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**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298

November 25, 2008

Agenda ID #8149

TO PARTIES OF RECORD IN DRAFT RESOLUTION ALJ-230

This draft resolution regarding Consumer Protection and Safety Division Field Citation Appeal will be on the agenda at the January 29, 2009 Commission meeting. The Commission may then vote on this draft resolution, or it may postpone a vote.

When the Commission acts on the draft resolution, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own order. Only when the Commission acts does the resolution become binding on the parties.

You may serve comments on the draft resolution. Opening comments shall be served no later than December 15, 2008, and reply comments shall be served no later than December 22, 2008. Service is required on all persons on the attached service list. Comments shall be served consistent with the requirements of Pub. Util. Code § 311(g) and Rule 14.5 of the Rules of Practice and Procedure.

Finally, comments must be served separately on Administrative Law Judge Christine M. Walwyn at [cmw@cpuc.ca.gov](mailto:cmw@cpuc.ca.gov), and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ MICHELLE COOKE for  
Angela K. Minkin, Chief  
Administrative Law Judge

ANG:rbg

Attachment

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Resolution ALJ-230  
Administrative Law Judge Division  
January 29, 2009

**R E S O L U T I O N**

RESOLUTION ALJ-230 Affirming Citation FC-195 issued to Air Ride Moving & Storage, Inc.

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**SUMMARY**

This Resolution resolves the appeal of Field Citation 195 (FC-195), issued to Air Ride Moving & Storage, Inc. (Air Ride) by the Commission's Consumer Protection and Safety Division (CPSD) on June 25, 2008. FC-195 was issued to Air Ride with a fine in the amount of \$1,750 for 124 counts of violations of Maximum Rate Tariff 4 and Public Utilities Code Sections 5139 and 5143 that occurred during the period January 1, 2008 through February 29, 2008. These violations include (1) failure to timely respond to a written claim for loss or damage to property, (2) issuing an estimate of moving costs without a visual inspection of the goods to be moved, (3) failure to properly complete the "Important Notice About Your Move" to shippers, and (4) failure to issue fully completed Combined Agreements for Moving Services and Freight Bills.

Pursuant to Resolution ALJ-187, issued by the Commission on September 22, 2005, CPSD is authorized to issue citations to various classes of transportation carriers for violation of the Public Utilities Code and/or Commission orders. In turn, a carrier issued such a citation may accept the fine imposed or contest it through a process of appeal. The procedures governing the appeal of CPSD's citations are set forth in Resolution ALJ-187.

An evidentiary hearing was held in Los Angeles on October 29, 2008 and the matter submitted on November 6, 2008.<sup>1</sup> Based on the record, we affirm FC-195 on all counts and direct CPSD to re-audit Air Ride within six months to ensure the company's compliance with Commission regulations. Finally, since Air Ride is subject to an additional citation at the re-audit, we find it reasonable to reduce FC-195 by \$500.00.

The draft resolution affirming Citation FC-195 is issued for public review and comment in accordance with Public Utilities Code Section 311, subdivision (g) (Section 311(g)).

### COMMENTS

Public Utilities Code Section 311(g)(1) requires that a draft resolution be served on all parties, and be subject to a public review and comment period of 30 days or more, prior to a vote of the Commission on the resolution. A draft of today's resolution was distributed for comment to Air Ride and CPSD.

### FINDINGS OF FACT

1. On June 25, 2008, CPSD served FC-195 (the citation) on Mr. Alon Levin, President, Air Ride Moving & Storage, Inc. On July 10, 2008, Air Ride appealed the citation to CPSD stating it had made changes in all areas cited in the citation and believed that attaching a monetary penalty to violations found during the audit was excessive.
2. CPSD transmitted the appeal and case file to the Commission's Chief ALJ on August 8, 2008. The ALJ Division promptly contacted Mr. Levin to schedule a hearing. Mr. Levin requested the hearing be held in Los Angeles rather than in San Francisco, with the understanding that a Los Angeles hearing could not be scheduled until the Legislature passed and the Governor signed a final state budget.
3. In Air Ride's appeal, Mr. Levin states that the amount of the fine represents a financial hardship for his business and that the Commission should take into account his willingness to learn from the audit and conduct his business properly in the future.

