

1401 - 21st Street, Suite 407
Sacramento, California 95814
Telephone: (916) 445-1888

STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD

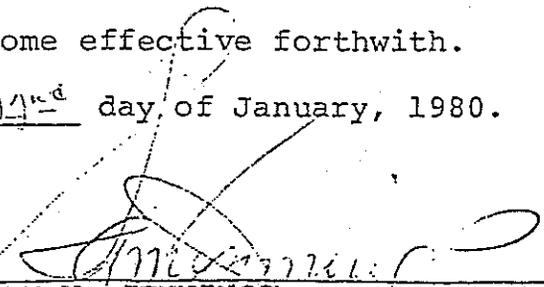
In the Matter of the Protest of)
)
POLLARD-RAVENS-CROFT CO., dba)
POLLARD-WITTMAN-ROBB CHEVROLET,) Protest No. PR-201-78
)
Protestant,)
)
vs.)
)
CHEVROLET MOTOR DIVISION,)
GENERAL MOTORS CORPORATION,)
)
Respondent.)

DECISION

The attached Proposed Decision of the Administrative Law Judge resulting from the hearing conducted pursuant to the Order of Remand is hereby adopted as modified by the New Motor Vehicle Board as its Decision in the above entitled matter. Pages 1 through 20 and paragraphs 1(a), 1(b), and 1(d) of page 21 of the Proposed Decision considered by this Board on September 25, 1979, are incorporated therein and are made a part of this Decision.

This Decision shall become effective forthwith.

IT IS SO ORDERED this 24th day of January, 1980.



SAM W. JENNINGS
Executive Secretary
New Motor Vehicle Board

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Findings Pursuant
to Order of Remand

Procedural Background

1. On September 7, 1979, a proposed decision was submitted to the New Motor Vehicle Board by Administrative Law Judge Anthony M. Skrocki. The Board at its meeting on September 25, 1979, considered the matter and on September 28, 1979, through its Executive Secretary, issued an Order of Remand. The order directed the Administrative Law Judge to obtain additional evidence pertaining to the effect upon the public welfare of the termination of the Chevrolet Motor Division (Chevrolet) franchise held by Pollard-Ravenscroft Co., dba Pollard-Wittman-Robb Chevrolet. (PWR).

2. On October 4, 1979, a prehearing conference was held before Anthony M. Skrocki and the hearing on remand was held on October 29, 30, November 15, 16, 19, 20, 23, 27, and 28, 1979.

3. Respondent (Chevrolet) was represented by J. Keith McKeag of Downey, Brand, Seymour & Rohwer and by Diane L. Kaye of General Motors Corporation. Protestant (PWR) was represented by Sidney I. Pilot of Sidney I. Pilot, a Professional Corporation.

Information Sought by the Board
Pertaining to the Impact Upon the Public
Welfare in the Event of Termination of PWR Chevrolet

4. The Order of Remand directed the obtaining of information as to the following:

a. Chevrolet's definitive plans to replace PWR in the event of termination, including the feasibility and implementation of those plans;

b. The driving distance and travel time between PWR and the surrounding Chevrolet dealerships;

c. Which of the surrounding Chevrolet dealerships are dual franchisees;

d. The number of warranty repair orders and customer repair orders, from January 1977, of PWR and the surrounding Chevrolet dealerships;

e. The number of complaints, from January 1977, lodged against PWR and each of the surrounding Chevrolet dealerships;

f. The effect of the termination of PWR on the Chevrolet retail sales and service in the vicinity.

Facts Relating to Chevrolet's Definitive Plans to Replace PWR in the Event of Termination, Including the Feasibility and Implementation of Those Plans

5. Chevrolet has no specific candidate to replace PWR. Chevrolet does not know who the dealer would be or who the personnel would be if PWR were terminated.

6. It is Chevrolet's policy not to talk to prospective dealers about a specific dealership until Chevrolet is ready to proceed with the establishment of the franchise. As a result of this policy, Chevrolet will not have a new dealer designated as a replacement for PWR until the termination proceedings are finally adjudicated, i.e. upon exhaustion of all administrative and judicial proceedings and appeals.

7. Chevrolet has not picked a specific location for a replacement dealer. The location site and size will be decided by the new dealer subject to Chevrolet's approval.

