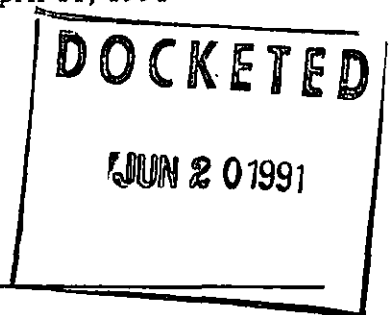


PUC-77

PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Uniform Cover and Calendar Sheets

1. <u>REPORT DATE:</u>	March 26, 1991	:	2. <u>BUREAU AGENDA NO.</u>
		:	APR-91-T-371*
3. <u>BUREAU:</u>	Transportation	:	
4. <u>SECTION</u>	Technical Review	:	5. <u>PUBLIC MEETING DATE:</u>
6. <u>APPROVED BY:</u>		:	April 11, 1991
Director:	Ernst 7-2154	:	
Supervisor:	Bigelow/Marzolf 3-5945	:	
7. <u>MONITOR:</u>		:	
8. <u>PERSON IN CHARGE:</u>	Keener-Farley 7-4386	:	
9. <u>DOCKET NO.:</u>	A-00109692	:	



10. (a) CAPTION (abbreviate if more than 4 lines)  
 (b) Short summary of history & facts, documents & briefs  
 (c) Recommendation

(a) Application of Evans' Coal & Fuel Oil, Inc., Summit Hill, Carbon County, a corporation of the Commonwealth of Pennsylvania, for the transfer of all of the operating rights of Kathryn M. Evans, t/d/b/a Billy Evans Coal Co., under the certificate issued at A-00106292 subject to the same limitations and conditions.

(b) Transferor proposes to transfer all of her PUC authority for a total consideration of \$1.00; no tangible assets are involved in the sale.

(c) The Bureau of Transportation recommends that the Commission adopt the proposed order approving the transfer application and that the certificate issued to the transferor be cancelled by supplemental order and that a copy of the order be forwarded to the Department of Revenue.

LKF:kmb



11. MOTION BY:	Commissioner Chm. Smith	Commissioner Fischl - Yes
		Commissioner Holland - Yes
SECONDED:	Commissioner Rhodes	Commissioner Rolka - Yes

CONTENT OF MOTION: Staff recommendation adopted.



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P. O. BOX 3265, HARRISBURG, Pa. 17120

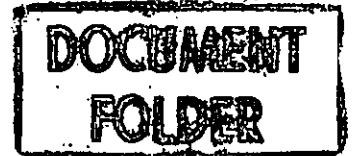
April 19, 1991

KJR

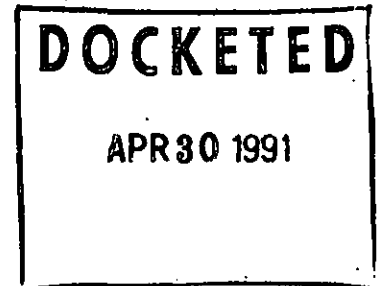
IN REPLY PLEASE  
REFER TO OUR FILE

A-00109692

Joseph J. Velitsky, Esquire  
49 East Willow Street  
P.O. Box 95  
Summit Hill, PA 18250



Application of Evans' Coal & Fuel Oil, Inc.,  
a corporation of the Commonwealth of Pennsylvania



Enclosed is the compliance order issued by the Commission in this proceeding.

A Certificate of Public Convenience evidencing the Commission's approval of the right to operate will not be issued until the applicant has complied with the following insurance and tariff requirements:

- I. Arrange through an insurance agent to have an insurance company file the following forms with the Commission.
  - a. A Form E as evidence of minimum public liability and property damage insurance coverage as shown on the back of this sheet.
  - b. A Form H or Form UCPC-31 as evidence of cargo insurance coverage in an amount not less than \$5,000 per vehicle. Under certain circumstances, exemption from the cargo insurance requirement may be secured by filing the enclosed Form PUC-288.
- II. Prepare and file a tariff according to the enclosed instructions except applicants for transfer of authority must file a tariff adoption supplement which will be forwarded by separate cover at a later date.

Minimum Limits for PA Public Utility Commission Authorized Service

Passenger Carriers:

15 passengers or less: \$35,000 combined single limit per accident per vehicle to cover liability because of bodily injury, death or property damage.

\$25,000 first party medical benefits, \$10,000 first party wage loss benefits and \$1,500 first party funeral benefits for all passengers and pedestrians.

\$10,000 first party medical benefits, \$5,000 first party wage loss benefits, and \$1,500 first party funeral benefits for drivers (PA registered vehicles only).

16 to 28 passengers: \$1,000,000 combined single limit per accident per vehicle to cover liability because of bodily injury, death or property damage.

