

ORIGINAL

Decision No. S0446 JUN 19 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of FROST CORPORATION of La Mesa, California, for a permit to operate as a dump truck carrier. (File No. 372.70))	Application No. 58637 (Filed January 30, 1979)
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Kenneth J. Frost, for applicant.
James D. Martens, for California
 Dump Truck Owners Association,
 interested party.
Michael R. Flaherty, for the
 Commission staff.

O P I N I O N

Applicant, Frost Corporation, requests the issuance of a dump truck carrier permit.

Public hearing on the application was held before Administrative Law Judge William A. Turkish on March 26, 1979 at Los Angeles and the matter was submitted upon the filing and receipt of late-filed Exhibit 4 on April 5, 1979.

No protests to the application were filed and none raised either during the hearing or following the hearing within the time allowed in response to late-filed Exhibit 4.

Kenneth J. Frost, applicant's president and sole stockholder, testified on behalf of applicant. Applicant's principal place of business is located in La Mesa, California. Applicant was incorporated on April 1, 1976 in the State of California. It owns a 1967 Mack 10-wheel end dump truck and a pup trailer.

According to the testimony of applicant's president and sole shareholder, applicant was primarily engaged in the equipment rental business since 1976. The witness had 10 years of prior experience in that business prior to incorporating in 1976. Prior to that, the witness had 15 years of driving and operating trucks for others, both on and off the highways. The corporation sold the equipment rental business in 1977 and the corporation has been dormant since that time. Following the sale of the equipment rental business, its president was employed by a dump truck carrier in Chula Vista. Thereafter, the witness obtained a highway contract carrier permit and operated thereunder for several trucking firms.

Applicant has two employees at the present time, namely the witness and his son. Both have the proper driver's licenses permitting them to drive dump trucks. According to the witness, he has been cited only once in the past 20 years for a traffic violation. His son has received two citations in the past four years. Neither have had any problems with law enforcement agencies.

The witness testified that his truck is in excellent operating condition and intends to do as much of the maintenance as he and his son can within their limitations. Work which they cannot perform will be farmed out. In the opinion of applicant's witness, the truck will be operated in a safe manner and will not have an adverse effect upon the highways or upon other existing dump truck carriers. He testified further that he has contacted truck brokers and shippers in the San Diego

area who have indicated to him that there is a shortage of dump trucks in San Diego County. The witness placed into evidence letters from two trucking firms (Exhibits 1 and 2) which corroborate his testimony as to a dump truck shortage in the area in which applicant intends to operate. He also placed into evidence (Exhibit 3) a letter from a concrete material manufacturer which has contracted with applicant for the hauling of its aggregate. The letter also speaks of trucking shortages in the area. The manufacturer is a new business and its contract with applicant will not take any business away from existing dump truck carriers, according to the witness. According to testimony, applicant's operation under the permit sought will not have a significant effect on the environment.

The witness testified that he intends to use only one truck under his permit. He intends to conduct short hauls between points in San Diego County only, and agrees to a permit which restricts his operation between all points within San Diego County only. Applicant is covered by adequate public liability and property damage insurance which is on file with the Commission.

Applicant's late-filed Exhibit 4, which reflects its financial position as of March 1, 1979 shows assets of \$159,460.73 and liabilities of \$539.67.

No protests to the application were filed and none raised either at the hearing or within the time permitted following the filing and receipt of late-filed Exhibit 4.

Findings

1. Applicant is a California corporation.
2. Applicant is currently operating under its highway contract carrier permit issued on November 24, 1978.

3. Applicant proposes to use its dump truck equipment as a prime hauler between all points within San Diego County and has been assured a contract to haul by a producer of granite and concrete products within the above-stated area.

4. Applicant's president and sole stockholder has 15 years of experience driving and operating various type trucks on and off the highways.

5. Applicant has demonstrated by a preponderance of the evidence that:

- (a) It possesses sufficient operating and financial ability to initiate and perform the proposed operations.
- (b) Its equipment is presently being used on the public highways in San Diego County and its proposed future use will not endanger the safety of said highways or impair the condition or maintenance of them directly or indirectly.
- (c) Its proposed operation will not unnecessarily burden the public highways, is necessary to serve the public due to a shortage of dump truck carriers in the proposed area of operation, and will not impair the ability of presently permitted dump truck carriers to provide service at the lowest possible reasonable rates.

6. 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 applicant should be granted a dump truck carrier permit authorizing operations within the county of San Diego. There is a need for applicant's proposed service, and in view of that present need, 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 Frost Corporation authorizing operations within the county of San Diego.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 1964
day of JUNE, 1979.

John E. Cuyler
President
George L. Stinson
Robert D. Howell
Clair J. Daniels
Edward J. Jones
Commissioners