8. Chevrolet located several parcels of land within approximately 1 mile of PWR which could be used separately as temporary facilities or for permanent facilities if used in conjunction with each other. One of these is the site of a former Chrysler dealership and another is the site of a Ford dealership. However, none of the properties located by Chevrolet were satisfactory by themselves for a permanent facility.

9. Chevrolet obtained an option to purchase the site of the former Chrysler dealership with the intention of using it for a

temporary main address facility and providing emergency warranty service. Chevrolet intended to use other sites for other necessary functions until a new franchisee could be appointed and permanent facilities obtained.

10. The option to purchase the former Chrysler site expired on December 28, 1979. Chevrolet acquired the option to show that there was land available which could be immediately used for warranty service.

11. None of the sites located by Chevrolet are as large as PWR, and the facilities are not comparable.

12. Chevrolet does not know if there would be a time lag, nor its possible duration, between termination of PWR and establishment of a replacement dealership.

13. Under Chevrolet's operating procedures, a new facility could open simultaneously with the termination of PWR provided that a specific termination date is known sufficiently in advance.

14. Assuming that suitable land could be located, it is estimated that following acquisition of such land it would take nine months to one year to build permanent facilities for a replacement dealership.

15. In the event there is a time lag between the termination of PWR and the establishment of the new franchise, the sales and

service of Chevrolets would be done through temporary facilities and by the other Chevrolet dealers in the San Fernando Valley area. If these dealers cannot absorb the volume of service work required, other General Motors dealers (Pontiac, Buick, and Oldsmobile) could be authorized to perform warranty work, or the Chevrolet owners could be authorized to have warranty work performed at independent garages and the bills then presented to Chevrolet for payment.

16. Chevrolet has purchased a list of persons residing in the San Fernando Valley who are registered owners of 1977, 1978, or 1979 Chevrolet vehicles. If PWR is terminated, letters will be sent to these owners informing them of the termination and providing them with names and addresses of other Chevrolet dealers. The Chevrolet owners will also be provided with a special phone number in the Los Angeles zone office to be used if they are experiencing particular hardships due to PWR's termination.

Facts Relating to the Driving Distance
and Travel Time Between PWR and the
Surrounding Chevrolet Dealerships

17. The driving distances and driving times between PWR and some of the other San Fernando Valley area Chevrolet dealerships were measured. The distances and driving times were stipulated to be as follows, depending upon the route taken.

<u>Dealer Name</u>	<u>Distance From PWR</u>	<u>Time From PWR</u>	
		<u>Non-Rush Hour</u>	<u>Rush Hour</u>
Terry York Chevrolet Encino	4.6-6.3 miles	9-16 min.	18 min.
Crossroads Chevrolet N. Hollywood	5.3-5.4 miles	12 min.	16 min.
Rancho Chevrolet Reseda	6.6-6.7 miles	16-17 min.	22 min.
Baher Chevrolet Northridge	9.4-12.3 miles	28-29 min.	32 min.
Tom Carrell Chevrolet San Fernando	10.0-10.1 miles	16-17 min.	19 min.
Community Chevrolet Burbank	9.8-12.2 miles	18-20 min.	22 min.
Clem Ruh Chevrolet Canoga Park	9.9 miles	22 min.	27 min.

18. All of the following Chevrolet dealers are located on at least one major bus route served by the Southern California Rapid Transit District (RTD) and in an area depicted by the RTD within the San Fernando Valley Bus Service Guide.

PWR - Van Nuys	Crossroads - North Hollywood
Terry York - Encino	Clem Ruh - Canoga Park
Rancho - Reseda	Bell - Tujunga
Baher - Northridge	Muller - Montrose
Tom Carrell - San Fernando	Allen Gwynn - Glendale
	Community - Burbank

19. All of the Chevrolet dealers surrounding PWR, with the exception of Tom Carrell in San Fernando and Crossroads in North Hollywood, provide courtesy vans for their service customers and would provide transportation to their customers within the San Fernando Valley. Crossroads would also provide transportation by using other vehicles.

