rights by reason of its failure to construct five miles of its road each year as required by law. To accomplish this purpose the stockholders have recently organized the Hueneme, Malibu & Southern Railway, hereinafter referred to as the Southern. The Southern also has a capital stock of \$750,000., par value, divided into 7500 shares of the par value of \$100. each. Applicants seek authority from the Railroad Commission to convey the property from the Port Los Angeles to the Southern, the property to be paid for by an issue of stock of the Southern.

Applicants submit the following statement of resources, liabilities, earnings and expenditures of the Port Los Angeles:

#### RESOURCES

|                              |              |
|------------------------------|--------------|
| Roadbed.....                 | \$141,762.14 |
| Right of way.....            | 73,934.65    |
| Surveys and Maps.....        | 30,372.67    |
| Track Equipment.....         | 63,673.45    |
| Rolling Stock.....           | 5,776.46     |
| Bridges and Culverts.....    | 24,246.40    |
| Machinery and Tools.....     | 683.23       |
| Buildings and Furniture..... | 335.86       |
| Instruments.....             | 560.91       |
| Carried forward.....         | \$341,345.77 |

|                        |              |                     |
|------------------------|--------------|---------------------|
| Brought Forward .....  | \$341,345.77 |                     |
| Cash on hand.....      | 50.00        |                     |
| <u>TOTAL RESOURCES</u> |              | \$341,395.77        |
| <u>DEFICIT</u>         |              | 31,242.03           |
|                        |              | <u>\$372,637.80</u> |

LIABILITIES

|                                    |                   |              |
|------------------------------------|-------------------|--------------|
| Rindge Company.....                | \$ 11,966.55      |              |
| Capital.....                       | 360,671.25        |              |
| Issued 7500 Sh. \$100.00 par value | 750,000.00        |              |
| Discount                           | <u>675,000.00</u> |              |
| Assessments                        | 285,671.25        | \$372,637.80 |

Earnings and Expenditures year ending Dec. 31, 1915:

Earnings..... None

Expenditures

|                |                 |
|----------------|-----------------|
| Taxes          | 563.89          |
| Misc. Expenses | <u>43.20</u>    |
|                | <u>\$607.09</u> |

The resources represent cash investment in the road except the sum of \$67,500. which represents stock at par issued to the owners of the Malibu ranch for right of way upon the ranch. Right of way for a portion of the line lying between the Malibu ranch and Port Los Angeles was acquired from Joseph H. Call upon a cash payment of \$6434.56. About \$30,000. it was testified has been expended in repairs since 1908. Considerable damage to the road was done by the severe floods of 1914, all of which has been repaired. Repairs on account of damage suffered in the flood of January, 1916, are still in progress.

At the time of organization of the Port Los Angeles all of its \$750,000. par value of stock was subscribed and \$75,000. in cash paid in on account thereof. Subsequently \$285,671.25 in cash was raised by calls or assessments

upon the stockholders all of which have been paid ratably in proportion to stock holdings. There have been almost no earnings by the road, and none during the year ending December 31, 1915.

Mr. N. D. Darlington, the engineer in charge of the survey and construction of the road already built, testified that the grading, which represents approximately 265,000 cubic yards of material moved, remains intact; that the steel has depreciated considerably, but can still be successfully used, and that most of the ties would have to be replaced. He made an off-hand estimate, without appraisal, of the present value of the road constructed, placing it at \$175,000. to \$200,000. for the tangible property. He states that it is practicable to construct a road at substantially water grade all the way from Port Los Angeles to Ventura and that while the road constructed does not conform to a water grade, that it was built with the expectation of later correcting the grade to substantially a water grade after the materials had been moved in over the line and the original construction work practically completed.

Detailed appraisement was not offered by applicants and no estimate of cost or value of the property has been made by the Commission's engineers, because applicants state that as the new stock is to be issued to the present stockholders of the Port Los Angeles in substantially the same proportion in which their Port Los Angeles stock is now held, they are not much interested in the amount of stock authorized, and it may be nominal in amount. We have acted accordingly, and authorize the issue of \$50,000. of stock at par in full payment for all the Port Los Angeles property including all rights of way; with the understanding that the amount so authorized is not intended to represent the actual value of the property. Actual value has not been considered nor investigated in this proceeding further than stated herein.

There was introduced in evidence an agreement, dated February 9, 1916, a copy of which is attached to the application as Exhibit G, by which the Southern agrees to pay within one year to M. K. Rindge and Rindge Company, a corporation, the reasonable value of the rights, titles and interests conveyed by them to the Southern in a deed delivered contemporaneously therewith, and purporting to convey a strip of land generally sixty feet wide, extending from the easterly line of Malibu Rancho westerly to Yerba Buena Canyon in Ventura County, the strip to be used for right-of-way purposes, and being conveyed subject to all the rights and interests of the Port Los Angeles in said right-of-way. The agreement is made subject to an expressed limitation that the right of way is for the purposes of the agreement deemed of the value of \$225,000; but in the event this Commission shall within one year authorize an issue of stock in payment for the right of way and improvements thereon, the sellers shall be bound to accept as full payment the difference between the par value of the stock and the sum of \$225,000. Counsel explained that their interpretation of the agreement was that the sellers would be entitled to receive nothing if \$225,000 par value of stock were now authorized, but that they would be entitled to receive \$25,000 if \$200,000 par value of stock were now authorized, as prayed in the application.

This agreement is inconsistent with the expressed willingness of applicants that the amount of stock authorized need bear no relation to actual value.

We say frankly to applicants that we cannot hereafter authorize the issue of further stock or approve any further payment in cash or property on account of the present purchase of the property of the Port Los Angeles including all rights of way.

O R D E R.

Application having been made to the Railroad Commission for an order authorizing Hueneme, Malibu & Port Los Angeles Railway to sell and authorizing Hueneme, Malibu & Southern Railway to purchase all of the property of said first mentioned company, same to be paid for by an issue of shares of the capital stock of the latter company, and a hearing having been held thereon and it appearing to be for the public interest that the transfer of said property and the issue of said stock be authorized,

IT IS HEREBY ORDERED by the Railroad Commission of the State of California that Hueneme, Malibu & Port Los Angeles Railway be and it is hereby authorized and empowered to sell, and Hueneme, Malibu & Southern Railway be and it is hereby authorized to purchase all of the real and personal property of said first mentioned company including location, rights of way, surveys, maps, instruments, structures, buildings, furniture, rolling stock, machinery, tools and equipment, and to issue at par to said Hueneme, Malibu & Port Los Angeles Railway or its order 500 shares of its capital stock of the par value of \$100. each in full payment therefor.

This order is made upon the following conditions and not otherwise:

1. The stock herein authorized to be issued shall not be taken before this Commission or any other public authority as representing for rate fixing purposes or any purpose other than the present application, the actual value of the property referred to.

2. The property and rights hereinbefore and in said agreement referred to shall be transferred to Hueneme, Malibu & Southern Railway free of debt or incumbrance.

3. The authority hereby granted shall apply only to such property and rights as shall have been transferred and such stock as shall have been issued on or before sixty (60) days after the date hereof.

4. Within twenty (20) days after the transfer herein authorized shall have been made, both applicants shall report said fact to this Commission in writing and supply copy of instruments of transfer of said property.

5. Euenome, Malibu and Southern Railway shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of stock herein authorized to be issued; and on or before the twenty-fifth day of each month the Company shall make verified reports to the Commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this 17th -  
day of March, 1916.

H. H. Ireland

Edwin O. Edgerton

Frank R. Perkins  
Commissioners.