

ORIGINAL

Decision No. 77358

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of RAYMUNDO S. ORTEGA, an individual dba ORTEGA DUMP SERVICE, of Venice, California, for a permit to operate as a dump truck carrier, 50 mile radius from point of operation. (File No. T-94,418)

Application No. 51607  
(Filed December 23, 1969)

Raymundo S. Ortega, for Ortega Dump Service, applicant.  
E. O. Blackman, for California Dump Truck Owners Association, Associated Independent Owner Operators, H.E.C. Trucking, Morosa Bros. Transportation, C.A.P. Transport, Rock Transport, Inc., McQuilliams Trucking, and Construction Materials, Inc.; Brundage, Neyhart, Miller, Ross & Reich, by Daniel Feins, for Western Conference of Teamsters, protestants.  
James Diani, for the Commission staff.

O P I N I O N

Raymundo S. Ortega, doing business as Ortega Dump Service, of Venice, requests a permit to operate as a dump truck carrier on a statewide basis.

A public hearing was held before Examiner DeWolf on April 12, 1970 at Los Angeles and the matter was submitted.

Applicant testified that he has had 12 years experience as a truck driver, is the owner of a GMC-1956 dump truck purchased in July 1969, has total assets of \$40,700 and liabilities of \$21,070 and has procured insurance as required by General Order 100 series. Applicant testified that he is at present engaged in the gardening business and proposes to use the dump truck in hauling dirt, building, paving and construction materials to and from subdivisions under construction for the contractors in charge of the subdivision. Applicant testified that he would conduct the operation in connection with his gardening business and that he would drive the truck himself, and that there is much need for this work. Applicant did not have any shipper witness testify as to the need for these services or as to what affect operations by him would have on present dump truck carriers.

A witness appeared and testified for protestant California Dump Truck Owners Association that there have been a great many permits issued to dump truck operators and that there are already too many dump trucks operating in the area in which applicant proposes to work and that issuance of this permit will burden the public highways and will interfere with the ability of presently permitted dump truck carriers to engage in business and will reduce their traffic and their revenue. A Commission representative appeared for the Commission staff and examined the witnesses.

Applicant has not heretofore been licensed as a permitted carrier by this Commission and is not entitled to a dump truck carrier permit in accordance with the "grandfather" provision of Section 3612 of the Public Utilities Code, as amended in March 1970.

The evidence adduced at the hearing demonstrates that applicant has established by a preponderance of the evidence all the matters required by Section 3613 except those matters required by paragraph 3 of said section in that he did not establish that his service is necessary to serve the public or that his operations would not impair the service of present dump truck carriers.

The Commission therefore finds that applicant has not qualified for a dump truck carrier permit in accordance with the provisions of Section 3613 of the Public Utilities Code in that applicant did not establish that issuance of the permit is necessary to serve the public and will not impair the ability of presently permitted dump truck carriers to provide adequate service at the lowest possible reasonable rates. The application will be denied.

ORDER

IT IS ORDERED that the application of Raymundo S. Ortega doing business as Ortega Dump Service for a permit to operate as a dump truck carrier is denied.

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

Dated at San Francisco, California, this 16th day of JUNE, 1970.

William J. ...  
President

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Commissioners