Facts Pertaining to Which of the Surrounding
Chevrolet Dealerships Operate Multiple Franchises

20. Of the surrounding Chevrolet dealerships, only Terry York in Encino is a multiple franchisee. Terry York is also franchised by British-Leyland and as of March, 1979, is a Toyota franchisee. Neither British-Leyland nor Toyota are on the same premises as the Chevrolet operations and there are separate repair facilities for both foreign makes.

Facts Pertaining to the Capability
of the Surrounding Chevrolet Dealerships
to Absorb PWR's Service Work

21. Chevrolet establishes a "Guide" or standard for dealerships as recommendations of what Chevrolet would like its dealers to have in many areas of their operation. The Guide for service stalls is based in part on the planning potential assigned to each dealer. The planning potential is based in part on the number of registered vehicles in the area which Chevrolet has determined to be each dealer's designated area of geographic sales and service advantage (AGSSA). PWR's planning potential is 2,170 units.

22. In 1979 (thru September) PWR had written 10,711 Customer Repair Orders (CROs), and 8,801 Warranty Repair Orders (WROs) in its mechanical and body shop operations. The above figures include Mercedes-Benz repair orders^{1/} and average a total of 2,168 repair orders per month. One service stall can accommodate an average of 3 repair orders per day.

23. Using only the 5 dealers the AGSSAs of which are adjacent to PWR's AGSSA, the following indicates the number of service stalls available and the established Guide for each dealer:

<u>Dealer</u>	<u>Number of Stalls</u>			<u>Guide</u>
	<u>Mechanical</u>	<u>Body</u>	<u>Total</u>	
PWR Van Nuys (Chevrolet only) (PWR also has 39 stalls used for Mercedes-Benz)	41	32	73	64
Baher Northridge	54	30	84	60
Crossroads N. Hollywood	50	17	67	53
Carrell San Fernando	27	19	46	49
Rancho Reseda	43	8	51	46
Terry York Encino	73	22	95	44
TOTAL	288	128	416	316
		Guide	-	316
		Excess Over Guide	-	100

1. Separate figures were not available.

If PWR is terminated and its 73 stalls are no longer available to perform service work on Chevrolet vehicles, the above information indicates that the remaining 5 dealers will have a total of 27 service stalls over the guide established for all 6 AGSSAs (100 - 73 = 27).

24. To absorb PWR's average number of monthly repair orders (2,168) it would be necessary for the 5 surrounding dealers to have a total of 35 stalls over guide. Therefore, the 5 surrounding dealers are 8 stalls short of having adequate facilities to accommodate the repair work presently done by PWR, (including the number of repair orders attributable to Mercedes-Benz).

25. If, however, the following two San Fernando Valley area dealers were also included the result would be as follows:

<u>Dealer</u>	<u>Number of Stalls</u>		<u>Total</u>	<u>Guide</u>
	<u>Mechanical</u>	<u>Body</u>		
Community Chev. Burbank	55	20	75	44
Bell Chev. Tujunga	<u>29</u>	<u>10</u>	<u>39</u>	<u>30</u>
TOTAL	84	30	114	74
			Guide -	<u>74</u>
			Excess over Guide--	30

Adding the excess over Guide (30) from these two dealerships would result in an excess of 22 (30 - 8) service stalls over the computed number of stalls needed to absorb the number of CROs and WROs written by PWR. No figures were supplied on the number of stalls of the other San Fernando Valley area Chevrolet dealers.

26. The 11 San Fernando Valley area Chevrolet dealers currently do not have an adequate number of mechanical technicians and supervisory personnel as recommended by Chevrolet.

27. The following represents the number of mechanical service technicians employed by PWR and the 5 surrounding dealerships.

	<u>September 1979</u>	
	<u>Total</u>	<u>%</u>
PWR	31	25.4
Crossroads	12	9.9
Tom Carrell	9	7.4
Baher	26	21.3
Rancho	14	11.4
Terry York	<u>30</u>	<u>24.6</u>
TOTAL	122	100%

Facts Relating to the Number of Customer
Complaints Lodged Against PWR
and The Surrounding Chevrolet Dealerships

28. The figures below represent the number of complaints which Chevrolet has recorded during the time periods indicated. Not all complaints received by Chevrolet are recorded, nor is the recording of a complaint indicative of the fact that the complaint was justified.

