

JUL 22 1992

Decision 92-07-057 July 22, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the operations, rates, and practices of B D Trucking Co., a California corporation, and of Ameron, Inc., Guntert Sales Division, Inc., and Kaiser Steel Corporation, Debtor Respondents.

ORIGINAL

I.89-09-004

(Filed September 7, 1989)

Ronald C. Broberg, for B D Trucking Co.; Sid Scott, for Ameron, Inc., Terry Guntert, for Guntert Sales Division, Inc.
Albert C. Guerrero, Attorney at Law, for Compliance and Enforcement Branch of the Transportation Division.

O P I N I O N

B D Trucking Co. (Respondent, B D), a California corporation, is engaged in the business of transporting property over the public highways of this state for compensation. Respondent B D holds a highway contract carrier permit, issued December 30, 1977, a highway common carrier certificate, issued June 27, 1979, and a heavy specialized carrier permit, issued April 23, 1980.

An investigation of B D's transportation records for the period May 1, 1987 through and including September 30, 1987 by the Commission's Transportation Division indicates that B D may have violated Sections 458, 494 and 702 of the Public Utilities Code by providing transportation services over the public highways of this state for compensation at rates less than the applicable rates. Businesses named as debtor respondents which may have received transportation services from B D at other than B D's published tariff rates and charges are the following: Ameron, Inc., Guntert Sales Division, Inc., and Kaiser Steel Corporation.

A duly noticed public hearing was set for March 16, 1992, but the matter was removed from the calendar when Transportation Division advised that a Stipulation for Settlement had been reached between all affected parties. Kaiser Steel Corporation was excused from settlement negotiations upon staff's learning that bankruptcy proceedings insulated this debtor respondent from liability.

A copy of the Stipulation for Settlement is appended to this decision.

Findings of Fact

1. The stipulation is reasonable, consistent with law, and in the public interest.
2. The stipulation is recommended by the Transportation Division.
3. The stipulation is uncontested.

Conclusions of Law

1. The stipulation should be adopted.
2. Since this case is resolved by stipulation, the following order should be effective immediately.

O R D E R

IT IS ORDERED that:

1. Respondent B D Trucking Co. shall pay an amount to be deposited with the Public Utilities Commission in the sum of \$2,000 pursuant to Sections 1070 of the Public Utilities Code. This amount is to be paid in ten (10) consecutive monthly installments of \$200, the first installment due 30 days after issuance of the Commission's final order approving and adopting the terms of this Stipulation For Settlement as its final disposition of the matters subject to this investigation.
2. Respondent Ameron, Inc. shall pay \$1,000 directly to the Commission to settle issues relating to Section 2100 of the Public Utilities Code in lieu of payment through respondent B D. This

amount may be paid in ten consecutive monthly installments in the amount of \$100. The first installment is due 30 days after issuance of the Commission's final order approving and adopting the terms of this Stipulation For Settlement as its final disposition of the matters subject to this investigation.

3. Respondent Guntert Sales Division, Inc. shall pay \$1,100 directly to the Commission to settle issues relating to Section 2100 of the Public Utilities Code in lieu of payment through respondent B D. This amount may be paid in ten consecutive monthly installments in the amount of \$110. The first installment is due 30 days after issuance of the Commission's final order approving and adopting the terms of this Stipulation For Settlement as its final disposition of the matters subject to this investigation.

4. Upon compliance with the foregoing order, respondents in I.89-09-004 shall thenceforth not be subject to any future sanctions or fines arising from transportation performed by B D to and including the date of this stipulation, and are relieved of liability for the payment of any amounts other than those specifically agreed to be paid in this stipulation.

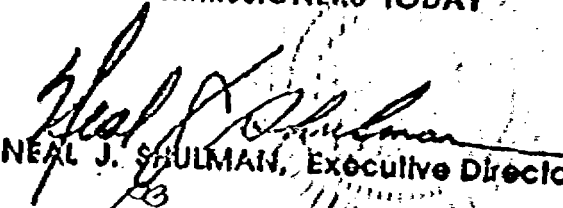
5. This investigation is terminated and the proceeding is closed.

