

Decision No. 22180

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of

NORTHERN LIGHT & POWER CO., and
D. W. CHAPMAN, A. G. HAMMOND and
R. H. HARTMAN as and constituting
the Benbow Power Company Bondholders'
Protective Committee,

for an order authorizing the issuance
of stock, an order authorizing the sale
of public utility property, and an order
approving the terms and conditions of
such issuance.

ORIGINAL

Application No. 22180

Ellis & Steindorf by Stanley A. Steindorf for applicants.

BY THE COMMISSION:

O P I N I O N

This proceeding involves the transfer of the properties formerly owned by Benbow Power Company and the issue of stock by Northern Light & Power Co. in payment for part of such properties all as more specifically set forth hereinafter.

A public hearing, after due notice, was held on this application before Examiner Fankhauser on September 22, 1933, in the Commission's Courtroom in San Francisco.

It is of record that all of the properties and assets of the Benbow Power Company engaged in operating electric and water utility properties were, on or about January 1, 1930, transferred to American Trust Company as Trustee under that certain trust indenture dated January 1, 1930, executed by and between Benbow Power Company as Trustor and American Trust Company as Trustee, to secure an authorized issuance of fifteen (15) year, 6% First Mortgage Bonds of said Benbow Power Company in the aggregate principal amount of \$200,000.00. Under authority granted by the Commission, the Company issued and sold \$130,000.00 of said bonds. By reason of the fact that the Benbow Power Company defaulted in the payment of the interest coupons

on said bonds the said American Trust Company, in accordance with the terms of said trust indenture and the provisions of law, on June 16, 1933, duly sold the properties and assets of said Benbow Power Company to a committee representing the bondholders. This committee as now constituted, consists of A. G. Hammond, D. W. Chapman, and R. H. Hartman. Since the purchase of the properties by the committee, it has continued to operate the electric properties formerly owned by the Benbow Power Company. On September 11, 1935, it entered into an agreement with the Benbow Hotel Company, under the terms of which it agreed to sell to the Hotel Company, or its nominee, the public utility water properties acquired by it. Though the title to the water properties still remains in the Bondholders' Protective Committee because it has not received final payment, the said water properties are being operated by the Hotel Company.

The Bondholders' Protective Committee now asks authority to transfer to the Northern Light & Power Co. all of the business, properties and assets owned and controlled by it. The properties are more particularly described in a deed filed with the Commission on September 27, 1938, as follows:

"(1) All that certain real property situate, lying and being in the County of Humboldt, State of California, which is described in that certain Indenture dated June 16, 1933, made by and between Benbow Power Company, a California corporation, and American Trust Company, a California corporation, as Trustee as therein stated, parties of the first part, and D. W. Chapman, A. G. Hammond and R. H. Hartman, parties of the second part, and recorded in the office of the County Recorder of Humboldt County, State of California, on July 11, 1933, in Book 211 of Deeds at page 243, including without in anywise limiting the generality of the foregoing, the following:

All that certain real property situate in the County of Humboldt, State of California, described as follows, to wit:

All of Lot Eight (8), the West half of Lot Nine (9), and the North half of the Southeast quarter (NE $\frac{1}{4}$ of SE $\frac{1}{4}$) of Section Six (6), Township Five (5) South, Range Four (4) East, Humboldt Meridian, containing one hundred and sixty (160) acres, more or less.

All of the South half of the Southwest quarter (S $\frac{1}{2}$ of SW $\frac{1}{4}$) of Section Thirty-six (36), and the Southeast quarter of the Southeast Quarter (SE $\frac{1}{4}$ of SE $\frac{1}{4}$) of Section Thirty-Five (35) lying south of the center of the South Fork of Eel River, in Township Four (4) South, Range three (3) East, Humboldt Meridian.

(2) "All that certain real property situate in the County of Humboldt, State of California, and described as follows, to wit:

The South half of the Northwest quarter of the Southwest quarter of Section 36, Township 4 South, Range 3 East of Humboldt Meridian, containing 20 acres.

That portion of the North half of the Southwest quarter of the Southwest quarter of Section 36, Township 4 South, Range 3 East of Humboldt Meridian, which lies North of the center line of the main branch of the South Fork of Eel River, and being 15 $\frac{1}{2}$ acres according to the Licensed survey No. 1 for the Benbow Company by P. M. Schmook on file in the Humboldt County Records.

