

Decision No. 62726

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of NEWPORT BAY INVESTMENT COMPANY for authority to transfer utility properties and operative rights to DUCOMMUN REALTY CO. and application of DUCOMMUN REALTY CO. to lease such utility properties to ARTHUR E. GRONSKY.

Application No. 43697

O P I N I O N

Newport Bay Investment Company, a corporation, (hereinafter referred to as Newport), has operated vessels for the transportation of persons, for compensation, between points in this State since prior to August 17, 1923, and was declared to be a public utility in Decision No. 58308. The operation consists of the transportation of passengers on sightseeing trips in the waters of Newport Bay in the County of Orange. Said business is now conducted with the launches "Balboa" and "Pavilion", which vessels have a licensed capacity of 60 passengers and crew of two, and 81 passengers and crew of three, respectively. Said launches operate from a slip or dock approximately 90 feet long, 16 feet wide, extending from real property, also owned by applicant Newport, known as the Balboa Pavilion located at 400 Main Street in the City of Newport Beach. The pavilion has been in operation for many years.

By this application Newport seeks authority to sell and transfer to Ducommun Realty Co., a corporation, (hereinafter referred to as Ducommun), all of its public utility property, consisting principally of said two launches and slip, certificate of public convenience and necessity, miscellaneous equipment and supplies, and

goodwill. The proposed sale also includes non-public utility property such as the real estate upon which the Balboa Pavilion is situated, additional parking area, hoists, floats and boats used for fishing and pleasure, tackle store, restaurant, and merchandise, furniture, fixtures, supplies and equipment used in connection therewith.

Ducommun was incorporated in 1938 and is engaged principally in the business of investing in real estate, securities, and other properties. Its principal place of business is in Los Angeles.

By an order of the Superior Court in and for the County of Orange, in Case No. 90978, all the assets of Newport were sold to Ducommun, the successful bidder at public sale, for a consideration of \$315,000. For the purpose of title insurance a value of \$285,000 was allocated to the real property. Said property consists of three parcels situated in the City of Newport Beach, as described in Exhibit No. 1 of its application. The other property is listed in Exhibit No. 2 thereof and consists of piers and docks, launches, boats, hoists, fishing equipment and related paraphernalia, office equipment and supplies, tackle store, restaurant, fixtures, supplies, equipment, signs, station wagon, and other miscellaneous items.

By this application authority is also requested by Ducommun to lease the public utility passenger vessel business and assets, including the certificate of public convenience and necessity and other related property, to Arthur E. Gronsky, who is the present secretary of Newport and for many years has managed the Balboa Pavilion and related businesses, including the sightseeing boat business which is the subject of this application.

The consideration to be paid for all of said assets of Newport is \$315,000, payable on or before August 15, 1961, or within five days after written notice that escrow is ready for closing. The agreement of sale provides that the transfer of the public utility portion of the assets will be consummated only upon approval of this Commission. It is alleged that "at the time Ducommun agreed to pay such price, no amount was allocated to any of the individual assets of Newport, except for the real property which, for purposes of title insurance, was set at the sum of \$285,000.00; that, accordingly, the applicants are unable to separately set forth the purchase price for the utility properties and other rights which are the subject of this application." Ducommun anticipates the segregation of said utility property by the formation of another company, at which time further authority will be sought and the value of the various assets will, in the meantime, be established.

The lease agreement between Ducommun and Mr. Gronsky provides for the continuance of the passenger vessel operation as at present, and calls for a rental of \$100 per month, plus 50% of the gross receipts of the public utility business, plus 10% of the gross receipts from the operation of two privately owned boats operated by Gronsky for deep-sea fishing.

It is alleged that Ducommun and Mr. Gronsky, its lessee, will continue to operate said sightseeing launches with licensed and qualified personnel; that they are financially able to continue the business (Mr. and Mrs. Gronsky are owners of 50% of the outstanding shares of Newport); and that present rates and schedules will be charged and maintained.

Financial statements filed with this application show the condition of Newport and Ducommun to be as follows:

Newport Bay Investment Company

(As of December 31, 1960)

Total Assets		\$ 34,995.60
Total Liabilities		<u>44,769.68</u>
Net Worth (Deficit)		\$ <u>(9,774.08)</u>
Represented by		
Capital Stock issued, 100 shares @ \$500		\$ 50,000.00
Less 47.62 treasury shares repurchased		<u>50,000.00</u>
Shares outstanding, 52.38, value		None
Surplus deficit	\$ <u>(13,301.02)</u>	
Operating profit 1960	<u>3,526.94</u>	
Deficit		\$ <u>(9,774.08)</u>

(Red Figure)

Ducommun Realty Co.

(As of December 31, 1960)

Total Assets	\$1,221,358.00	
Total Liabilities	<u>208,734.00</u>	
Net Worth		\$1,012,624.00
Represented by		
Capital Stock outstanding	\$ 150,000.00	
Paid in Surplus	150,359.00	
Earned Surplus	<u>712,265.00</u>	
		\$1,012,624.00

Net income for the year 1960 was \$69,431.

The Commission having considered the matter, finds and concludes as hereinabove set forth and that the proposed transfer would not be adverse to the public interest. The application will be granted. A public hearing is not deemed necessary.

The authorization herein granted shall not be construed as a finding of the value of the operative right and property nor a determination of the amounts referred to hereinabove.

Applicants are hereby placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled at any time by the State which is not in any respect limited as to the number of rights which may be given.

O R D E R

Application having been made, the Commission being fully advised in the premises, and basing its decision upon the findings and conclusions in the foregoing opinion,

IT IS ORDERED that:

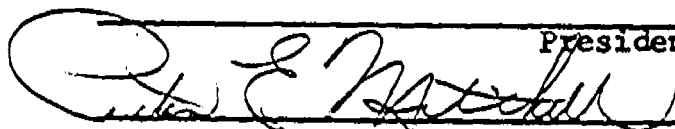

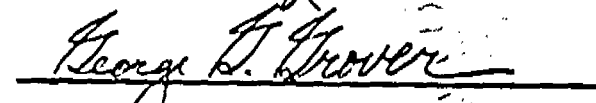
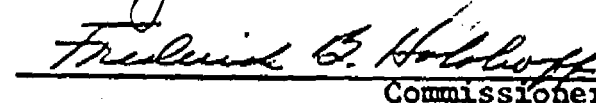
1. On or before sixty days after the effective date of this order, Newport Bay Investment Company, a corporation, may sell and transfer to Ducommun Realty Co., a corporation, the operative rights and property referred to in the application, and Ducommun Realty Co. may lease said operative rights and property to Arthur E. Gronsky, an individual, substantially upon the terms and conditions as set forth in Exhibits "C" and "D" of the application.

2. Within thirty days after the consummation of the transfer and lease herein authorized, Ducommun Realty Co. shall notify the Commission in writing of that fact, and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer and lease.

3. On not less than five days' notice to the Commission and to the public, effective concurrently with the consummation of such transfer and lease, applicants shall amend or reissue the tariffs on file with the Commission, naming rates, rules and regulations governing the operations here involved to show that Newport Bay Investment Company has withdrawn or canceled, and Ducommun Realty Co. and/or Arthur E. Gronsky have adopted as their own, said rates, rules and regulations.

The effective date of this order shall be ten days after the date hereof.

Dated at Los Angeles, California, this 24th day of OCTOBER, 1961.

 President


 Commissioners

Commissioner Everett C. McKeage, being necessarily absent, did not participate in the disposition of this proceeding.