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COMPLAINTS RECORDED BY CHEVROLET

<u>Dealer</u>	<u>1977</u>	<u>1978</u>	<u>1979</u> (thru late October)
PWR (Van Nuys)	109	89	60
Community (Burbank)	54	61	18
Clem Ruh (Canoga Park)	126	55	34
Terry York (Encino)	69	100	51
Allen Gwynn (Glendale)	34	44	23
Muller (Montrose)	19	26	9
Crossroads (N. Hollywood)	47	59	39
Baher (Northridge)	56	70	27
Rancho (Reseda)	38	67	29
Carrell (San Fernando)	42	43	16
Bell (Tujunga)	<u>10</u>	<u>22</u>	<u>10</u>
TOTAL	604	636	316

29. The figures below represent the number of closed complaints recorded by the State of California, Department of Consumer Affairs, Bureau of Automotive Repair from January 1, 1977, to October 19, 1979.

<u>Dealer</u>	<u>Number of Complaints</u>	<u>Number of Notices of Violations Issued</u>
PWR (Not including Mercedes-Benz)	30	0
Community	16	2
Rancho	19	3
Carrell	9	0
Crossroads	10	1
Baher	13	0
Clem Ruh	21	4
Terry York	33	3

30. The figures below represent the number of complaints lodged with the State of California, Department of Motor Vehicles from January 1977, to October 27, 1979.

<u>Dealer</u>	<u>Number of Complaints</u>
PWR	50 (3 of which pertained to Mercedes-Benz transactions)
Clem Ruh	23
Baher	15
Community	16
Rancho	22
Crossroads	17
Terry York	38 (2 of which pertained to Terry York British Imports)
Tom Carrell	4

Facts Relating to the Effect of Termination of PWR on the Retail Sales and Service in the Vicinity

31. The AGSSA being serviced by PWR, AGSSA #8, has the largest population and the greatest number of households of the 11 AGSSAs in the San Fernando Valley area of Chevrolet's Los Angeles zone.

32. The chart on the following page indicates the demographics of the area and is based on the 1970 census figures with projections for 1979 and 1984.

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MULTI-DEALER AREA DEMOGRAPHICS

MULTI-DEALER AREA: LOS ANGELES - SF
AGSSA TOTALS

AGSSA BY CENSUS TRACTS	-----POPULATION-----				UNIT	%	-----HOUSEHOLDS-----			UNIT
	1960	1970	1979*	1984*	CHANGE 70-79	CHANGE 70-79	1970	1979*	1984*	CHANGE 70-79
AGSSA 1	129830	155005	152937	152605	-2068	-1.33	41759	46898	49915	5139
AGSSA 2	95633	164392	171937	177096	7545	4.59	47275	65264	75727	17989
AGSSA 3	85528	141435	149940	155513	6505	6.01	38433	52434	60578	14001
AGSSA 4	52589	61518	56970	54735	-4548	-7.39	20255	22441	23724	2186
AGSSA 5	56486	67497	61522	58514	-5975	-8.85	20899	23035	23324	2136
AGSSA 6	93014	105290	101637	100146	-3653	-3.47	34383	43097	48179	8714
AGSSA 7	40581	62356	73881	80737	11525	18.48	19837	28957	34255	9120
AGSSA 8	148270	176127	181753	185877	5626	3.19	67450	82122	90697	14672
AGSSA 9	120840	132879	131567	131552	-1312	-0.99	53018	61048	65760	8030
AGSSA 10	104775	104979	93353	87362	-11626	-11.07	41118	43828	44934	2710
AGSSA 11	112245	119054	121268	123173	2214	1.86	51139	55750	58469	4611
TOTAL	1039791	1290532	1296765	1307310	6233	0.48	435566	524874	575562	89308

* Projected.