29 passengers or more: \$5,000,000 combined single limit per accident per vehicle to cover liability because of bodily injury, death or property damage.

Property Carriers:

Common or Contract: \$300,000 combined single limit per accident per vehicle to cover liability because of bodily injury, death or property damage.

\$10,000 first party medical benefits, \$5,000 first party wage loss benefits, and \$1,500 first party funeral benefits (PA registered vehicles only).

Common only: \$5,000 per accident per vehicle for loss or damage to cargo.

No motor carrier shall operate or engage in any transportation until compliance with all of the above requirements and a certificate has been issued authorizing actual operations. A motor carrier operating without complying with the above requirements will be subject to the penalty provisions of the Public Utility Code.

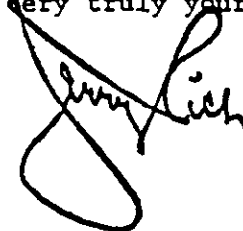
Commission regulations require compliance with all of the above requirements within sixty days of the date of this letter. Failure to comply within the sixty day period will cause the Commission to rescind the action of April 11, 1991 and dismiss the application without further proceedings.

If you foresee problems in meeting these requirements, please direct your questions to the following contact persons:

Insurance Filings: Mr. James McCarthy-Insurance Section  
(717) 783-5933

Tariff Filings: Mr. Joseph Machulsky-Tariff Section  
(717) 787-5521

Very truly yours,

A handwritten signature in black ink, appearing to read "Jerry Rich". The signature is stylized with a large loop at the bottom and a horizontal line across the middle.

Jerry Rich, Secretary

Enclosures

Certified Mail

Receipt Requested

Evans' Coal & Fuel Oil, Inc.  
309 West Holland Street  
Summit Hill, PA 18250

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17120

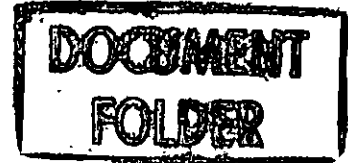
Public Meeting held April 11, 1991

Commissioners Present:

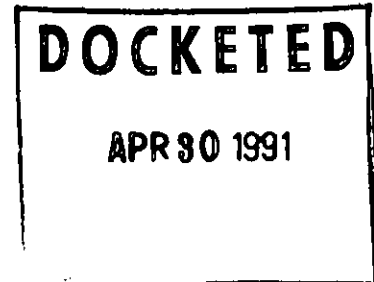
William H. Smith, Chairman  
Joseph Rhodes, Jr., Vice-Chairman  
Frank Fischl, Commissioner  
Wendell F. Holland, Commissioner  
David W. Rolka, Commissioner

Application of Evans' Coal & Fuel Oil, Inc.,  
a corporation of the Commonwealth of Penn-  
sylvania, for the transfer of all of the  
operating rights of Kathryn M. Evans, t/d/b/a  
Billy Evans Coal Co., under the certificate  
issued at A-00106292, subject to the same  
limitations and conditions.

A-00109692



\_\_\_\_\_  
Joseph J. Velitsky for the applicant.  
\_\_\_\_\_



O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed February 11, 1991. Public notice of the application was given in the Pennsylvania Bulletin of March 23, 1991. The unopposed application is certified to the Commission for its decision without oral hearing.

Evans' Coal & Fuel Oil, Inc. (ECFO or applicant), is a Pennsylvania corporation, chartered July 24, 1990, with its principal place of business at 309 West Holland Street, Summit Hill, Carbon County. William T. Evans is the president of ECFO and this transfer is essentially a sale of a business from a mother, Kathryn M. Evans (transferor), to her son. Mr. Evans has over twenty-five years of experience working in all phases of the family business. As evidence of its financial capacity to begin operations, ECFO reports assets of \$80,310, with liabilities of \$24,350, leaving a shareholder's equity of \$55,960.

The total consideration for the rights is \$1.00. No tangible assets are involved. The sales agreement requires the consideration to be paid at closing, following approval of this application.

A review of the record before us indicates that the applicant possesses the requisite experience, equipment and financial capacity to provide the proposed service.

The authority to be transferred has been operated by the transferor, therefore, it is presumed that there is a continuing public need, which may be overcome only by evidence to the contrary. In re: Byerly, 440 Pa. 521 (1970); Hostetter v. Pa. P.U.C., 160 Super. Ct. 94 (1947). Since the record is void of any such evidence, this presumption of continuing public need applies in this transfer proceeding.

