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Decision No. 8046.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of)	
BALBOA ISLAND TRANSPORTATION AND)	
DEVELOPMENT COMPANY, for an order)	<u>Application No. 5888.</u>
authorizing the issuance of stocks)	
and bonds.)	

W.J. Carr for applicant.

BRUNDIGE, Commissioner.

OPINION.

BALBOA ISLAND TRANSPORTATION AND DEVELOPMENT COMPANY asks permission to issue \$5,000.00 of its capital stock to J.A. Beek in payment for property to be transferred by him to applicant; to execute a trust deed and to issue and sell at face value \$12,000.00 of 5 per cent bonds payable July 1, 1930.

Applicant was incorporated on or about May 12, 1920, with an authorized capital stock of \$15,000.00, divided into 15,000 shares of \$1.00 each. The corporation was formed for the purpose, among others, of operating a ferry system between Balboa and Balboa Island, both places being within the corporate limits of the city of Newport Beach, Orange County, California.

Mr. J.A. Beek, president of the company, testified that there was a considerable demand and need by residents of Balboa Island and by farmers in the neighboring country to the north, for a permanent and efficient ferry service between the island and Balboa. The operation and maintenance of a ferry between these two points equipped to transfer automobile trucks and wagons will enable the

residents of the island and of the neighboring country to the north to quickly reach the railroad station at Balboa, and thus save a detour of about 12 miles.

The record shows that J.A. Beek has agreed to transfer and assign to applicant property consisting of three small ferry boats, - the "Bulldog", "Islander" and "Fat Fairy"; a redwood barge, 12' x 18'; a redwood barge 7½' x 14'; a pontoon 12' x 18'; a contract dated April 19, 1920 with the city of Newport Beach; a lease dated June 21, 1920 from Newport Beach; and to pay the organization expenses of the corporation; the expenses of the proposed bond issue and application to the Railroad Commission for authority to issue stock and bonds, provided the corporation issue to him \$5,000.00 of stock. The estimated value of the ferry boats, barge and pontoon is reported at \$3,700. and the expenses incident to organizing the new corporation at \$500., making a total of \$4,200. The order herein will permit the issue of \$4,500.00 of stock in exchange for the properties, contract, lease and payment of expenses, to which reference has been made.

Applicant asks permission to execute a trust deed to secure the payment of \$12,000.00 of 10-year 5 per cent bonds due July 1, 1930. Interest on the bonds begins to run from July 1, 1923. Applicant intends to and believes that it can sell its bonds at par to property owners on Balboa Island and vicinity. The testimony shows that it has received subscriptions for about \$5,600.00 of the bonds. The proceeds obtained from the sale of bonds, applicant will use to build a ferry boat barge and terminal facilities. The ferry boat barge is to be 50 feet long, 18 feet wide and 3 feet deep, with a deck of a length of 50 feet and breadth of 24 feet and is to be propelled by paddle wheels, one on each side driven by heavy duty internal combustion engine. The terminal to be constructed, according to the record, will consist of runways of a length of forty feet and a width of twelve feet, extending from a dock built at the street end to a barge against which the ferry boat will land. The cost of the ferry boat barge

and terminal facilities is estimated at from \$10,000 to \$12,000.

J.A. Beek, president of the Balboa Island Transportation and Development Company, has agreed to assign to the company a contract, Exhibit "A", dated April 19, 1920, and a lease, Exhibit "B", dated June 21, 1920, between him and the City of Newport Beach. It is urged in view of the contract and lease that J.A. Beek and his assignee, applicant herein, will operate a ferry as an agent of the city and that the ferry service will in effect be a municipal enterprise. If this contention were true, the Commission would have no jurisdiction over the affairs of the corporation. The Commission is unable to agree with the contention of counsel, and believes that the business which applicant intends to establish is of a public utility nature and that Balboa Island Transportation and Development Company is therefore subject to the Commission's jurisdiction. Being a public utility, it occurs to the Commission that applicant should obtain from the proper authorities a franchise to establish and operate a ferry. The authority herein granted will not become effective until applicant has obtained a franchise in form satisfactory to the Commission.

I herewith submit the following form of Order.

O R D E R.

BALBOA ISLAND TRANSPORTATION AND DEVELOPMENT COMPANY
having applied to the Railroad Commission for permission to execute a trust deed, to issue stock and bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

IT IS HEREBY ORDERED, that J.A. BEEK be, and he is hereby, authorized to transfer and assign to BALBOA ISLAND TRANSPORTATION AND DEVELOPMENT COMPANY the properties described in Exhibit "D", attached to the petition herein, and BALBOA ISLAND TRANSPORTATION AND DEVELOPMENT COMPANY to issue in payment for such properties \$4,500.00 of its common capital stock.

IT IS HEREBY FURTHER ORDERED, that BALBOA ISLAND TRANSPORTATION AND DEVELOPMENT COMPANY be, and it is hereby authorized to execute a trust deed substantially in the same form as that filed with the petition herein, and to issue and sell at not less than par \$12,000.00 face value of 5 per cent 10-year bonds.

IT IS HEREBY FURTHER ORDERED, that the authority herein granted will not become effective until applicant has obtained from the proper authorities a franchise satisfactory in form to this Commission, nor until the Commission has by supplemental order approved such franchise.

The authority herein granted is subject to further conditions, as follows:

- 1.--The approval herein given to execute a trust deed is for the purpose of this proceeding only and an approval in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said trust deed as to such other legal requirements to which said trust deed may be subject.
- 2.--The proceeds from the sale of the bonds herein authorized to be issued, shall be used by applicant to construct and acquire a ferry boat and terminal facilities, as more particularly set forth in the petition herein.

3.--Balboa Island Transportation and Development Company shall keep such record of the issue and sale of the stock and bonds herein authorized 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, which or, in so far as applicable, is made a part of this order.

4.--The authority herein granted will not become effective until Balboa Island Transportation and Development Company has paid the fee prescribed by the Public Utilities Act.

5.--The authority herein granted will apply only to such trust deed as may be executed, and to such stock and bonds as may be issued, on or before December 31, 1920.

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 1st day of ~~August~~ ^{September}, 1920.

Office of the Railroad Commission of California
FEE \$ 25⁰⁰/₁₀₀
SEP 2 1920
BY A. S. Mackay
Assistant Secretary

Edwin O. Egan
H. D. Loveland
Frank D. Wain
H. C. Bendig

Commissioners.