

ORIGINAL

Decision No. 76451

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
DONALD D. EVANS, doing business as)
A.A.A. MOBILE HOME TRANSPORT SERVICE,)
for a certificate of public conven-)
ience and necessity, to operate as a)
highway common carrier for the trans-)
portation of property in intrastate)
commerce, to, from and between points)
and places in the State of California.)

Application No. 50756
Filed December 16, 1968

Milton W. Flack, for applicant.
H. L. Farmer, for the Commission staff.

O P I N I O N

By this application, Donald D. Evans, doing business as A.A.A. Mobile Home Transport Service, requests a certificate of public convenience and necessity as a highway common carrier authorizing the transportation of trailer coaches and campers including integral parts, contents, furniture and other personal effects when transported within the trailer coach or camper, to, from and between all points and places within California. Applicant presently conducts business as a radial highway common and highway contract carrier. There are no protests.

Public hearing was held before Examiner O'Leary on May 21 and 22, 1969 at Los Angeles. The matter was submitted on the latter date.

At the hearing, applicant amended the territorial scope of the authority sought so as to request authority between the points and over the routes and within 50 miles laterally of said routes as set forth in Exhibit 5. Although Exhibit 5 specifies

routes over which applicant wishes to operate, it encompasses practically a statewide operation. Applicant also requested that the application be further amended to exclude intracity operations.

Evidence in support of the application was presented by applicant, seven mobile home and trailer dealers, one appraiser of mobile homes and trailers, one mobile home resident and one mobile home park owner. A representative from the Commission's staff assisted in the development of the record.

Applicant testified that he has been operating as a highway permit carrier in excess of 10 years between substantially all of the points for which the certificate of public convenience and necessity is sought. He is presently leasing a 10,000-square foot terminal at Santa Ana on a year to year basis. He presently operates 2 tractors, 12 trucks and 1 semitrailer in his operation. One truck and the semitrailer are owned by applicant. The remaining pieces of equipment are leased by applicant from various owner operators who are engaged by applicant as subhaulers. Applicant explained that the terms "trailer coaches" and "mobile homes" are synonymous. Applicant stated that if the certificate is granted he would purchase any additional equipment which would be necessary to meet the needs of his customers and would establish additional terminals at Fresno, Sacramento and San Jose. Applicant testified that he transports at least 100 trailer coaches per week throughout the state. Approximately 80 percent of the movements are for trailer dealers and the remaining 20 percent are for mobile homeowners. Approximately 70 percent of the transportation performed for dealers consists of movements from manufacturers located at various points in Orange, San Bernardino, Riverside and Los Angeles Counties. Approximately 5 percent of the transportation

performed for dealers involves the movement of trailers to storage yards located at or near the eastern California border for dealers located in other states. Movement beyond the storage yards is performed by persons other than applicant. The evidence also shows that sales of mobile homes are steadily increasing in California. Applicant has not transported campers since 1967. Exhibit 8 is a statement of applicant's financial condition as of March 31, 1969. It discloses total assets of \$73,980.05 offset by current liabilities of \$1,060.14, resulting in a net worth of \$72,919.91. Exhibit 9 is a copy of Income and Expenses statement for the three months ended March 31, 1969. It discloses a net profit from operations before taxes of \$4,432.34.

The seven dealers who testified in support of the application stated that applicant has provided them with a reliable service and that their needs for transportation are steadily increasing because of the increase in the sale of mobile homes.

The other persons who testified in support of the application stated that the number of people residing in mobile homes is increasing at a rapid rate and therefore mobile home movements are also steadily increasing.

A highway common carrier is defined in Section 213 of the Public Utilities Code as follows:

"'Highway common carrier' means every corporation or person owning, controlling, operating, or managing any auto truck, or other self-propelled vehicle not operated upon rails, used in the business of transportation of property as a common carrier for compensation over any public highway in this state between fixed termini or over a regular route, and not operating exclusively within the limits of an incorporated city, or city and county, except passenger stage corporations transporting baggage and express upon passenger vehicles incidental to the transportation of passengers."

Section 215 of the Public Utilities Code reads:

"'Between fixed termini or over a regular route' means the termini or route between or over which any highway common carrier usually or ordinarily operates any auto truck or other self-propelled vehicle, or any passenger stage corporation usually or ordinarily operates any passenger stage, even though there may be departures from such termini or route, whether such departures be periodic or irregular."

The evidence discloses that the bulk of applicant's shipments originate within Los Angeles, Orange, Riverside and San Bernardino Counties. It appears that there is a sufficient frequency of shipments from said counties to warrant the grant of a certificate of public convenience and necessity. We are not convinced that the remainder of applicant's operations are of sufficient frequency between fixed termini or over a regular route to be those of a highway common carrier. We are also not convinced that intracity operations should be excluded from the certificate of public convenience and necessity hereinafter granted. Services which are performed within a city by a carrier in conjunction with its highway common carrier services are highway common carrier services. As highway common carrier services, said intracity services are covered by the provisions of the Public Utilities Code applicable to the highway common carriers. Any items applicant regularly carries between fixed termini or over regular routes must be carried under its certificated authority and a tariff must be filed for such transportation.

Based upon the evidence adduced, the Commission finds:

1. The movement of mobile homes within California is steadily increasing.
2. The bulk of applicant's movements originate within the counties of Los Angeles, Orange, Riverside and San Bernardino.

3. The evidence of movements originating in counties other than those mentioned in Finding 2 does not demonstrate that public convenience and necessity require the issuance of a certificate of public convenience and necessity as a highway common carrier therefor.

4. Applicant is not now transporting campers.

5. Applicant possesses the experience, equipment, personnel and financial resources to institute and maintain the transportation service hereinafter authorized.

6. Public convenience and necessity require that applicant be granted a certificate of public convenience and necessity as a highway common carrier as set forth in the ensuing order.

The Commission concludes that the application should be granted to the extent set forth in the ensuing order.

Donald D. Evans is 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, these 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. A certificate of public convenience and necessity is granted to Donald D. Evans, an individual, authorizing him to

operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, of the commodities and between the points particularly set forth in Appendix A attached hereto and made a part hereof.

2. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations. Failure so to do may result in a cancellation of the operating authority granted by this decision.

- a. Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. Applicant is placed on notice that, if he accepts the certificate of public convenience and necessity herein granted, he will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-E.
- b. Within one hundred twenty days after the effective date hereof, applicant shall establish the service herein authorized and file tariffs, in triplicate, in the Commission's office.
- c. The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on not less than thirty days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the establishment of the service herein authorized.
- d. The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80-A.
- e. Applicant shall maintain his 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 his operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

- f. Applicant shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If applicant elects not to transport collect on delivery shipments, he shall make the appropriate tariff filings as required by the General Order.

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

Dated at San Francisco, California, this 18th day of NOVEMBER, 1969.

William J. Lyons, Jr.
President
Supervisor
T. M. Davis
Yuan L. Stinson
Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

MJC/NB

Appendix A

DONALD D. EVANS

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A.A.A. MOBILE HOME TRANSPORT SERVICE

Donald D. Evans, doing business as A.A.A. Mobile Home Transport Service, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport trailer coaches, including integral parts, contents, furniture and other personal effects when transported within the trailer coach, from points within Los Angeles, Orange, Riverside and San Bernardino Counties to any and all points in the State of California.

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 76451, Application No. 50756.