This order is effective today.

Dated July 22, 1992, at San Francisco, California.

DANIEL Wm. FESSLER
President
JOHN B. OHANIAN
PATRICIA M. ECKERT
NORMAN D. SHUMWAY
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY


NEAL J. SCHULMAN, Executive Director

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own
motion into the operations, rates and
practices of B D Trucking, a
California corporation, and of Ameron,
Inc., Guntert Sales Division, Inc.,
and Kaiser Steel Corporation, Debtor
Respondents,

I. 89-09-004

STIPULATION FOR SETTLEMENT

THE PARTIES TO THIS PROCEEDING now pending before the Public Utilities Commission desiring to avoid the expense, inconvenience and uncertainty attendant to litigation of the issues in dispute between them have agreed upon a settlement of the said issues and desire to submit to the Public Utilities Commission this stipulation for approval and adoption as its final disposition of the matters herein.

In addition, since this STIPULATION represents a compromise by the Parties, the Parties have entered into it on the basis that the Commission's adoption of said STIPULATION not be construed as an admission or concession by any party regarding the facts or law in dispute in this proceeding. Furthermore, it is the intent and understanding of the parties that Commission adoption of this STIPULATION will not be construed as a precedent or policy statement of any kind for or against the Parties in any current or future proceeding.

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NOW, THEREFORE, THE PARTIES DO STIPULATE AS FOLLOWS:

1. Respondent B D Trucking Co. (BD) agrees to pay an amount to be deposited with the Public Utilities Commission ("Commission") in the sum of \$ 2,000 pursuant to Sections 1070 of the Public Utilities Code. This amount is to be paid in ten (10) consecutive monthly installments of \$ 200, the first installment due 30 days after issuance of the Commission's final order approving and adopting the terms of this Stipulation For Settlement as its final disposition of the matters subject to this investigation.

2. Respondent Ameron, Inc. (Ameron) agrees to pay \$ 1,000.00 directly to the Commission to settle issues relating to Section 2100 of the Public Utilities Code in lieu of payment through respondent BD. This amount may be paid in ten consecutive monthly installments in the amount of \$ 100.00. The first installment is due 30 days after issuance of the Commission's final order approving and adopting the terms of this Stipulation For Settlement as its final disposition of the matters subject to this investigation.

3. Respondent Guntert Sales Division, Inc. (Guntert) agrees to pay \$ 1,100.00 directly to the Commission to settle issues

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relating to Section 2100 of the Public Utilities Code in lieu of payment through respondent BD. This amount may be paid in ten consecutive monthly installments in the amount of \$ 110.00. The first installment is due 30 days after issuance of the Commission's final order approving and adopting the terms of this Stipulation For Settlement as its final disposition of the matters subject to this investigation.

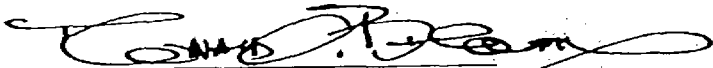
4. The staff of the Public Utilities Commission, specifically the Compliance and Enforcement Branch of the Transportation Division, agrees with the terms of this stipulation and recommends to the Commission that these terms be accepted, that this proceeding known as I. 89-09-004 be terminated, that the respondents in I. 89-09-004 shall henceforth not be subject to any future sanctions or fines arising from transportation performed by BD to and including the date of this Stipulation, and be relieved of liability for the payment of any amounts other than those specifically agreed to be paid in this stipulation.

I. 89-09-004 /ALJ/RTB/

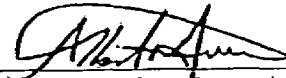
5. The parties enter into this agreement freely and voluntarily.

6. It is understood and agreed that the terms herein are binding when approved by the Commission.

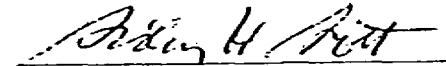
Dated: **MAY 3, 1992**



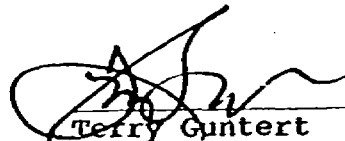
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