

es/dz

ORIGINAL

Decision No. 90163 APR 10 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of ARCHIE BYRON FENTON)
and DAVID R. FENTON, dba ARCHIE)
FENTON AND SON, for a dump truck)
carrier permit, Bishop.)
(File 372.70))

Application No. 58574
(Filed January 5, 1979)

Archie B. Fenton, for applicants.
Michael Flaherty, for the Commission
staff.

O P I N I O N

Applicants, Archie B. Fenton and David R. Fenton, a partnership dba Archie Fenton and Son, request that they be issued a dump truck carrier permit.

Public hearing was held before Administrative Law Judge William A. Turkish on February 26, 1979 in Los Angeles, and the matter was submitted on that date.

No protests to the application were filed and none raised at the hearing.

Applicants' principal place of business is located in Laws, California, five miles outside of Bishop. The partnership consists of father and son. Applicants currently own and operate two powered tractors and two trailers in the hauling of produce from California to Canada. They have been hauling produce since 1973. As of November 16, 1978 applicants indicated a net worth in the amount of \$143,364.

Archie B. Fenton testified on behalf of applicants. According to the witness, applicants intend to engage primarily in the business of hauling produce, but will use their dump truck permit, if issued, in the Bishop area every chance they can obtain hauls. The witness testified that there is a need for additional dump truck service in the Bishop area and introduced letters from two Bishop firms, engaged in the asphalt and mining business, who attest to the shortage of dump trucks and the need for additional trucks in the Bishop area. The witness stated that they intend to haul for both firms as well as for other mining and quarry shippers in the Bishop area. According to the testimony of the witness, he has 40 years of driving experience and his partner has 18 years of driving experience. The partners do their own maintenance and employ a part-time mechanic as well. The equipment is checked every day and has been inspected by the California Highway Patrol every two to three months. The equipment is in excellent condition according to testimony. The witness further testified that other than his receiving a citation in Nevada in 1978, neither he nor his partner has ever had any problems with law enforcement agencies; that applicants are covered by adequate liability insurance; that applicants' equipment will be operated in a safe manner; and that the dump truck operation will not have an adverse effect upon the highways or upon other existing dump truck carriers. He testified that they primarily want the permit to allow them to operate between all points within a radius of 150 miles of Bishop.

The staff witness indicated that applicants appear to have met the provisions of Public Utilities Code Section 3613 and, in view of the fact that there were no protestants, recommended that the permit be granted allowing applicants to operate between all points within a 150-mile radius of Bishop.

Findings

1. Applicants are presently engaged in the business of hauling produce from California to Canada.
2. Applicants propose to remain engaged principally in the hauling of produce and will, in addition, operate dump truck equipment when needed in the Bishop area.
3. There is a shortage of dump truck carriers in the Bishop area.
4. Applicants have been assured by two Bishop firms which have a need for dump truck carriers that they will utilize applicants' equipment during high demand periods.
5. Applicants each have over 10 years of experience in the trucking business and perform much of their own maintenance.
6. Applicants intend to operate between all points within a 150-mile radius of Bishop.
7. Applicants have demonstrated by a preponderance of the evidence that:
 - (a) They are fit and proper persons to receive a permit as a dump truck carrier and possess sufficient operating knowledge and financial ability to perform the proposed operation.
 - (b) Applicants' equipment is presently being used on the public highways in California and their proposed future use will not endanger the safety of said highways or impair the condition or maintenance of them, directly or indirectly.

- (c) Applicants' proposed operation will not unnecessarily burden the public highways, 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.

8. Applicants have resided in the State of California for not less than 90 days next preceding the filing of their application.

9. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Conclusion

The Commission concludes that applicants should be granted a dump truck carrier permit authorizing them to operate between all points within a 150-mile radius of Bishop, California. There is a present need for applicants' proposed service and in view of that present need and the lack of any protest, the following order should be effective the date of signature.

O R D E R

IT IS ORDERED that the Executive Director shall issue a dump truck carrier permit to Archie B. Fenton and David R. Fenton, dba Archie Fenton and Son, authorizing them to operate between all points within a 150-mile radius of Bishop, California.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 10th day of APRIL, 1979.

John E. Guyon
President
Hermon L. Haggren
Charles W. Hanel
Charles J. Haggren
James W. Haggren
Commissioners