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**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298

February 18, 2009

Agenda ID # 8319  
Alternate to Agenda ID #8149

## TO PARTIES OF RECORD IN ALTERNATE DRAFT RESOLUTION ALJ-230

Enclosed is the alternate draft resolution of Commissioner Rachelle B. Chong on Citation FC-195 that was issued to Air Ride Moving & Storage, Inc. The proposed resolution and the alternate proposed resolution will not appear on the Commission's agenda for at least 30 days after the date it is mailed.

Pub. Util. Code § 311(e) requires that the alternate item be accompanied by a digest that clearly explains the substantive revisions to the draft resolution. The digest of the alternate draft resolution is attached.

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

You may serve comments on the alternate draft resolution. Opening comments shall be served no later than March 9, 2009, and reply comments shall be served no later than March 16, 2009. 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 Commissioner Chong's advisor Jane Whang at [jjw@cpuc.ca.gov](mailto:jjw@cpuc.ca.gov).and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ MICHELLE COOK for  
Karen V. Clopton, Chief  
Administrative Law Judge

KVC:jyc

Attachment

**ATTACHMENT****Resolution ALJ 230: Affirming Citation FC-195 issued to Air Ride Moving & Storage, Inc.**

Pursuant to Pub. Util. Code § 311(e), this is the digest of the substantive differences between the Alternate Resolution ALJ 230 of Commissioner Rachelle B. Chong and draft Resolution ALJ 230 of ALJ Christine Walwyn.

The draft Resolution ALJ 230 affirms that the level of fine that was imposed on Air Ride Moving and Storage, Inc. is reasonable in comparison to the level of fines imposed on other moving companies with similar revenue and violations. The draft Resolution ALJ 230 also finds that Air Ride should be re-audited within six months, based on evidence at the hearing that Air Ride had still failed to comply with the Commission's Maximum 4 Tariff requirements. Because Air Ride is being re-audited, the draft Resolution finds it reasonable to reduce Air Ride's fine by \$500.

The Alternate Draft Resolution of Commissioner Chong affirms the fine of \$1,750 that was imposed on Air Ride for 124 counts of violations of Maximum Rate Tariff 4 and Pub. Util. Code §§ 5139 and 5143 that occurred during the period January 1, 2008 through February 29, 2008. The Alternate Draft Resolution also finds that Air Ride should be re-audited within six months, based on the evidence at the hearing that Air Ride still had failed to comply with the Commission's requirements. In contrast to the draft Resolution, the Alternate Draft Resolution does not reduce the fine of \$1,750 that was originally imposed on Air Ride.

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

Alternate Draft Resolution ALJ-230  
Administrative Law Judge Division  
March 26, 2009

**ALTERNATE DRAFT RESOLUTION OF COMMISSIONER RACHELLE B. CHONG**

ALTERNATE DRAFT 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.

### DISCUSSION

In the appeal, Air Ride's President, Alon Levin stated 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. However, 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.

At the hearing, Levin presented five contracts dated since CPSD conducted its audit. 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 Levin. In addition, 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>2</sup>

Therefore, we affirm the fine imposed by CPSD. Moreover, because it appears that Air Ride continues to have problems with complying with the Commission's Maximum 4 Tariff provisions, and to ensure Air Ride operates in compliance with our regulations in the future, we require a re-audit of the company within six months.

### COMMENTS

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

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<sup>1</sup> At the hearing, 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.

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

**FINDINGS OF FACT**

1. On June 25, 2008, CPSD served FC-195 (the citation) on 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 Levin to schedule a hearing. 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, 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.
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 Pub. Util. Code § 5313 for these violations is \$62,000.<sup>3</sup>
5. At hearing, Levin presented five contracts dated since CPSD conducted its audit. 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 Levin. In addition, 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>4</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.

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<sup>3</sup> Transcript at page 27.

<sup>4</sup> Transcript at page 24.

**CONCLUSIONS OF LAW**

1. Air Ride violated the provisions of the Commission's Maximum 4 Tariff detailed in FC-195 and Pub. Util. Code §§ 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.
4. Air Ride should pay a fine of \$1,750 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.

**IT IS THEREFORE ORDERED** that:

1. Citation FC-195 is affirmed except as provided herein.
2. Appellant Air Ride Moving & Storage Inc. (Air Ride) shall pay a fine of \$1,750 in full within 30 days of this resolution or begin to make payments within 30 days based on an approved written payment plan with Consumer Protection and Safety Division (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

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

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Air Ride Moving & Storage, Inc.  
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Granada Hills, CA 91344

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**(END OF SERVICE LIST)**