We find:

1. The applicant is fit, willing and able to provide the service proposed.
2. Transfer of the authority is in the public interest and is necessary for the continued accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the transfer application be and is hereby approved and that a certificate be issued granting the following right:

To transport, as a Class D carrier, coal from the colliery of Bethlehem Mines Corporation, Panther Valley Division, Greenwood Colliery, in the borough of Tamaqua, Schuylkill County, to points in the boroughs of Lansford and Summit Hill, and the township of Mahoning, all in Carbon County, and to employees of Bethlehem Mines Corporation residing within an airline distance of fifty (50) statute miles of the limits of the borough of Coaldale, Schuylkill County, excluding those employees residing in the borough of Tamaqua, Schuylkill County.

subject to the following general conditions:

1. That the approval hereby given is not to be understood as committing the Commission, in any proceedings that may be brought before it for any purpose, to fix a valuation on the property and rights to be acquired by applicant from the present certificate holder equal to the consideration to be paid therefor, or equal to any value that may be placed thereon by applicant, or to approve or prescribe rates sufficient to yield a return thereon.

2. That applicant shall not record in its utility accounts any amount representing the rights herein granted in excess of the actual cost of such rights to the original holder thereof.
3. That the applicant charge to Account 1550, Other Intangible Property, \$1.00 being the amount of the consideration payable by it for the rights and going concern value attributable thereto; less any amount recorded under condition 2 above; and subject to further adjustment due to any normal interim transactions to the date of actual transfer.
4. That the accounts of the transferee shall reflect the same book values as the records of the transferor at the effective date of the transfer, any previously recorded appreciation having been deleted therefrom; provided that the applicant shall not record in its utility accounts any amounts representing the rights herein granted in excess of the actual cost of such rights to the original holder thereof.
5. That the operating authority granted herein, or now held or subsequently granted to the applicant to the extent that it is duplicative shall not be construed as conferring more than one operating right.
6. That the certificate holder shall not transfer, sell or in any way convey any of its outstanding capital stock to any individual, partnership, corporation or any entity, without the prior filing of an application and approval thereof by the Commission under 66 PA C.S.A. §1102(a)(3).

IT IS FURTHER ORDERED: That the applicant shall not engage in any transportation granted herein until it has complied with the requirements of the Pennsylvania Public Utility Code and the rules and regulations of this Commission relative to the filing and acceptance of evidence of insurance and a tariff establishing just and reasonable rates.

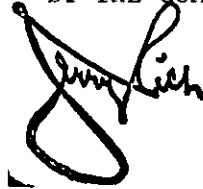
IT IS FURTHER ORDERED: That issuance of the certificate be withheld pending receipt of the 1990 Annual Report of the transferor.

IT IS FURTHER ORDERED: That upon compliance with the requirements above set forth, a certificate issue evidencing the Commission's approval of the right to operate as above-determined.

IT IS FURTHER ORDERED: That in the event said applicant has not, on or before sixty (60) days from the date of the service of this order, complied with the requirements hereinbefore set forth, the application shall be dismissed without further proceedings.

IT IS FURTHER ORDERED: That upon compliance with this order, the rights granted the transferor Kathryn M. Evans, t/d/b/a Billy Evans Coal Co., at A-00106292 be cancelled and the record be marked closed.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Jerry Rich". The signature is stylized with a large, sweeping initial "J" and "R".

Jerry Rich  
Secretary

(SEAL)

ORDER ADOPTED: April 11, 1991

ORDER ENTERED: APR 19 1991



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P. O. BOX 3265, HARRISBURG, Pa. 17120

AMH

April 24, 1991

IN REPLY PLEASE  
REFER TO OUR FILE

R-16

Joseph J. Velitsky, Esquire  
49 East Willow Street  
P.O. Box 95  
Summit Hill, PA 18250

Re: A-00109692 - Evan's Coal & Fuel Oil, Inc.

Dear Mr. Velitsky:

Under date of April 19, 1991, the Secretary's office transmitted to you the Commission's compliance order adopted April 11, 1991, evidencing approval of the above application which is in effect a transfer of the rights formerly held by Kathryn M. Evans, t/d/b/a Billy Evans Coal Co. at A-00106292. The letter transmitting the order directs attention to the requirement for the filing of a tariff.

In accordance with the provisions of Pa. Code, Title 52, Section 23.13(c), you should immediately arrange to file adoption supplements with us whereby the tariff of the former operator will become the tariff of the latter, and no change in rates is permitted to cover the transfer of rights. To assist you in meeting this tariff requirement, we are enclosing three copies of the necessary supplement to be properly executed by you, the original and one copy of which must be returned to us for filing and the remaining one to be retained for your records. Upon the proper filing of the adoption supplements, the tariff requirements will be satisfied.

Very truly yours,  
Barry L. Ernst, Director  
Bureau of Transportation

By: Joseph M. Machulsky, Chief  
Financial Document Section

Enclosure (1 set)

cc: Evan's Coal & Fuel Oil, Inc.  
309 West Holland St.  
Summit Hill, PA 18250

Contact Person: G. L. Baker  
(717) 783-5936

