

MEETING OF THE SECURITIES AND EXCHANGE COMMISSION

Monday – May 16, 1942 – 3:00 P.M.

COMMISSIONERS PRESENT:

Ganson Purcell, Chairman
Robert S. Healy
Sumner T. Pike
Edmund Burke, Jr.

COMMISSIONERS ABSENT:

Robert H. O'Brien

The Commission authorized the following persons to attend a meeting of the National Association of Securities Dealers, Inc., to be held in Absecon, New Jersey, on Tuesday, May 19, 1942: Ganson Purcell, Robert S. Healy, Sumner T. Pike, Edmund Burke, Jr., and Robert B. O'Brien.

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Assistant General Counsel Davis, Mr. Cashion, Assistant to the General Counsel, and Mr. Gressman of the Legal Division were present.

Reference was made to the civil action instituted against the Commission by Samuel Okin in the United States District Court for the Southern District of New York. The Commission was advised that, under the new Federal Rules of Procedure, the local United States District Attorney, as well as the Attorney General, must be served with notices of proceedings brought against the United States; that they had been notified of the Okin complaint; and that the question thus arose as to who should assume the burden of defending the Government in the suit, Assistant General Counsel Davis advised the Commission that he had conferred with Sidney Kaplan of the Department of Justice, Claims Division, who had indicated that he saw no reason why the Commission could not proceed in the usual manner to defend itself in the injunction proceedings but that he, Mr. Kaplan, would probably have an Assistant United States District Attorney enter an appearance of record.

The General Counsel's Office was authorized to carry forward in the usual way with the defense of the Commission in the Okin suit and to enter an appearance therein for the purpose of moving for a dismissal of the action for lack of jurisdiction and effective service and because of improper venue.

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Assistant Director Steig and Mr. Moran of the Trading and Exchange Division were present.

Reference was made to the Commission's authorization for the institution of proceedings pursuant to the provisions of Section 15 (b) of the Securities Exchange Act of 1934 to determine whether the broker-dealer registration of Florida Bond & Share, Inc., Orlando, Florida, should be revoked or suspended. The Commission was advised that the registrant had consented in writing to the revocation of its registration.

A draft of findings and order in the matter was to be prepared for consideration by the Commission.

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The Commission directed that the Director of the Registration Division should be prepared to discuss the following matters with the Commission on Tuesday, May 26, 1942, at 10:00 A. M., as well as the earlier suggestion of the Commission that consideration be given to the possibility of eliminating the functional division between the work of the Listing Section of the Registration Division and the work of examining registration statements:

- (1) Commission review of deficiency letters, for an experimental period, in order that the Commission might become more familiar with the details of the registration and examination processes and in order that there might be a reexamination of the form and content of deficiency letters and the policy governing the citing of deficiencies.
- (2) Consideration of the necessity or advisability of amending existing exemption rules and regulations applicable to oil and gas securities.

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The Commission again instructed that, when the Director of a Division receives notice or other indication that an employee of his Division is considering the possibility of resigning from his position in order to accept some other position, whether or not in the Government service, such fact should be reported immediately to the Director of the Division of Personnel Supervision and Management and by him to the Commission, in order that consideration may be given to the possibility of the reassignment or transfer of the employee to some other position for which he may be qualified and which may be an inducement for him to remain with the Commission.

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Mr. Cohn, Assistant to the General Counsel, and Mr. Blair-Smith of the Legal Division, and the Director of the Public Utilities Division were present.

In the matter of the consolidated proceedings pending under the Public Utility Holding Company Act of 1935 in respect of the following matters:

Associated Gas and Electric Company, et al. (File 59-30)
Virginia Public Service Company (Files 54-59 and 70-427)
General Gas & Electric Corporation (File 70-534)

the Commission determined that it would decide the issues involved in the pending application under Section 6 (b) of the Act filed by Virginia Public Service Company (File 70-427) in advance of a determination upon the remaining issues involved in the consolidated proceedings, and directed that an order be prepared for consideration and adoption which would provide for the reconvening of the hearing on Tuesday, May 26, 1942, at 10:00 A. M., for the limited purpose of giving counsel for northeastern Water and Electric Corporation an opportunity to introduce additional evidence with respect to issues not related to the Section 6 (b) application. The reconvening of the hearing was to be subject to the condition that counsel for Northeastern advise the Commission and all other parties in interest, not later than Monday, May 25, 1942, as to whether he has any further evidence to adduce, the names of the witnesses whom he would present for examination, and the nature of the testimony and evidence which he would seek to introduce through such witnesses.

