

80102

ORIGINAL

Decision No. \_\_\_\_\_

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
 of EVANS FREIGHT LINE, INC., a )  
 corporation, for authority to )  
 issue shares of its common )  
 capital stock pursuant to )  
 Section 816-830 of the )  
 California Public Utilities )  
 Code and to acquire certain )  
 Certificates of Public )  
 Convenience and Necessity, )  
 and EVANS TANK LINE, INC., a )  
 corporation, to transfer )  
 pursuant to Section 851-853 of )  
 the California Public Utilities )  
 Code. )

Application No. 53264  
 (Filed April 12, 1972)

O P I N I O N

Evans Tank Line, Inc. seeks an order of the Commission authorizing it to transfer certain of its highway common carrier certificates of public convenience and necessity to Evans Freight Line, Inc., and the latter seeks authority to issue 1,000 shares of its \$1 par value common stock.

Evans Tank Line, Inc. operates as a highway common carrier of general commodities primarily in Inyo, Los Angeles and San Bernardino Counties pursuant to certificates of public convenience and necessity acquired under authority granted by Decisions Nos. 57860, dated January 13, 1959, in Application No. 40626, and 71354, dated October 4, 1966, in Application No. 47932. In addition, the corporation transports petroleum and petroleum products under certificates of public convenience

and necessity acquired pursuant to authority granted by Decision No. 56310, dated March 3, 1958, in Application No. 39708. Moreover, the carrier operates under permits issued by this Commission and under Interstate Commerce Commission authority. For the year 1971, the company reports total operating revenues and net income amounting to \$1,250,592 and \$39,381, respectively.

Evans Freight Line, Inc. is a California corporation incorporated on or about March 13, 1972. It proposes to acquire said general commodities highway common carrier certificates of public convenience and necessity, including related Interstate Commerce Commission authority, from Evans Tank Line, Inc. for \$1,000 cash, of which \$500 would be allocated to the intrastate authority and \$500 to the interstate authority. The transferee proposes to issue 1,000 shares of its \$1 par value common stock to Russel Evans for \$1,000 in order to provide working capital. Funds for acquiring the certificates and additional working capital would be advanced on open account to Evans Freight Line, Inc., which corporation would have access to all necessary equipment and terminal facilities.

After consideration the Commission finds that:

1. The proposed transactions would not be adverse to the public interest.
2. The proposed stock issue is for a proper purpose.
3. The money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required for the purpose specified herein, which purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.

On the basis of the foregoing findings we conclude that the application should be granted. A public hearing is not necessary.

The action taken herein shall not be construed as a finding of the value of the properties to be transferred. So far as the operating rights are concerned, the authorization herein granted is for the transfer of highway common carrier certificates of public convenience and necessity only. Any transfer of permitted operative rights must be the subject of a separate application or applications.

The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificates presently held by Evans Tank Line, Inc. and the issuance to applicants of certificates in appendix form.

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, 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. On or before August 31, 1972, Evans Tank Line, Inc. may sell and transfer, and Evans Freight Line, Inc. may purchase and acquire, the highway common carrier certificates of public convenience and necessity referred to in the application.

2. Evans Freight Line, Inc., on or after the effective date hereof and on or before August 31, 1972, may issue not exceeding 1,000 shares of its \$1 par value common stock to Russel Evans for \$1,000 working capital.

3. Evans Freight Line, Inc. shall file with the Commission the report required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.

4. Within thirty days after the consummation of the transfer herein authorized, Evans Freight Line, Inc. 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 which may be executed to effect said transfer.

5. Evans Freight Line, Inc. shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the highway common carrier operations herein to show that it has adopted or established, as its own, said rates and rules. The tariff 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 filings shall be concurrent with the consummation of the transfer herein authorized. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80-Series. Failure to comply with and observe the provisions of General Order No. 80-Series may result in a cancellation of the operating authority granted by this decision.

6. In the event the transfer authorized in Paragraph No. 1 hereof is consummated, certificates of public convenience and necessity are granted (a) to Evans Freight Line, Inc. and Evans Tank Line, Inc. authorizing them to operate as highway common carriers, as defined in Section 213 of the Public Utilities Code, between the points and over the routes particularly set forth in Appendices A and B, respectively, attached hereto and made a part hereof; (b) to Evans Tank Line, Inc. authorizing it to operate as a statewide petroleum irregular route carrier, as defined in Section 214 of the Public Utilities Code, and particularly set forth in Appendix C attached hereto and made a part hereof.

7. The certificates of public convenience and necessity granted in Paragraph No. 6 of this order shall supersede the certificates of public convenience and necessity acquired pursuant to authority granted by Decisions Nos. 56310, 57860 and 71354, which certificates are revoked effective concurrently with the effective date of the tariff filings required by Paragraph No. 5 hereof.

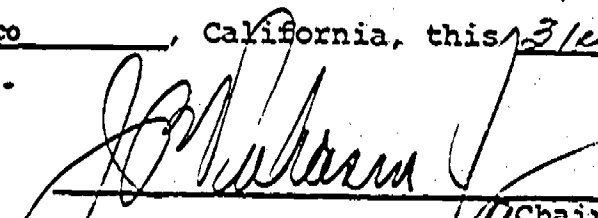
8. Within thirty days after the transfer herein authorized is consummated, Evans Freight Line, Inc. and Evans Tank Line, Inc. shall file written acceptances of the certificates herein granted. Evans Freight Line, Inc. and Evans Tank Line, Inc. are placed on notice that, if they accept the certificates of public convenience and necessity herein granted, they 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-Series.

