

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

601 NEW JERSEY AVENUE, NW

SUITE 9500

WASHINGTON, DC 20001

December 8, 2008

SECRETARY OF LABOR,	:	
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA)	:	
	:	Docket No. SE 2009-61-M
v.	:	A.C. No. 08-00768-154205 B96
	:	
CCC GROUP, INC.	:	

BEFORE: Duffy, Chairman; Jordan, Young, and Cohen, Commissioners

ORDER

BY THE COMMISSION:

This matter arises under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. (2000) (“Mine Act”). On September 17, 2008, the Commission received from CCC Group, Inc. (“CCC”) a letter maintaining that it had filed a timely contest of a proposed penalty assessment that the Department of Labor’s Mine Safety and Health Administration (“MSHA”) was treating as untimely. Under section 105(a) of the Mine Act, an operator who wishes to contest a proposed penalty must notify the Secretary of Labor no later than 30 days after receiving the proposed penalty assessment. If the operator fails to notify the Secretary, the proposed penalty assessment is deemed a final order of the Commission. 30 U.S.C. § 815(a).

CCC’s letter was originally docketed here as a motion to reopen, but the Secretary of Labor submitted a response to CCC’s letter stating that MSHA had erred in taking its original position, that CCC’s contest was in fact timely filed, and that the Secretary will file a petition for assessment of penalty petition with the Commission and CCC within 45 days. Having reviewed CCC’s letter and the Secretary’s response, we conclude that the proposed assessment at

issue has not become a final order of the Commission because CCC timely contested it. Consequently, this docket is dismissed.

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Michael F. Duffy, Chairman

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Mary Lu Jordan, Commissioner

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Michael G. Young, Commissioner

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Robert F. Cohen, Jr., Commissioner

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