

ORIGINAL

Decision No. 90606 JUL 31 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:

(a) EVANS TANK LINE, INC., a California corporation, to issue shares of its preferred capital stock.

(b) EVANS TANK LINE, INC., a California corporation, to issue promissory notes in the total sum of \$300,000.00.

(c) CLEO EVANS, an individual, to control EVANS TANK LINE, INC., a California corporation, and a petroleum irregular route carrier and a highway permit carrier.

Application No. 58806
(Filed April 16, 1979)

O P I N I O N

Evans Tank Line, Inc. (Evans) requests authority, pursuant to Sections 816 and 830 of the Public Utilities Code, to issue 1000 shares of \$100 par value 8% preferred stock and to issue promissory notes in the aggregate principal amount of \$300,000. Cleo Evans also requests authority to acquire control of Evans, pursuant to Sections 854 and 3551 of the Public Utilities Code.

Notice of the filing of the application appeared on the Commission's Daily calendar of April 17, 1979.

Evans is a California corporation and holds highway common carrier and petroleum irregular route carrier certificates having received such authority from the Commission pursuant to Decision No. 80102 dated May 31, 1972 in application No. 53264. Evans is authorized to transport petroleum and petroleum products in bulk, with certain exceptions, over a number of routes with fifty laterals under the highway common carrier certificate.

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Under the petroleum irregular route carrier certificate, transportation of petroleum products in tank equipment is authorized between all points. Evans also holds permitted authority in File No. T-63221 as a radial highway common carrier, highway contract carrier and as an agricultural carrier. Evans' highway common carrier operating authority is the subject of a Certificate of Registration from the Interstate Commerce Commission in Docket No. MC 120018.

Evans' financial statements, attached to the application as Exhibit D, indicate that, for the year 1978, the carrier generated revenues of \$3,064,834 and net income of \$16,612. The carrier's balance sheet as of December 31, 1978, is summarized as follows:

<u>Assets</u>	<u>Amount</u>
Current assets	\$ 567,440
Carrier operating property, less accumulated depreciation	489,459
Other assets	44,104
Total	<u>\$ 1,101,003</u>
<u>Liabilities and Equity</u>	
Current liabilities	\$ 397,614
Long-term debt	151,054
Other liabilities and deferred credits	31,428
Stockholder's equity	520,907
Total	<u>\$ 1,101,003</u>

Evans presently has issued and outstanding 350 shares of \$100 par value common stock. Charlotte L. Evans holds 74 shares and is the majority shareholder. There are six other shareholders all of whom are children of Charlotte L. Evans and each holds 46 shares of stock.

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Evans proposes to issue 1,000 shares of its \$100 par value, 8% preferred stock to Charlotte L. Evans in exchange for her 74 shares of Evans' common stock. Evans also proposes to purchase from five of the six remaining stockholders all of their shares consisting of 46 shares each (a total of 230 shares), in exchange for the company's promissory notes in the aggregate principal amount of \$300,000.

After the above transactions have been completed, Cleo Evans would become the only surviving stockholder and would hold 46 shares. In effect, he would control the voting stock of the corporation. It is for this reason that Cleo Evans seeks authority to control Evans.

The application indicates that Cleo Evans has been employed continuously by Evans since 1938. He has served the company as its General Manager, its Vice-President, and is presently the President. By reason of his position over a period of time, he has in fact exercised control over the affairs of Evans. Currently neither his mother, Charlotte L. Evans, nor his brothers and sisters (all other stockholders) are engaged in the operation and management of Evans.

The purposes of the proposed transactions are to (a) provide an orderly means by which the brothers and sisters of Cleo Evans may sell their shares of stock to the corporation, (b) to provide Charlotte L. Evans a regular income over the rest of her life, and (c) to vest sole ownership of Evans in Cleo Evans.

The proposed promissory notes in the amount of \$60,000 each (total of \$300,000) would be issued to each of five shareholders in exchange for their stock. Each note is payable in the amount of \$666.20 per month (total of \$3,331 monthly, \$39,972 annually), together with interest at the rate of 6% per annum, also payable monthly. The payments are to continue until all

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principal and interest is paid. The stock will be pledged by Evans as security for the payment of the notes. A form of the note and the pledge agreement is attached to the application as Exhibit B.

The Transportation Division has reviewed the application and concludes with the Revenue Requirements Division that the applicants' request should be granted.

Applicants' attorney requests that the order be made effective on the date signed.

Findings of Fact

1. Evans is a California corporation and both a certificated and permitted highway carrier subject to the jurisdiction of this Commission.

2. The control of Evans by Cleo Evans would not be adverse to the public interest.

3. The issuance of the preferred stock and the promissory notes, secured by the stock, are for proper purposes and not adverse to the public interest.

4. The money, property or labor to be procured or paid for by the notes and stock herein authorized are reasonably required for the purposes specified herein, which purposes are not, in whole or in part reasonably chargeable to operating expenses or to income.

5. There is no known opposition and no reason to delay granting the authorities requested.

Conclusions of Law

1. The application should be granted to the extent set forth in the order which follows.

2. A public hearing is not necessary.

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The authorization granted herein is for the purpose of this proceeding only and is not to be construed as a finding of the value of the assets or capital stock of Evans.

O R D E R

IT IS ORDERED that:

1. Evans Tank Line, Inc., on or after the effective date hereof and on or before December 31, 1979 may issue and distribute not exceeding 1,000 shares of its \$100 par value 8% preferred stock to Charlotte L. Evans in exchange for 74 shares of common stock of the corporation.

2. Evans Tank Line, Inc., on or after the effective date hereof and on or before December 31, 1979, may execute and deliver a security agreement and five promissory notes in the principal amounts not exceeding \$300,000 in total, which documents shall be in substantially the same forms as those attached to the application.

3. Cleo Evans may control Evans Tank Line, Inc.

4. Within sixty days after the actual transfer of control, Evans Tank Line, Inc., shall notify this Commission in writing, of the date upon which the transfer of control was consummated.

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

The effective date of this order shall be the date hereof.

Dated JUL 31 1979, at San Francisco, California.

John E. Sargent
President

Verano L. Sturgeon

Richard D. Wallace

James J. Smith

Richard W. Jones
Commissioner