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<sup>1</sup> At the hearing, Mr. Levin requested permission to late file customer response forms, identified as Exhibit 4. These one page forms, received on November 6, 2008, indicate that 10 of Air Ride's customers between the period of February 2008 to September 2008 found Air Ride's moving services satisfactory. CPSD did not comment on the late-filed submission.

4. CPSD presented evidence to support the violations cited in FC-195 and testimony that the fine is comparable to the level of fines issued to other carriers with similar revenues and violations. The maximum fine allowed under Public Utilities Code Section 5313 for these violations is \$62,000.<sup>2</sup>
5. At hearing, Mr. Levin presented five contracts dated since CPSD conducted its audit. Mr. Levin requested these contracts be entered into evidence in order to establish that he was now complying with the Commission's Maximum 4 Tariff provisions. CPSD examined these contracts, Exhibit 3, and testified that the contracts contained the same types of violations listed in FC-195 and previously discussed with Mr. Levin. In addition, Mr. Levin did not appear to understand at the hearing how to conform his electronic customer communication to the Commission's requirement that a written estimate cannot be given prior to the move unless a visual inspection of the customer's goods has been conducted.<sup>3</sup>
6. The evidentiary record establishes a need for CPSD to re-audit Air Ride within the next six months to ensure the company is complying with the Commission's regulations. Since Air Ride is subject to an additional citation at the next audit, it is reasonable to reduce FC-195 by \$500.00.

### CONCLUSIONS OF LAW

1. Air Ride violated the provisions of the Commission's Maximum 4 Tariff detailed in FC-195 and Public Utilities Code Sections 5139 and 5143. These provisions are designed to provide customers of moving companies with important consumer protection information and safeguards.
2. The level of fine imposed in FC-195 is reasonable in comparison to the level of fines imposed on other moving companies with similar revenue and violations.
3. CPSD should re-audit Air Ride within the next six months. Based on this requirement, it is reasonable to reduce FC-195 by \$500.00.
4. Air Ride should pay a fine of \$1,250.00 in full within 30 days of this resolution or begin to make payments within 30 days based on an approved written payment plan with CPSD. All checks should be made payable to the California Public Utilities Commission and sent to the Commission's Fiscal Office, 505 Van Ness Avenue, San Francisco, California 94102. Upon payment the fine should be deposited in the State Treasury to the credit of the General Fund.
5. If Air Ride fails to pay the fine as provided herein, CPSD should take any and all action provided by law to recover the unpaid fine and ensure compliance with applicable statutes and Commission orders.

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<sup>2</sup> Transcript at page 27.

<sup>3</sup> Transcript at page 24.

**IT IS THEREFORE ORDERED** that:

1. Citation FC-195 is affirmed except as provided herein.
2. Appellant Air Ride Moving & Storage Inc. shall pay a fine of \$1,250.00 00 in full within 30 days of this resolution or begin to make payments within 30 days based on an approved written payment plan with CPSD. All checks shall be made payable to the California Public Utilities Commission and sent to the Commission's Fiscal Office, 505 Van Ness Avenue, San Francisco, California 94102. Upon payment the fine shall be deposited in the State Treasury to the credit of the General Fund.
3. Air Ride shall be subject to re-audit by CPSD within six months of this order.
4. The appeal process for this citation is closed.

This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on \_\_\_\_\_, the following Commissioners voting favorably thereon:

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PAUL CLANON  
Executive Director

**INFORMATION REGARDING SERVICE**

I have provided notification of the foregoing Draft Resolution ALJ-230 to the electronic mail addresses on the attached service list, as well as a hard copy by U.S. mail on those persons on the attached service list.

Dated November 25, 2008, at San Francisco, California.

/s/ ROSCELLA GONZALEZ  
Roscella Gonzalez

**CPSD Citation Number FC-195  
Service List**

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*(Assigned Administrative Law Judge)*

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