

ORIGINAL

Decision No. 77519

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of)
ALBERT ACOSTA CASTRO, an individual)
dba CASTRO TRUCKING, of San Clemente,)
California, for a permit to operate)
as a dump truck carrier, 50 mile)
radius from point of operation,)
San Clemente. (File No. T-94,465))

Application No. 51616
(Filed January 2, 1970)

Chaffee, Pinnick, Hall and Allen
by Acton Allen, Jr., for
Castro Trucking, applicant.
G. Ralph Grago and James R. Foote,
for Associated Independent Owner-
Operators, Inc.; CAP Transport; Rock
Transport Inc.; Universal Transport
System Inc.; Handler, Baker & Greene,
Attorneys; McQuilliams Trucking;
Construction Materials Trucking,
Inc.; Daniel Feins and Milton Miller,
by Milton Miller, for Western Conference
of Teamsters; E. O. Blackman, by
G. Ralph Grago, for California Dump Truck
Owners Association; protestants.
James Diani, for the Commission staff.

O P I N I O N

Albert Acosta Castro doing business as Castro Trucking requests a permit to operate as a dump truck carrier within a 50-mile radius from San Clemente, California.

A public hearing was held before Examiner DeWolf on April 16, 1970 at Los Angeles and on June 4, 1970 at San Clemente, California and the matter was submitted on June 4, subject to the late filing of Exhibits Nos. 3 and 4 which have been received.

Castro testified that his assets consist of land, equipment and cash valued at \$26,500, including one 1957 10-wheel dump truck, purchased prior to November 1969, which was previously used in buy and sell operations and has not been used since November 1969.

Castro testified that he has had 12 years experience operating a dump truck, has been employed for the past five years as a driver in San Clemente, and previously in Carlsbad, California. Castro testified that he has operating knowledge and ability to conduct the proposed operations, and will have a convenient place for service and parking of his dump truck in the yard of a producer of materials who will keep his equipment busy at least half the time. Ninety percent of the work will be in El Toro and he has obtained the necessary insurance.

Five witnesses testified for applicant that he is above average as a dump truck operator; that he has the knowledge and ability to conduct operations as a dump truck carrier and recommended that he be issued a permit. The witnesses are engaged in fields using dump trucks, being plumbing, grading and materials contracting, a trucking company owner and a dump truck permittee and operator.

Each of applicant's witnesses testified that an individual such as Castro would have work in San Clemente area; that they have knowledge of his qualifications and that he is well qualified for operating under the permit. Three of the witnesses testified that issuance of the permit to him and operations by

Castro would not cause any increase in the rates of other operators. Four of the witnesses testified that it is now, and has been difficult to get a dump truck to handle short or small jobs in the San Clemente area because the operators seek the large jobs and will not leave them until finished. The materials contractor testified that he has standing orders for 25 trucks and usually only gets 20; that he will use the applicant whom he described as one of the best truck drivers he has had work for him.

A witness testified for protestants that the need for dump truck equipment is at the lowest ebb in many years and that there is a surplus of dump trucks seeking work in the vicinity of San Clemente. The witness testified that protestants oppose all applications filed at this time for the reason that there is no need for further issuance of permits and that issuance of more permits will cause rates to the public to increase. Protestants offered in evidence as Exhibit No. 3 a portion of a copy of the Associated Independent Owner-Operators News Letter of Santa Fe Springs for June which lists six permits and equipment for sale. Exhibit No. 4 is a portion of a copy of the California Dump Truck Owners Association Bulletin of Monterey Park for May 1970 which describes five items listing dump truck permits and equipment for sale. Protestant witness further testified that there is adequate dump truck equipment available in the San Clemente area; that the profit in operating such equipment is not as lucrative as it appears on the surface, and that issuance of further permits will impair the ability of presently permitted dump truck carriers to provide adequate service at the lowest possible reasonable rates.

The Commission staff recommended that if the application is granted any permit issued contain a restriction that when sub-haulers are engaged by applicant for the transportation of his commodities, or commodities of his customers or suppliers, the sub-haulers be paid 100 percent of the minimum rate.

Based on the preponderance of evidence adduced at the hearing the Commission finds that:

1. It is difficult to obtain dump truck service for short time or small jobs in the San Clemente area and that the proposed service of applicant is needed.
2. Applicant has been a resident of San Clemente, California for approximately five years.
3. Applicant is a fit and proper person to receive a permit to operate as a dump truck carrier.
4. Applicant has sufficient operating knowledge and financial ability to initiate and continue the proposed operation.
5. The privilege hereinafter granted:
 - a. Will not endanger the safety of the public or interfere with the public use of the public highways or impair the condition of them directly or indirectly.
 - b. Will not unnecessarily burden the public highways.
 - c. 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.

Based upon the above findings the Commission concludes that the application should be granted as set forth in the ensuing order.

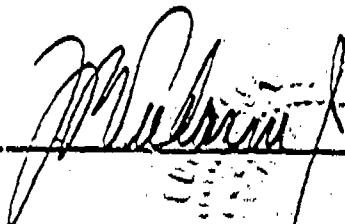
O R D E R

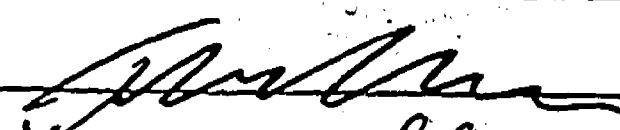
IT IS ORDERED that the Secretary of the Commission shall issue a dump truck carrier permit to Albert Acosta Castro, an individual, authorizing transportation within a 50-mile radius of San Clemente. Said permit shall be subject to the following restriction:

Whenever permittee engages other carriers for the transportation of property of Albert Acosta Castro or customers or suppliers of said individual, permittee shall not pay such carriers less than 100% of the applicable minimum rates and charges established by the Commission for the transportation actually performed by such other carriers.

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

Dated at San Francisco, California, this 21st day of JULY, 1970.



Chairman


James L. Stinson
Commissioners

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

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.