

Decision No. \_\_\_\_\_

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Decision No. 32207

In the Matter of the Application )  
of MARIN COUNTY ELECTRIC RAILWAYS )  
for a certificate of public con- )  
venience and necessity for the con- )  
struction and operation of a street )  
railway system in Mill Valley, and )  
for authority to issue stock and )  
bonds. )

Application No. 947

LOVELAND, Commissioner.

EIGHTH SUPPLEMENTAL OPINION

In this supplemental application Marin County Electric Railways asks for a modification of this Commission's Decision No. 1377 (Vol. 4, Opinions and Orders of the Railroad Commission of California, page 503) and for authority to sell stock to persons other than residents and property owners in Mill Valley.

The history of this enterprise is in brief as follows:-

On January 17, 1914, Marin County Electric Railways applied to this Commission for a certificate that public convenience and necessity required the construction and

operation of three and one-half miles of street railway in Mill Valley, Marin County, under a franchise granted by the Town of Mill Valley. The Company further applied for authority to sell \$50,000. of stock and \$60,000.00 of bonds for the purpose of constructing its proposed line. This application was afterwards amended and authority asked to issue \$75,600.00 of stock and no bonds.

The Commission on March 26, 1914 issued an order granting the Company a certificate of public convenience and necessity and authorizing the issue of \$67,000.00 of stock under certain restrictions.

In its decision the Commission stated that this project must be regarded in the nature of a promotion enterprise and that purchasers of stock must share not only in the hope of reward but in the responsibility for loss as well. For this reason the Commission stated that it would not consent to securities being sold broad-cast to small investors. It stated, however, that if the people who would be benefited by the railway service believed that such benefit would warrant the assumption by them of the financial obligations involved it would not be inclined to deny the railway the right to sell stock to them. Accordingly the company was granted permission to sell its stock only to "bona fide residents of Mill Valley or to property owners in Mill Valley."

Thereafter Mr. Hicks, the promoter of the enterprise, filed an application with the Commission representing that the above condition precluded him from purchasing stock and asking that an exception be made in his case. This application was granted and Mr. Hicks was given the privilege of buying such additional stock as he desired in the enterprise.

Although applicant succeeded in obtaining a considerable number of stock subscriptions it did not succeed in collecting sufficient sums to begin work on its line as originally projected, the Commission's order having provided that \$35,000.00 in cash

should be on hand before construction work was started. Finding itself unable to raise this amount applicant came to the Commission with a request that this restriction be modified and that it be allowed to begin the construction of one mile of line on Throckmorton Avenue from the Northwestern Pacific depot toward the Cascades.

Applicant represented that it had stock subscriptions applicable to the construction of this unit amounting to approximately \$20,000.00. On this representation the Company was given authority to proceed. It now appears that of the \$20,000.00 subscribed, the Company succeeded in collecting approximately \$5,000.00 with which it laid one-third of a mile of track and completed about three fourths of a mile of trench. This exhausted the Company's funds and as more money was not forthcoming from stock subscriptions it was compelled to stop work.

The Board of Trustees of Mill Valley on October 25, 1915, granted the Company an extension of four months on its franchise. This four months extension has now expired and the Town of Mill Valley has recently filed with the Commission copies of resolutions adopted by its Board of Trustees requesting the Attorney General of the State of California to bring suit for forfeiture of the railway company's franchise. The Town of Mill Valley has also taken steps to collect from Marin County Electric Railways and its surety the amount of the bond filed at the time of the granting of the franchise.

In view of the facts as herein presented it appears that this application of Marin County Electric Railways for authority to sell stock to other than bona fide residents or property owners in Mill Valley should be denied.

I accordingly submit the following supplemental order:-

EIGHTH SUPPLEMENTAL ORDER

MARIN COUNTY ELECTRIC RAILWAYS having applied to this Commission for authority to sell its stock to persons other

than residents and property owners in the Town of Mill Valley, Marin County, and it appearing to this Commission that for the reasons set forth in the foregoing Supplemental Opinion this application should be denied;

IT IS HEREBY ORDERED that the supplemental application of Marin County Electric Railways filed with this Commission on December 3, 1915, requesting authority to sell stock to other than bona fide residents and property owners of Mill Valley be and it is hereby denied.

Dated at San Francisco, California, this 29th day of March, 1916.

A TRUE COPY  
ASSISTANT SECRETARY  
RAILROAD COMMISSION  
STATE OF CALIFORNIA

Max Thelen  
H. D. Loveland  
Alfred Gordon  
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Commissioners.