Mr. Purcell was recorded as not participating in Commission's determination to "sever".

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Assistant Director Ramspeck and Messrs. Levy and Adelstein of the Registration Division were present.

In the matter of the registration statement filed by Treasure Mountain Gold Mining Company (File 2-4937) under the Securities Act of 1933, the Commission was advised concerning the nature of the deficiencies found to exist in the registration statement as filed; that the registrant had been given an opportunity to amend its registration statement; that most of the major deficiencies therein had been corrected; but that, unless the remaining deficiencies were corrected, it would be necessary to give consideration to the initiation of stop order proceedings against the registration statement pursuant to the provisions of Section 8 (d) of the Act.

The Commission directed that the registrant be given a further opportunity to amend its registration statement.

* * *

Reference was made to the Commission's authorization of April 3, 1942, for the conduct of an examination, pursuant to the provisions of Section 8 (e) of the Securities Act of 1933, of the registration statement filed by Interim Finance Corporation (File 2-4968), and to the Commission's subsequent instruction, on April 16, 1942, that the registrant be given an opportunity to amend its registration statement. It was reported to the Commission that most of the major deficiencies had been corrected but that there remained an inadequate disclosure of the rights of the Class "B" stock owned by the promoters and the possibility that such rights might be exercised to the detriment of the Class "A" stock.

The Commission directed that the registrant should be given a further opportunity to amend its registration statement.

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Mr. Burke left the meeting at 5:20 P. M.

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Mr. Carretta of the Trading and Exchange Division was present.

The Sivyver Steel Casting Company (File 1-297) having filed application, pursuant to the provisions of Section 12 (a) of the Securities Exchange Act of 1934 and Rule X-12D2-1(b) of the Rules and Regulations thereunder, to withdraw its Common Stock, No Par Value, from listing and registration on the Chicago Stock Exchange; a hearing therein having been held and concluded before the trial examiner on April 20, 1942; and it appearing to the Commission, after examination of the record thus far made, that the applicant had failed to offer adequate proof in support of all of the allegations set forth in its application a basis for the withdrawal of the subject security from listing and registration on the Chicago Stock Exchange; the Commission adopted an order directing that the hearing in the said matter be reconvened on June 4, 1942, at 10:00 A. M., in the Chicago Regional Office for the purpose of allowing the applicant a further opportunity to offer proof in support of reason marked "(3)" in its application, and designating Henry Fitts as the officer of the Commission to preside at the said hearing, with powers prescribed under Section 21 (b) of the Act and the Commission's Rules of Practice.

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In the matter of the application filed by the Baltimore Stock Exchange, pursuant to the provisions of Section 12 (f) of the Securities Exchange Act of 1934 and Rule X-12F-1 of the Rules and Regulations thereunder, for permission to extend unlisted trading privileges to the Common Stock, \$1 Par Value, of Rustless Iron and Steel Corporation (File 7-613), the Commission, upon the request of its counsel, authorized an additional two weeks' extension of the time for filing requested findings of fact with the trial examiner.

* * *

In the matter of the application filed by the New York Curb Exchange, pursuant to the provisions of Section 12 (f) of the Securities Exchange Act of 1934 and Rule X-12F-1 of the Rules and Regulations thereunder, for permission to extend unlisted trading privileges to the following securities, the Commission, upon the request of the Executive Director of the National Association of Securities Dealers, Inc., adopted an order granting the application of the Association to intervene in the matter; postponing the hearing in said matter until June 3, 1942, at 11:00 A. M., in Philadelphia, Pennsylvania; and designating Willis E. Monty as the officer of the Commission to preside at the hearing, with powers prescribed under Section 21 (b) of the Act and the Commission's Rules of Practice:

Pacific Gas and Electric Company (File 7-647)
5% Cumulative First Preferred Stock, \$25 Par Value

Richfield Oil Corporation (File 7-648)
Warrants for Common Stock, No Par Value

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Messrs. Cashion and Freeman, Assistants to the General Counsel, and Mr. Newfield of the Legal Division were present.