- AGSSA #1 - Tom Carrell - San Fernando
- " #2 - Clem Ruh - Canoga Park
- " #3 - Baher - Northridge
- " #4 - Muller - Montrose
- " #5 - Bell - Tujunga
- " #6 - Rancho - Reseda
- " #7 - Terry York - Encino
- " #8 - PWR - Van Nuys
- " #9 - Crossroads - North Hollywood
- " #10 - Community - Burbank
- " #11 - Allen Gwynn - Glendale

33. The figures listed below indicate the number of new Chevrolets registered in the San Fernando area and Van Nuys.

<u>Year</u>	<u>San Fernando Area</u>		<u>Van Nuys</u>	
	<u># of New Cars Registered</u>	<u># of New Trucks Registered</u>	<u># of New Cars Registered</u>	<u># of New Trucks Registered</u>
1977	10,339	4,415	1,641	631
1978	11,260	4,754	1,867	627
1979	6,242	2,767	823	259
	(thru July)		(thru June)	

34. Listed below are the total numbers of Chevrolet vehicles registered (and in operation) in the San Fernando area.

	<u>1977</u>	<u>1978</u>	<u>1979 (thru July)</u>
Cars			
6 years old or newer	59,381	61,130	61,430
Trucks			
8 years old or newer	25,585	27,039	29,931
Cars			
7 years old or older	---	---	86,003
Trucks			
9 years old or older	---	---	21,326
Total Chevrolet Cars Registered and in Operation thru July 1979		147,433	
Total Chevrolet Trucks Registered and in Operation thru July 1979		<u>51,257</u>	
TOTAL		198,690	

35. The charts on the following three pages show the average gross profit per vehicle sold by PWR and the dealerships in the five adjacent AGSSAs by vehicle model and the number of each model sold.

AVERAGE GROSS PROFITS - RETAIL 1977

	Terry York		Carrell		Rancho		Baher		Crossroads		PWR	
	<u>Encino</u>		<u>San Fernando</u>		<u>Reseda</u>		<u>Northridge</u>		<u>N. Hollywood</u>		<u>Van Nuys</u>	
<u>Cars</u>	#	G.P.	#	G.P.	#	G.P.	#	G.P.	#	G.P.	#	G.P.
Regular	388	\$557	106	\$569	115	\$616	243	\$664	238	\$663	291	\$668
Monte Carlo	153	538	84	564	48	591	108	766	112	625	191	640
Malibu	70	436	23	613	33	576	48	739	81	601	100	565
Camaro	325	516	94	572	61	677	191	446	164	669	260	651
Nova	289	388	75	495	105	504	136	437	188	529	233	546
Vega	36	220	18	404	22	236	27	379	30	404	51	577
Monza	43	374	24	451	28	449	42	267	48	459	51	522
Chevette	93	356	47	385	34	387	61	322	67	397	114	521
Sportvan	-	-	-	-	1	717	-	-	7	1961	-	-
Corvette	86	1849	5	1771	10	2148	102	1939	10	1657	15	3029
<u>Trucks</u>												
Van/Specialty*	202	\$682	122	\$568	211	\$790	372	\$544	102	\$684	323	\$687
10	115	735	130	674	132	785	65	689	100	780	142	730
20-30	137	816	110	796	43	1023	118	679	140	752	227	714
Medium	3	1199	1	1638	-	-	-	-	1	927	16	476
Heavy	1	540	-	-	-	-	-	-	-	-	-	-

* Includes LUV, vans, converted vans and Blazers.

Number of vehicles sold.

G.P. Gross Profit

AVERAGE GROSS PROFITS - RETAIL 1978

<u>Cars</u>	<u>Terry York</u>		<u>Carrell</u>		<u>Rancho</u>		<u>Baher</u>		<u>Crossroads</u>		<u>PWR</u>	
	<u>#</u>	<u>G.P.</u>	<u>#</u>	<u>G.P.</u>	<u>#</u>	<u>G.P.</u>	<u>#</u>	<u>G.P.</u>	<u>#</u>	<u>G.P.</u>	<u>#</u>	<u>G.P.</u>
Regular	338	\$510	96	\$618	84	\$644	168	\$739	161	\$666	219	\$702
Monte Carlo	285	532	92	644	61	636	170	806	160	677	250	662
Malibu	212	539	49	595	53	609	69	545	157	653	158	630
Camaro	402	631	122	734	104	747	248	649	189	952	288	907
Nova	170	385	63	548	63	507	64	473	101	584	139	424
Vega	2	300	-	-	-	-	3	1432	2	611	-	-
Monza	197	479	52	570	26	457	42	253	67	493	67	486
Chevette	165	394	75	510	52	478	116	346	76	611	163	428
Sportvan	-	-	1	709	1	1081	-	-	4	1275	-	-
Corvette	78	3075	8	3354	5	4543	67	2597	6	3,531	8	3000
Total Cars	1849		558		449		947		923		1292	
<u>Trucks</u>												
Van/Specialty*	347	\$849	190	\$782	168	\$945	374	\$730	138	\$731	290	\$629
10 Series	126	828	129	916	120	824	83	677	92	938	205	679
20-30 Series	179	956	105	1061	88	965	107	800	145	885	307	793
Medium	10	1076	1	1492	-	-	-	-	11	1002	-	-
Total Trucks	662		425		376		564		386		802	
Total Vehicles	2511		983		825		1511		1309		2094	