"TOGETHER with all and singular the tenements, here-
belonging
ditaments, and appurtenances thereunto/ or in anywise appertaining,
and the reversion and reversions remainder and remainders, rents,
issues and profits thereof."

The Bondholders' Protective Committee will transfer said properties to the Northern Light & Power Co. in consideration of the issue to the order of the Committee 1560 shares of the corporation's preferred and 3900 shares of its common stock, and in further consideration that the corporation assume, agree to pay, and agree to hold the Committee and each of its members harmless from all liabilities, obligations and commitments of the Committee. The financial statement of the Committee shows liabilities of about \$10,620.00.

Northern Light & Power Co. is a corporation organized under the laws of the State of California. It has an authorized stock issue of 7,600 shares divided into 1,600 shares of preferred stock having a par value of \$25.00 per share, and 6,000 shares of common stock without

par value. Under the corporation's amended Articles of Incorporation, the holders of the preferred shares are entitled to dividends at the rate of 6% of the par value thereof per share per annum which dividends are cumulative after July 1, 1940. Subject to rights of the preferred shares, all remaining dividends are payable to the common shares, share and share alike. Upon dissolution or liquidation of the corporation, the holders of the preferred shares are entitled to receive \$25.00 per share and no more. The corporation reserves the right to redeem at its option, the preferred shares at \$27.50 per share. The holders of the preferred shares may convert their shares into common stock at their option at any time prior to the redemption date on a share for share basis. The corporation asks permission to issue, if and when, the holders of its preferred stock exercise their right of conversion, not exceeding 1560 shares of common stock. Each share of preferred and each share of common stock is entitled to one vote.

In Exhibit 4 which was prepared by the Valuation Division of the Railroad Commission, the estimated historical cost of the electric properties to be acquired by applicant corporation is reported at \$155,917.00, which sum includes \$1,006.00 for materials and supplies. The accrued depreciation is reported at \$14,597.00, leaving the depreciated cost at \$140,314.00. The depreciation annuity is reported at \$1,934.00.

Had the stock which applicant corporation desires to issue been outstanding during 1937, it would have been in a position to declare a dividend of but 2.9% on the \$39,000.00 of preferred stock which it proposes to issue. The testimony, however, shows that the Committee in 1937 encountered extraordinary operating expenses.

All of the holders of bonds issued by Benbow Power Company have deposited their bonds under the reorganization plan proposed by the Committee or have agreed to accept stock in exchange for their bonds in the amounts indicated in the plan. The holder of a \$1,000.00 bond

of the Benbow Power Company, under the reorganization plan, will receive twelve (12) shares of preferred stock and thirty (30) shares of common stock of the Northern Light & Power Co.

O R D E R

The Commission having considered the evidence submitted at the hearing had on this matter and it being of the opinion that the issue of stock by Northern Light & Power Co. in exchange for the properties of the Bondholders' Protective Committee of the Benbow Power Company and the distribution of such stock to the holders of certificates of bonds of deposit or bonds is fair and reasonable, and that the money, property or labor to be procured or paid for by the issue of said stock is reasonably required by applicant, Northern Light & Power Co., and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income, therefore,

IT IS HEREBY ORDERED as follows:

1. D. W. Chapman, A. G. Hammond and R. H. Hartman as and constituting the Benbow Power Company Bondholders' Protective Committee, may convey, transfer and assign on or before December 31, 1938, to Northern Light & Power Co. all of the business, properties and assets owned and controlled by it and more particularly described in the deed filed with the Railroad Commission on September 27, 1938.
2. As a consideration for said properties, Northern Light & Power Co. may issue on or before December 31, 1938, to said Bondholders' Protective Committee, or its order, 1560 shares of its preferred and 3900 shares of its common stock and assume, agree to pay, and agree to hold said Committee and each of its members harmless from all liabilities, obligations, or commitments of said Committee.
3. If and when the holders of said preferred stock exercise

4. Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the 25th day of each month a verified report, as required by the Railroad Commission's General Order No. 24-A which order in so far as applicable is made a part of this order.

Daphne
 Iron ore
 Gray
 Ray & Riley