

ORIGINAL

Decision No. 43161

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
A. C. STEITZ, R. M. BERNSTEIN, and)
M. D. VALOFF, copartners, doing busi-)
ness as AIRWAYS TANK LINE, for a)
certificate of public convenience and)
necessity to operate as a highway)
common carrier for the transportation)
of liquefied petroleum and petroleum)
products other than asphalt, road oils,)
and liquofied petroleum gases, in bulk,)
in tank trucks, in tank trailers and)
tank semitrailers, over described routes)
and to all intermediate points, and to)
all points and places laterally within)
fifty miles of said highways, and beyond)
said terminal points.)

Application No. 30028

In the Matter of the Application of)
CHARLOTTE L. EVANS, as Executrix of)
the Estate of J. H. EVANS, doing busi-)
ness as EVANS TANK LINE, for a certifi-)
cate of public convenience and necessity)
to operate as a highway common carrier)
for the transportation of liquefied)
petroleum and petroleum products other)
than liquefied petroleum gases, in bulk,)
in tank trucks, in tank trailers, and)
tank semitrailers, over described routes)
and to all intermediate points and to)
all points and places laterally within)
fifty miles of said highways and beyond)
said terminal points.)

Application No. 30029

Earl G. Whitehead for applicants; E. L. H. Bissinger
for Southern Pacific Company, protestant; Donald Murchison for
Pacific Freight Lines and Pacific Tank Lines, and Don F. Moore
for Asbury Transportation Company, interested parties.

O P I N I O N

There are two applicants herein, each seeking a certifi-
cate of public convenience and necessity to operate as a highway

common carrier, as defined in Section 2 3/4 of the Public Utilities Act of the State of California for the transportation of liquid petroleum products, in bulk, in tank trucks and trailers.

Public hearings were held at Los Angeles, California, on April 15, 1949, before Commissioner Huls and Examiner Syphers. On that date, evidence was adduced and the matters were submitted.

Airways Tank Line is a partnership composed of A. C. Steitz, R. M. Bernstein, and M. D. Valoff. This partnership has been in business for several years and maintains its principal place of business at 1623 North Miller, Los Angeles 33, California.

This applicant does not transport liquefied petroleum gases nor other petroleum products requiring pressurized tanks. Neither does it transport liquid asphalts and hot oils requiring insulated tanks.

Exhibit No. 8 contains a list of applicant's equipment which shows three trucks and three trailers owned by applicant, and one truck and one trailer leased. Exhibit No. 11 is a financial statement of applicant as of December 31, 1948, and Exhibit No. 12 contains a list of commodities hauled, and of points of origin and destination to and from which applicant has conducted hauling during the year 1948. This exhibit also contains a list of shippers and consignees.

From an analysis of the exhibits and testimony presented, it appears that this applicant is willing and able to conduct the proposed operations. The application requests authority to transport petroleum products over the principal highways of the State of California south of San Francisco, and off-route points within

fifty miles of these highways; however, an examination of the points of origin and destination submitted with Exhibit No. 12 fails to disclose any points north of Bakersfield. This list of points of origin and destination has been considered as showing a public demand for applicant's services in the past.

Evans Tank Line is a sole proprietorship owned and operated by Charlotte L. Evans as Executrix of the Estate of J. H. Evans, deceased. This business has been in operation for more than twenty years, and maintains its principal place of business at 5701 Maywood Avenue, Maywood 11, California. This applicant does not transport liquefied petroleum gases nor other petroleum products requiring pressurized tanks, but it does transport refined petroleum products and also liquid asphalts and hot oils in insulated tanks.

Exhibit No. 2 contains a list of applicant's trucking equipment which shows 15 trucks and 14 trailers. Exhibit No. 5 is a financial statement dated December 31, 1948, and Exhibit No. 6 contains a statement of points of origin and destination to and from which this applicant has hauled for the past four and a half years, and a list of the various shippers and consignees.

From an analysis of these exhibits and the testimony presented, it appears that this applicant is willing and able to conduct the proposed operations.

This application requests authority to transport petroleum products over the principal highways of the State of California south of Paso Robles and Madera, and an examination of the points of origin and destination submitted with Exhibit No. 6 discloses that applicant has conducted transportation operations, generally,

within this area. This list of points of origin and destination has been considered as showing the public demand for applicant's services in the past.