* Includes LUV, vans, converted vans and Blazers

Number of vehicles sold

G.P. Gross Profit

Total Cars 6018
 Total Trucks 3215
 Total Vehicles 9233

AVERAGE GROSS PROFITS - RETAIL - thru August 1979

	Terry York		Carrell		Rancho		Baher		Crossroads		PWR	
	<u>Encino</u>		<u>San Fernando</u>		<u>Reseda</u>		<u>Northridge</u>		<u>N. Hollywood</u>		<u>Van Nuys</u>	
<u>Cars</u>	#	G.P.	#	G.P.	#	G.P.	#	G.P.	#	G.P.	#	G.P.
Regular	167	\$467	50	\$590	53	\$515	80	\$869	72	\$752	103	\$598
Monte Carlo	112	579	52	631	39	523	76	751	77	734	83	626
Malibu	150	499	38	572	61	558	36	683	105	668	68	665
Camaro	237	739	57	855	50	799	132	807	95	970	124	719
Nova	43	643	13	811	6	367	21	623	86	944	18	229
Citation	66	653	29	1032	19	1117	47	953	-	-	63	877
Monza	81	473	21	482	23	618	32	492	42	626	34	527
Chevette	167	438	61	576	62	504	118	419	184	541	80	509
Sportvan	-	-	2	927	-	-	-	-	1	729	-	-
Corvette	43	3,532	8	2821	3	3528	65	2818	8	3440	7	2562
 <u>Trucks</u>												
Van/Specialty*	239	\$829	101	\$888	125	\$914	248	\$836	96	\$807	204	\$609
10 Series	39	1190	63	1065	51	1117	54	1121	67	878	62	894
20-30 Series	107	1127	63	1106	43	977	30	911	71	925	85	784
Medium	8	1476	1	1842	-	-	-	-	7	960	5	921

* Includes LUV, vans, converted vans and Blazers

Number of vehicles sold

G.P. Gross Profit

36. The following charts indicate the average gross profit per vehicle sold by PWR and the dealerships in the 5 adjacent AGSAAs.

<u>Dealer</u>	<u>1978</u>	
	<u>Average Gross Per Car</u>	<u>Average Gross Per Truck</u>
PWR	\$647	\$665
Baher	759	735
Carrell	561	893
Crossroads	641	766
Rancho	658	911
Terry York	626	877

PWR was the 3rd highest of the six dealers in gross profit earned on the sale of cars and the lowest of the six in gross profit earned on the sale of trucks in 1978.

<u>Dealer</u>	<u>1979</u>	
	<u>Average Gross Per Car</u>	<u>Average Gross Per Truck</u>
PWR	\$706	\$ 660
Baher	972	889
Carrell	734	1,001
Crossroads	699	815
Rancho	642	1,001
Terry York	690	954

PWR was the 3rd highest of the six dealers in gross profit earned on the sale of cars and the lowest of the six in gross profit earned on the sale of trucks in 1979.

37. A dealership's average gross profit per car or truck as shown on the charts above is influenced by the model and the number of each model of vehicle sold. For example: note the number of Corvettes sold by each dealer and the average gross profit per Corvette enjoyed by each dealer in the charts on pages 15, 16, and 17.

