

Decision No. 86252**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
 of DAVEY'S LOCKER, INC., to sell) Application No. 56275
 utility property and rights to) (Filed February 13, 1976)
 CATALINA PASSENGER SERVICE, INC.)

OPINION AND ORDER

Applicant Davey's Locker, Inc., a California corporation, operates the motor vessel "Island Holiday" in a vessel common carrier passenger service between Newport Beach, including Balboa, California and points and places on Santa Catalina Island. Such authority was granted to applicant by this Commission's Decision 69132 in Application 47305 dated May 25, 1965. Service was commenced between Newport Beach and Santa Catalina Island on June 27, 1965.

Applicant, by its current application, requests approval to transfer the above operating rights and certain operating property namely, the motor vessel "Island Holiday" to Catalina Passenger Service, Inc., a newly formed California corporation.

The property to be transferred consists of a vessel 83 feet in length containing restrooms, a lounge, bar and restaurant facility, which carries 143 passengers. Such transfer will be made at the book value of the vessel namely, \$16,843 plus \$4,400 for the operating rights, which amounts to a grand total of \$21,243 to be paid in cash.

The shareholders in the new transferee corporation will be the same individuals who presently own shares in applicant DAVEY'S LOCKER, INC. and the shares will be owned in the same proportion. Applicant asserts that the principal reasons for the proposed transaction are as follows:

(a) Establishment of a separate corporation will permit meetings to be held regularly to consider Catalina Passenger Service matters solely, instead of considering them in conjunction with the other items on the DAVEY'S LOCKER, INC. corporation meeting agenda.

(b) DAVEY'S LOCKER, INC. tax year commences on June 1 of each year and ends on May 31. The Public Utilities Commission requires financial statements on a calendar-year basis. The new corporation, CATALINA PASSENGER SERVICE, INC., will have a calendar accounting year consistent with Public Utilities Commission requirements.

(c) At present the DAVEY'S LOCKER employees work partially in Catalina Passenger operation and partially in the other operations. The separation of employees will permit more accurate employee cost analysis. A similar situation exists with respect to purchases of vessel supplies and equipment in that DAVEY'S LOCKER, INC. owns several vessels used for sport fishing operations and when parts or supplies are purchased it is frequently difficult to ascertain later which equipment went to which boat. In short, the creation of the separate corporation will cause the CATALINA PASSENGER SERVICE operation to become a more visible and more efficiently controlled and operated entity.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it should be authorized. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is completed, the revocation of the certificate presently held by DAVEY'S LOCKER, INC., and the issuance of a certificate in appendix form to CATALINA PASSENGER SERVICE, INC.

CATALINA PASSENGER SERVICE, INC. is 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. 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

IT IS ORDERED that:

1. On or before December 15, 1976, DAVEY'S LOCKER, INC. may sell and transfer the operative rights and property referred to in the application to CATALINA PASSENGER SERVICE, INC.
2. Within thirty days after the transfer the purchaser shall file with the Commission written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer.
3. Purchaser shall amend or reissue the tariffs and timetables on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that it has adopted or established, as its own, the rates and rules. The tariff and timetable filings shall be made effective not earlier than five days after the effective date of this order on not less than five days' notice to the Commission and the public, and the effective date of the tariff and timetable filings shall be concurrent with the transfer. The tariff and timetable filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs and timetables set forth in the Commission's General Orders 87-Series and 117-Series. Failure to comply with the provisions of General Orders 87-Series and 117-Series may result in a cancellation of the operating authority granted by this decision.
4. On or before the end of the third month after the transfer, the purchaser shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period commencing with the first day of the current year to and including the effective date of the transfer.
5. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 3, a certificate of public convenience and necessity is granted to CATALINA PASSENGER SERVICE, INC., a corporation, authorizing it to operate as a vessel common

carrier, as defined in Sections 211(b) and 238 of the Public Utilities Code, between Newport Beach, including Balboa, California and points and places on Santa Catalina Island, California, as more specifically set forth in Appendix A of this decision.


6. The certificate of public convenience and necessity granted by Decisions 69132, 60706, 51067 and 48700 are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

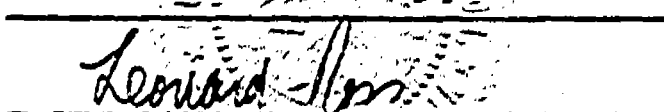
7. Purchaser shall comply with the safety rules of the United States Coast Guard and insurance requirements of the Commission's General Order 111-Series.


8. Purchaser shall maintain its accounting records on a calendar-year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

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

Dated at San Francisco, California, this 17th
day of AUGUST, 1976.



President




Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
AS A VESSEL COMMON CARRIER

The certificate hereinafter noted supersedes all operative authority heretofore granted to Davey's Locker, Inc., or its predecessors.

CATALINA PASSENGER SERVICE, INC.,

by the certificate of Public Convenience and Necessity granted by the decision noted in the margin, is authorized as a vessel common carrier to transport passengers and their baggage between Newport Beach including Balboa, in Orange County and Santa Catalina Island subject to the following conditions:

1. Carrier shall provide regular schedule service operating each year between April 1st and September 30th and "On-Call" service for the rest of the year. This service shall be operated only between Newport Beach including Balboa, and Avalon, on Santa Catalina Island.
2. "On-Call" service shall be provided only between Newport Beach including Balboa and points and places on Santa Catalina Island. Carrier shall specify the points and places on Santa Catalina Island in its tariff.
3. The term "On-Call" as used herein refers to service which is authorized to be rendered dependent on the demands of passengers. The tariffs and timetables shall show the conditions under which each authorized "On-Call" service will be rendered.

Issued by California Public Utilities Commission.

Decision No. 86252, Application No. 56275.