

ORIGINAL

Decision No. 77461

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of)
A & P Trucking Enterprises, Inc.,)
a corporation, of Culver City, for)
a permit to operate as a dump truck)
carrier, 50 mile radius from point)
of operation, Los Angeles.)
(File No. T-94,234))

Application No. 51645
(Filed January 19, 1970)

Ronald A. Adams and Norman L. Adams, for A & P
Trucking Enterprises, Inc., a corporation,
applicant.

James R. Foote, for Associated Independent
Owner-Operators, Inc.; E. O. Blackman by
G. Ralph Grago, for California Dump Truck
Owners Association; G. Ralph Grago, for
Associated Independent Owner-Operator, Inc.,
Universal Transport Systems, Inc., McQuilliams
Trucking, Morosa Bros. Transportation, H.E.C.
Trucking, and Construction Materials Trucking
Inc., protestants.

James Diani, for the Commission staff.

O P I N I O N

A & P Trucking Enterprises, Inc., a corporation of Culver
City requests a permit as a dump truck carrier on a statewide
basis.

A public hearing was held before Examiner DeWolf on
April 21, 1970 at Los Angeles, California and the matter was
submitted.

The president and vice-president for applicant testified
in support of the application. Applicant is a California corpora-
tion whose articles were issued on October 17, 1969 and filed with
the Public Utilities Commission on November 10, 1969. The applica-
tion describes assets consisting of two units, namely two tractors

and two semiend dumps. It was testified that these trucks are in good condition and pass all safety requirements. The assets are valued at \$16,500 with liabilities of \$6,900.

The officers of the applicant testified that they have been engaged in the construction business since 1956 and for Adams Grading Corporation since June 5, 1964.

On November 10, 1969, applicant applied for a radial highway common carrier permit as a dump truck operator. If the permit had been issued, applicant would have been entitled to a dump truck carrier permit in accordance with the grandfather provisions of Section 3612 of the Public Utilities Code; however, applicant's insurance company, through no fault of applicant, did not file with the Commission the insurance it had written for it until after November 10, 1969, the effective date of Section 3612 of the Public Utilities Code. If the insurance had been filed timely, applicant's permit would have been issued November 10, 1969, and it would have been operating lawfully as a dump truck carrier on the effective date of the new section. Equity requires that applicant should not be penalized for the default of its insurance carrier.

A Commission staff representative appeared and cross-examined the witnesses and requested insertion in the permit, if granted, of a carrier-shipper restriction because of the 5 percent rule in MRT 7 and 17. This restriction would require the payment to underlying carriers of not less than 100 percent of the applicable minimum rates and charges established by the Commission for the transportation of applicant's own or its suppliers' property.

The Commission finds that applicant has qualified for a dump truck carrier permit in accordance with the grandfather provisions of Section 3612 of the Public Utilities Code and that the permit should be restricted as requested above.

ORDER

IT IS ORDERED that the Secretary of the Commission is directed to issue to A & P Trucking Enterprises, Inc. a permit to operate as a dump truck carrier, said operations to be subject to the following restriction: Whenever permittee engages other carriers for the transportation of property of A & P Trucking Enterprises, Inc. or Adams Grading Corp. or customers or suppliers of said corporations permittee shall not pay such carriers less than 100 percent of the applicable minimum rates and charges established by the Commission for the transportation actually performed by such other carriers. Failure to observe and to comply with this restriction may subject applicant to penalties as provided for in the Public Utilities Code.

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

Dated at San Francisco, California, this 7th day of JULY, 1970.

[Signature]
Chairman

[Signature]
[Signature]

Commissioners

Commissioner A. W. Gatov, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.