38. Listed below are the retail labor rates per hour charged by the dealers in the San Fernando Valley area.

<u>Dealer</u>	<u>Mechanical Rate</u>	<u>Body Shop Rate</u>
PWR Van Nuys	\$28	\$16
Community Burbank	24	24
Clem Ruh Canoga Park	24	24
Terry York Encino	30	30
Allen Gwynn Glendale	25	25
Muller Montrose	22	20
Crossroads N. Hollywood	22	22
Baher Northridge	25	25
Rancho Reseda	23	20
Carrell San Fernando	24.35	25.95
Bell Tujunga	24	24

39. The total charge for a particular repair is normally the result of multiplying the hourly labor rate charged by the time allowed for the repair in one of three flat rate manuals (Chevrolet, Chilton, or Mitchell) or by a pricing system established by the dealerships.

40. The amount of labor time indicated for certain repair operations will vary among the manuals, with some manuals consistently indicating a greater time allowance than others. It is therefore possible for a dealer with a higher hourly rate to use a lesser labor time allowance. That dealer's charge for a given operation conceivably could be less than a dealer with a lower hourly rate using a greater labor time allowance. It is also possible for a dealer performing retail work to add more labor time to the operation than that which is shown in the manuals.

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41. The charts below indicate the dollar volume of repair work done by PWR and the five dealers in the adjacent AGSSAs.

1978

<u>Dealer</u>	<u>Mechanical</u>	<u>Body Shop</u>	<u>Warranty</u>
PWR	\$ 1,757,837	\$ 706,569	\$ 324,190
Baher	1,430,246	815,680	296,125
Carrell	555,341	324,733	102,438
Crossroads	862,313	566,435	313,166
Rancho	774,943	372,742	151,663
Terry York (includes other franchises)	1,506,465	<u>1,055,739</u>	<u>504,024</u>
TOTAL	<u>\$ 7,887,145</u>	<u>\$ 3,841,898</u>	<u>\$ 1,691,606</u>

In 1978 PWR accounted for 22.3% of the mechanical, 18.4% of the body shop and 19.1% of the warranty dollar volume.

1979 (thru September)

<u>Dealer</u>	<u>Mechanical</u>	<u>Body Shop</u>	<u>Warranty</u>
PWR	\$ 1,435,856	\$ 677,469	\$ 293,686
Baher	1,345,460	689,626	291,016
Carrell	514,401	290,645	109,477
Crossroads	694,355	423,039	227,732
Rancho	650,583	330,684	95,362
Terry York (includes other franchises)	<u>1,985,020</u>	<u>722,677</u>	<u>388,674</u>
TOTAL	<u>\$ 6,625,675</u>	<u>\$ 3,134,140</u>	<u>\$ 1,405,947</u>

Through September of 1979, PWR accounted for 21.7% of the mechanical, 21.6% of the body shop, and 20.9% of the warranty dollar volume.

42. Chevrolet has made no study of the effect on the retail prices of new Chevrolets to consumers if PWR is terminated, nor have studies been done by Chevrolet in any other termination situations.

43. The allocation of vehicles a dealer receives is determined by the sales of that dealer as a percent of zone sales. The allocation of model mix is based on the percent of sales of each model.

44. The zone's allocation is determined by the sales within that zone as a percent of national availability. The allocation computations are based on an eight week rolling period; the oldest week's figures drop off as a new week's figures are added on.

45. If a dealer ceases operation in a zone, that dealer's allocation will be distributed to the remaining dealers in that zone. The immediate effect of this distribution could be a loss of vehicles to the San Fernando Valley area since the closed dealer's vehicles could be distributed in accordance with paragraph 43 above. If the remaining dealers can maintain the zone's percentage of sales as would have occurred if the dealer had not ceased operation, the zone allocation will remain the same. If the remaining dealers in the zone do not maintain the same percentage of sales for the zone, the zone allocation will drop.

46. Aside from the effect on the zone's allocation, the San Fernando Valley area is likely to experience a significant reduction in allocation of vehicles if PWR is terminated and not

immediately replaced. In 1978^{2/} PWR and the dealers in the five adjacent AGSSAs sold 9,233 vehicles. PWR accounted for 2,094 or 22.68% of the total sales. Assuming that the remaining Chevrolet dealers in the San Fernando Valley area are able to increase their sales volume by an amount equal to 50%^{3/} of PWR's annual sales volume of over 2,000, the result would be a loss of sales volume in the San Fernando Valley area of approximately 1,000 vehicles. This loss in sales volume would then decrease the percentage allocation of vehicles to the San Fernando Valley area by that amount of vehicles that would have been allocated had the other 1,000 vehicles been sold by the remaining dealers.