Upon the recommendation of the Legal Division, the Commission adopted the following rule under the Securities Exchange Act of 1934:

Rule X-10B-5. Employment of Manipulative and Deceptive Devices.

It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any securities exchange,

- (1) to employ any device, scheme, or artifice to defraud,
- (2) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or
- (3) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person,

in connection with the purchase or sale of any security.

Effective Thursday, May 21, 1942.

The adoption of this rule resulted from an inability to take action against certain alleged improper practices by American Tissue Mills of Holyoke, Massachusetts, in its solicitation of the purchase of its outstanding preferred stock for retirement.

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In the matter of the declaration filed by Northern States Power Company (Minnesota)(File 68-7) pursuant to the applicable provisions of the Public Utility holding Company Act of 1935 and the Rules and Regulations thereunder in regard to a proposal to solicit proxies to secure the quorum necessary to conduct the company's annual stockholders' meeting scheduled to be held on May 13, 1942, and to expend approximately \$6,000 in connection with such solicitation, the Commission adopted an order consenting to the withdrawal of the declaration upon the request of the declarant.

Upon the recommendation of the Legal Division, Proxy Unit, the Commission authorized the acceleration, so as to permit mailing on or after May 21, 1942, of the proxy soliciting material filed in behalf of Rome Cable Corporation, pursuant to the provisions of Section 14 of the Securities Exchange Act of 1934, in connection with the annual meeting of stockholders scheduled to be held on June 3, 1942, it appearing that an adequate showing of unusual circumstances (within the meaning of Rule X-14A-4(b) of the Rules and Regulations under the said Act) had been made to justify such acceleration.

The following companies being registered as broker-dealers pursuant to the provisions of Section 15 (b) of the Securities Exchange Act of 1934; successor partnerships of the same names having filed applications for registration on Form 4-M and having represented that they are the successors to and are continuing the business of the predecessors; and it appearing that the predecessors are no longer in existence; the Commission adopted orders canceling the registrations of such predecessors as of May 20, 1942:

Foster, Marvin & Company, New York, New York
Wurts, Dulles & Company, Philadelphia, Pennsylvania

John Jerome Lucas, Anacortes, Washington, being registered as a broker pursuant to the provisions of Section 15 (b) of the Securities Exchange Act of 1934; and the Commission having found, on due notification, that the registrant is deceased; an order was adopted canceling the registration of the said John Jerome Lucas.

The Commission authorized the release of Marion Christiansen of the Administrative Division, Library Section, in order that she might accept a position in another agency, the Director of the Administrative Division having interposed no objection thereto.

In the matter of the proceedings pursuant to the provisions of Sections 11 (b)(2), 15 (f), and 11 (e) of the Public Utility Holding Company Act of 1935 pending against Jacksonville Gas Company and American Gas and Power Company (Files 59-43 and 54-47), the Commission authorized the waiver of the 60-page limitation for briefs prescribed by its Rules of Practice.

In the matter of the following offering sheets filed pursuant to the provisions of Regulation B of the General Rules and Regulations under the Securities Act of 1933, the Commission adopted orders fixing the effective date of amendments thereto:

Andrew J. Barrett (File 20-389A179)

Offering sheet of non-producing landowners' royalty interests in the Sun - Dora Moreland Tract filed on April 24, 1942

Andrew J. Barrett (File 20-389A180)

Offering sheet of non-producing landowners' royalty interests in the Sun Oil Co. - Dollie Lemmons Tract filed on April 29, 1942

Andrew J. Barrett (File 20-389A181)

Offering sheet of non-producing landowners' royalty interests in the Magnolia - Giles Tract filed on April 30, 1942

Southwestern Royalty Company (File 20-646A61)

Offering sheet of non-producing landowners' royalty interests in the Sun Oil Co. - Dollie Lemmons Tract filed on April 29, 1942

Southwestern Royalty Company (File 20-346A82)

Offering sheet of non-producing landowners' royalty interests in the Sun Oil Co. - Dollie Lemmons Tract riled on April 29, 1942

Southwestern Royalty Company (File 20-346A83)

Offering sheet of non-producing landowners' royalty interests in the Magnolia - Giles Tract filed on April 30, 1942

The meeting adjourned at 5:50 P. M.

[signature]

Orval L. DuBois
Secretary