9. Evans Freight Line, Inc. 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.


10. Evans Freight Line, Inc. and Evans Tank Line, Inc. shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If Evans Freight Line, Inc. or Evans Tank Line, Inc. elect not to transport collect on delivery shipments, the carrier shall make the appropriate tariff filings as required by the General Order.

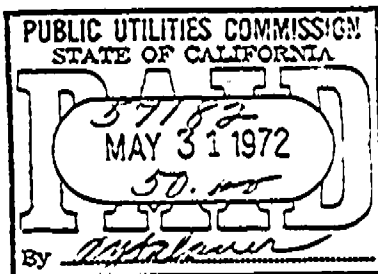
11. This order shall become effective when Evans Freight Line, Inc. has paid the minimum fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$50.

Dated at San Francisco, California, this 31st day of MAY, 1972.

  
Chairman



  
Commissioners



Commissioner Thomas Meran, being necessarily absent, did not participate in the disposition of this proceeding.

Evans Freight Line, Inc., a corporation, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to conduct operations as a highway common carrier, as defined in Section 213 of the Public Utilities Code, for the transportation of general commodities as follows:

1. Between Los Angeles, and points within a radius of thirty (30) miles of First and Main Streets, on the one hand, and points on State Highway 127 between Baker and the California-Nevada State Line, inclusive, on the other hand, serving as intermediate points those lying between Los Angeles (including said 30-mile radius) and Yermo, on the one hand, and between Baker and the California-Nevada State Line, on the other hand, including off-route points within fifteen (15) miles laterally on State Highway 127 between Baker and the California-Nevada State Line.
2. Between the junction of State Highways 127 and 190 and Stove Pipe Wells via State Highway 190, serving all intermediate points and the off-route point of Death Valley Monument Headquarters located near Furnace Creek.
3. Between Baker and Nipton via Interstate Highway 15 and Nipton Road, serving intermediate points within 10 miles laterally.
4. Applicant is authorized pursuant to Section 206(a)(6) of the Interstate Commerce Act to serve points between Baker and Mountain Pass Mine, inclusive, approximately one mile north of Interstate Highway 15, including service to points within ten miles laterally of Interstate Highway 15, subject to the restriction that the authority granted herein shall not be combined, united or consolidated with any authority now held or hereafter acquired so as to create a through route between points south or west of Baker and north or east of Mountain Pass Mine, provided, however, that nothing in this order shall be construed to effect a revocation of any operating authority presently held by carrier.

Issued by California Public Utilities Commission.

Decision No. 80102, Application No. 53264.

RESTRICTIONS:

1. No express traffic handled by said applicant as an underlying carrier for any express corporation authorized to serve said points or any of them, may be transported between Yermo, on the one hand, and points on State Highway 127 between Baker and the California-Nevada State Line, inclusive, on the other hand, where said shipments may have received or would receive a prior or a subsequent movement by rail to or from Yermo.
2. That no shipment of milk in bottles or in bulk, nor empty milk containers returning, may be transported between Barstow and any points on State Highway 127 between Baker and the California-Nevada State Line, inclusive.

ROUTES:

1. Via U. S. Highway 66 to San Bernardino, thence via Interstate Highway 15.
2. Carrier may use connecting highway and county roads to serve off-route points, where authorized to do so.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision No. 80102, Application No. 53264.



Evans Tank Line, Inc., a corporation, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to conduct operations as a highway common carrier, as defined in Section 213 of the Public Utilities Code, for the transportation of petroleum and 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, as follows:

Service is authorized at all points and places located on and over the following described routes, with the right to serve all points and places located laterally within a radius of 50 miles of said routes:

1. U. S. Highway 101 between Paso Robles and the junction with Interstate Highway 5, near Boyle Heights, thence via Interstate Highway 5 to the California-Mexico Line.
2. State Highway 99 between Madera and Wheeler Ridge; Interstate Highway 5 between Wheeler Ridge and Los Angeles; State Highway 60 between Los Angeles and Beaumont; Interstate Highway 10 between Beaumont and Indio; State Highway 86 between Indio and California-Mexico Line via Calexico.
3. U. S. Highway 395 between Bishop and San Diego (via Interstate Highway 15).
4. Los Angeles to Needles via Interstate Highways 10, 15 and 40.
5. Interstate Highway 15 between Barstow and the California-Nevada State Line.

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6. Interstate Highway 10 between Los Angeles and the California-Arizona State Line.
7. State Highway 127 between Baker and the California-Nevada State Line.
8. Interstate Highway 8 between San Diego and the California-Arizona State Line.

RESTRICTION:

Transportation of waste materials under this certificate is subject to obtaining and maintaining a valid registration certificate as a hauler of liquid waste from the State Water Resources Control Board.

(END OF APPENDIX B)

Issued by California Public Utilities Commission.

Decision No. 80102, Application No. 53264.

Evans Tank Line, Inc., a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to conduct operations as a petroleum irregular route carrier as defined in Section 214 of the Public Utilities Code, for the transportation of petroleum and petroleum products in tank trucks and tank trailers between all points and places in the State of California.

## RESTRICTION:

Transportation of waste materials under this certificate is subject to obtaining and maintaining a valid registration certificate as a hauler of liquid waste from the State Water Resources Control Board.

(END OF APPENDIX C)

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