The testimony as to the transportation of liquid asphalts and hot road oils was similar to the testimony presented in Application No. 29416, Lang Transportation Corporation, et al; accordingly, Decision No. 42623, dated March 15, 1949, issued as a result of the Lang application as to the status of the transportation of liquid asphalts and hot road oils, is controlling in this matter. Resultantly, no authority is required by Charlotte E. Evans, as Executrix of the Estate of J. H. Evans, doing business as Evans Tank Line, to continue to engage in the transportation of liquid asphalts, hot road oils, and any other petroleum products requiring insulated tanks.

Both applicants submitted statements of proposed rates which are the same as the proposed rates submitted in the Lang case, supra.

Concerning the public convenience and necessity of each of these proposed operations, we wish to point out that the public-witness testimony presented in Application No. 29416, Lang Transportation Corporation, supra, is incorporated in this record. In this respect, therefore, we refer to Decision No. 42623, issued in the prior application. In addition, testimony was presented by the representatives of two oil companies, which testimony tended to substantiate the testimony in the Lang case.

One of the protestants developed that the Evans Tank Line transports the majority of its shipments for one shipper, General Petroleum Corporation, under a written contract. However, the

testimony of the traffic manager of General Petroleum Corporation indicated that this contract is not bilateral and is not binding upon the General Petroleum Corporation. Furthermore, the Evans Tank Line has transported shipments for other shippers.

Upon this record, therefore, the application will be granted to the extent of the showing made, and we hereby conclude that public convenience and necessity require the institution of a highway common carrier service for the transportation of petroleum products, in bulk, as set out in the ensuing order.

Applicants are, and each of them is, hereby placed upon 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, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the State, which is not, in any respect, limited to the number of rights which may be given.

O R D E R

Application as above entitled having been filed, a public hearing having been held thereon, the matters having been submitted, the Commission being fully advised in the premises and hereby finding that public convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity, authorizing the establishment and operation of a service as a highway common carrier, as defined in Section 2 3/4 of the Public Utilities Act, for the transportation of petroleum products, in bulk, except liquefied petroleum gases, and any other products requiring pressurized tanks, and except liquid asphalts and hot road oils, and any other petroleum products requiring insulated tanks, be, and it hereby is, granted to each of the following named persons and copartnerships, respectively, along the routes and between the points hereinafter specified:

(a) By A. C. Steitz, R. M. Bernstein, and M. D. Valoff, partners, doing business as Airways Tank Lines, upon and along the following-described routes, including all intermediate points, with the right to make lateral departures therefrom within a radius of 50 miles:

- (1) U. S. 101 and U. S. 101 By-pass between Santa Barbara and the California-Mexico Line;
- (2) U. S. 99 between Bakersfield and the California-Mexico Line;
- (3) U. S. 395 between Lone Pine and Junction U. S. 66;
- (4) U. S. 66 between Los Angeles and Needles;
- (5) U. S. 60 between Los Angeles and the California-Arizona State Line;
- (6) U. S. 91 and 166 between Barstow and Nevada-California State Line;
- (7) State Highway 127 between Bakersfield and Nevada-California State Line;
- (8) U. S. 80 between San Diego and the California-Arizona State Line.

(b) By Charlotte L. Evans, as Executrix of the Estate of J. H. Evans, doing business as Evans Tank Line, upon and along the following-described routes, including all intermediate points, with the right to make lateral departures therefrom within a radius

of 50 miles of said routes:

- (1) U. S. 101 between Paso Robles and the California-Mexico Line;
- (2) U. S. 99 between Madera and the California-Mexico Line;
- (3) U. S. 395 between Bishop and San Diego;
- (4) U. S. 66 between Los Angeles and Needles;
- (5) U. S. 91 and 466 between Barstow and the Nevada-California State Line;
- (6) U. S. 60 between Los Angeles and the California-Arizona State Line;
- (7) State Highway 127 between Baker and the Nevada-California State Line;
- (8) U. S. 80 between San Diego and the California-Arizona State Line.

(2) That in providing service pursuant to the certificates herein granted, there shall be compliance with the following service regulations:

- (a) Applicants shall file a written acceptance of the certificates herein granted within a period of not to exceed thirty (30) days after the effective date hereof.
- (b) Applicants shall, within sixty (60) days after the effective date hereof, and upon not less than five (5) days' notice to the Commission and the public, establish the service herein authorized and comply with the provisions of General Order No. 80 and Part IV of General Order No. 93-A, by filing, in triplicate, and concurrently making effective, tariffs and time schedules satisfactory to the Commission.

In all other respects, Applications Nos. 30028 and 30029 shall be denied.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 26th day of July, 1949.

R. F. Zimmerman
Justus J. Hammer
Joseph H. Fiacco
Harold P. Miller
Kenneth L. Latta
 COMMISSIONERS