47. If a new dealer is established to replace the closed dealer and is of approximately the same size and capacity, zone sales should increase again and the zone allocation should also increase.

DETERMINATION OF ISSUES

48. The proposed decision considered by the Board on September 25, 1979, read in part that:

"1. Respondent has established that good cause exists for termination of the franchise for the following reasons:

(c) . . . Termination of the franchise would not be injurious to the public welfare; . . ."

49. After the taking of additional evidence as directed in the Order of Remand, it is found that termination of the franchise

2. 1978 figures were used since they were the last figures available for a full calendar year.

3. The 50% figure was used to demonstrate the potential effect upon allocation of vehicles into the San Fernando Valley area.

would not be injurious to the public welfare if in fact Chevrolet establishes a replacement dealership in Van Nuys immediately upon termination of the PWR franchise. The evidence produced at the remand hearing only pertains to Chevrolet's intent to replace PWR if it is terminated. However, Chevrolet did not produce evidence establishing the feasibility of implementing their intention. No significant evidence was introduced of the practicality of establishing a permanent dealership in Van Nuys capable of offsetting the detrimental effects upon the public of a termination of PWR.

* * * * *

The following proposed decision on the Order of Remand is respectfully submitted:

The protest is overruled on condition that the PWR franchise be replaced in Van Nuys with permanent facilities which meet Chevrolet's current guides for a dealership with a planning potential of 2,170 units. For purposes of this decision "replaced in Van Nuys" means replacement in that area bordered by Magnolia Boulevard on the south, the Tujunga Wash on the east, the Southern Pacific railroad tracks on the north, and Sepulveda Boulevard on the west.

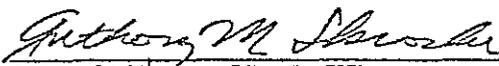
The termination shall become effective when the condition is met, at which time PWR will be required to cease operation of its Chevrolet franchise.

Chevrolet shall have two years from the conclusion of all proceedings and appeals in this matter to fulfill the condition.

In the event Chevrolet fails to establish a replacement dealership with permanent facilities in conformity with the above requirements, the protest shall be deemed to be sustained and PWR shall be entitled to continue as a Chevrolet franchisee.

I hereby submit the foregoing which constitutes my proposed decision in the above-entitled matter, as a result of a hearing had before me on the above dates and recommend its adoption as the decision of the New Motor Vehicle Board.

Dated: January 11, 1980.


ANTHONY M. SKROCKI
Administrative Law Judge
New Motor Vehicle Board

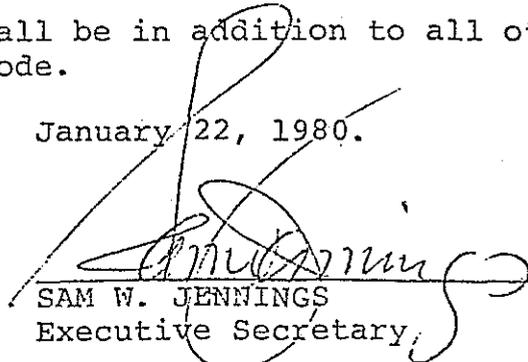
MODIFICATION:

In order to provide reasonable advance notice to interested parties and in order to provide for the public welfare, Chevrolet shall not terminate the franchise without first giving written notice to the New Motor Vehicle Board and PWR sixty (60) days prior to Chevrolet's estimated date of compliance with the provisions of this decision. Termination shall be effective sixty (60) days after such notice provided that the conditions imposed by this decision have been met.

In the event that PWR chooses to voluntarily terminate its Chevrolet franchise, PWR shall give notice to the New Motor Vehicle Board sixty (60) days prior to the desired date of termination.

The above notice requirements shall be in addition to all other requirements imposed by the Vehicle Code.

Dated: January 22, 1980.


SAM W. JENNINGS
Executive Secretary