

Decision No. _____

ORIGINAL

Decision No. 4593

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application }
of PETALUMA AND SANTA ROSA RAIL- }
WAY COMPANY for an order author- } Application No. 2103.
izing the issue of capital stock. }

Edwin T. McMurray for Petaluma and Santa Rosa
Railway Company.

THEBLEN, Commissioner.

OPINION ON REHEARING.

On August 15, 1917, evidence and argument were received herein at a public hearing held in San Francisco on the question whether a rehearing should be granted on Decision No. 3197, made in the above entitled proceeding on March 25, 1916.

At the hearing on August 15, 1917, it was stipulated that if the Railroad Commission should be of the opinion that a rehearing should be granted herein, the evidence and argument presented at the hearing on August 15, 1917, should be deemed to be the evidence and argument which would be presented on such rehearing and that the entire matter/~~may~~^{might} be disposed of on the evidence and argument presented at the original hearing on March 7, 1916, and said hearing on August 15, 1917.

Petaluma and Santa Rosa Railway Company asks authority to issue 165 shares of its capital stock, having a total par value of \$16,500.00, to Mr. George P. McNear, in part payment for a portion of Block No. 7 of East Petaluma, on which land are located Petitioner's passenger station and yards at Petaluma.

Petitioner entered into the possession of this property in 1904, under a ten-year option to purchase the same for the sum of \$9,500.00. In July, 1912, Petitioner exercised the option,

paid to Mr. McNear \$5000.00 in cash and purported to issue to him 165 shares of its common capital stock at an agreed value of \$25.00 per share and received from Mr. McNear conveyance of the land under consideration.

The testimony shows that this transaction was carried out in consummation of a verbal agreement made between Mr. McNear and the President of Petitioner in February, 1912.

Said 165 shares of Petitioner's capital stock were issued without the Railroad Commission's consent and without knowledge of the provisions of the Public Utilities Act, and with no intention to violate the same. Petitioner now asks authority, after cancellation of the certificate representing said 165 shares, to make a new issue of 165 shares in lieu of the stock which was illegally issued.

Petitioner has an authorized issue of capital stock of the total par value of \$1,000,000.00, divided into 10,000 shares of the par value of \$100.00 each. This stock was heretofore all issued but in December, 1907, Petitioner bought in 224 shares for failure to pay an assessment of \$10.00 per share. The maximum price at which Petitioner's capital stock was issued was \$40.00 per share, for 900 shares. The remaining shares were exchanged for property at not in excess of \$25.00 per share. The testimony on the rehearing showed that there have been no recent sales of Petitioner's capital stock and that if sold on the market it could not reasonably be expected to yield more than \$5.00 per share.

The testimony at the rehearing shows that the property under consideration has increased substantially in value subsequent to 1904, at which time the ^{option} ~~stock~~ to sell the same for \$9,500.00 was given.

The testimony at the rehearing also shows that it will be distinctly advantageous to Petalume and Santa Rosa Railway

Company to be authorized to issue the capital stock under consideration and to consummate the transaction.

Mr. McNear is willing to accept a new certificate in lieu of the one which was illegally issued.

Under all the ^{specific} /circumstances/ of this case, I am of the opinion that Petitioner should be permitted to issue to Mr. George P. McNear 165 shares of its common capital stock in part payment for the land hereinbefore referred to, in lieu of the 165 shares which were heretofore illegally issued, on the cancellation of the certificate representing said shares.

I submit the following form of order:

O R D E R.

PETALUMA AND SANTA ROSA RAILWAY COMPANY having petitioned for a rehearing on Decision No. 3197, made on March 25, 1916, in the above entitled proceeding, a public hearing having been held on said petition, the Railroad Commission finding that a rehearing should be held and Petitioner having stipulated that the evidence and argument presented at the public hearing of August 15, 1917, herein should be deemed to be the evidence and argument which would be presented by Petitioner on such rehearing, and the Railroad Commission being fully advised in the premises,

IT IS HEREBY ORDERED that Petaluma and Santa Rosa Railway Company be and the same is hereby authorized to issue to Mr. George P. McNear in part payment for a portion of the block of land commonly known as Block 7 of East Petaluma, on which land Petitioner's yards and passenger station at Petaluma are located, 165 shares of its common capital stock, on the following conditions and not otherwise, to-wit:

1. Before Petaluma and Santa Rosa Railway Company may issue said 165 shares of its capital stock, there shall have been cancelled and returned to its treasury, certificate representing

165 shares of its capital stock heretofore illegally issued by Petaluma and Santa Rosa Railway Company to Mr. George P. McNear.

2. Within ten days subsequent to the cancellation of said certificate of capital stock and the issue of the shares of capital stock herein authorized, Petaluma and Santa Rosa Railway Company shall make a verified report to the Railroad Commission reciting said facts, in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein given to issue capital stock shall apply only to such capital stock as shall have been issued on or before November 1, 1917.

IT IS FURTHER ORDERED that Decision No. 3197, made on March 25, 1916, in the above entitled proceeding be and the same is hereby vacated and set aside.

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 21st day of August, 1917.

Max Thelen
W. H. Loveland
W. G. ...
Frank ...

Commissioners.