

October 17, 1998

To: The Secretary,  
Washington Utilities and Transportation Commission

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|------------------------------|---|----------------------|
| In the                       | } |                      |
| Matter Of                    | } | Docket No. TV-971477 |
| Household Goods Carriers     | } |                      |
| Proposed Rulemaking (CR-102) | } |                      |

#### Comments of Edward Mitchell

In my comments of September 14, 1998, I presented arguments (and numerous referenced sources) establishing that the moving industry is a business sector that acts like a cartel and suffers from inefficiencies, lack of innovation, and wide spread corruption. I further noted that the industry has traditionally operated as a cartel, restricting entry by new competitors and holding profits constant through the use of government to establish constant tariffs for all carriers. The Small Business Economic Impact Statement (SBEIS) provided with CR-102 concurs with my findings, noting in the summary that “Current regulations of household goods movers serve to inhibit competition, provide limited consumer protection, and no pricing flexibility.”

The solution to these problems is not a more tightly controlled industry through more regulation, but instead a regulatory infrastructure that fosters competition, leading to

market pressures such that good companies will excel through quality service, adding innovations to improve productivity, efficiency, quality, reliability and security for their customers. The SBEIS echoes my statement noting that “The clear trend in transportation regulation has been to allow market forces and consumer protection standards, rather than regulation, to ensure quality service at fair, just and reasonable prices.”

Simultaneously, better information must be provided to consumers to help them make informed choices when selecting a moving carrier. My comments of September 14<sup>th</sup> provided a number of suggestions for enhancing the existing guide “Your Rights and Responsibilities as a moving company customer”.

I have been in contact with the Washington Utilities and Transportation Commission and the WUTC is to be commended for working hard to update the rules and regulations in a way that will encourage competition (rather than discourage competition as is done in the current rules and their interpretation). The moving industry presents unique regulatory challenges because moving is not like most other industries. A bad move does not translate into lost business for the mover in the future. There is no market feedback loop to enable market forces to weed out bad moving companies. As such, total deregulation would, unfortunately, not be completely appropriate, as it would create a situation akin to a lawless Old West town. However, the WUTC can – and is – producing a rulemaking that fosters an environment that loosens restrictive regulations while simultaneously enabling consumers to make informed choices.

It is unfortunate that the existing regulatory environment, crafted long ago, has persisted until now. But it is also understandable that government agencies receive biased input in the crafting of regulations, considering that roughly 90% of the respondents to

this proceeding are the moving industry or its representatives. Individual consumers have neither initiative nor economic incentive to participate in these rulemakings. According to a case study<sup>1</sup>, the state legislature set strict requirements for entry into the moving industry in the 1930s because legislators were concerned that “unregulated, cutthroat competition would lead to deterioration in the service, safety problems, overly intensive competition in urban areas, and a lack of service in rural areas.” Today, our society understands economics well enough to recognize the folly of this attitude! Further, the case study notes that the then transportation director for the state thought, “there are currently ‘more licensed moves than is necessary....’ ” As we have seen, this antiquated view of a central state committee determining how much of a good was required served mostly to protect the industry from competition, not consumers.

The key elements of the new rules are actions that:

Foster competition

Enhance the ability of customers to make informed decisions

Focus on consumers rather than protecting competitors from competition

Provide a regulatory environment that provides standards for safety of operations and ethical business conduct,

Give greater attention to complaints of consumers over complaints by companies

complaining about each other (thereby abusing the government process to protect themselves from competition).

This approach of using natural market selection, in conjunction with modest consumer

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<sup>1</sup> Page 249, number 22, *The Economic Way of Thinking*, 8<sup>th</sup> Ed., Paul Heyne, Prentice-Hall, 1997

protection regulations, may result in fewer enforcement actions and fewer resources devoted to enforcement by enabling the market to settle questions of quality and reliability. Market forces will stir up innovation to provide new moving concepts featuring greater efficiency, higher quality and lower cost moving alternatives.

### ***The Issue Of Cash Payments***

In my comments of September 14<sup>th</sup>, I briefly mentioned the use of cash payments to pay load and unload crews, and the problems associated with the anonymity of the load crew. In this section, I elaborate further upon the use of cash payments and assert that this may be done, in part, for the purposes of tax evasion.

It is common procedure in the moving industry for the driver to pay cash payments directly to the load and unload crew at both the point of origin and the destination. We learned this from a former moving company driver, from a former manager of a well-known moving company, from the current dispatcher of a moving company in Washington, and other members of the moving industry. Further, cash payments were made directly to the unload crew upon our moving van's arrival in Spokane. In a telephone conversation with a WUTC staff member of October 12<sup>th</sup>, I learned that WUTC was not aware that workers were being paid in cash.

I'm not certain as to all the possible reasons that the load and unload crews are paid in cash but I can make reasonable guesses. The main advantage to the moving company appears to be that it is highly unlikely that the independent load and unload crews report their cash income for the purposes of paying income tax. The result, depending upon the workers income tax bracket, is a significant "virtual" bonus. The

“rest of us” not only must pay income tax but also have pay withheld by the Social Security Tax, the Medicare Tax and other taxes such as required disability insurance. Not having to pay these taxes is a significant benefit to the anonymous day workers. For example, it is easy to show that a \$10 per hour cash payment is about the same as \$14 per hour taxable payment. Therefore, a day worker may be quite happy to receive lower cash wages. This action, in turn, reduces the cost of labor to the moving companies.

As described in my September 14<sup>th</sup> filing, this has the side effect of increasing the anonymity of the workers, which in turn, decreases their interest in ensuring that the customer receives a quality move (See the industry’s own comments on this in my September 14<sup>th</sup> filing, Section 3 and footnote 4). These day workers have little long-term interest in the success of the move or the moving company. This increases the likelihood of pilferage, as described in my previous filing. Workers accept low, tax free wages but “tip” themselves by stealing personal property. According to the Household Goods Freight Forwarders Association of America (footnote 4 of the September 14<sup>th</sup> filing), this problem is exacerbated by the introduction of the use of “independent contractors’ for the origin and destination crews....”.

There may be other reasons that moving companies are making cash payments to day workers but recognizing the value of those cash payments may take a better understanding of tax and employment law, than I have.

Further, not only are the day workers paid in cash, but they are anonymous unreachable people. In investigating the disappearance of goods from our moving van, I attempted to contact the day workers who unloaded our moving van in order to ask them questions. In our case, we moved from near Seattle to near Spokane. At the destination in

Spokane, our moving company coordinated with another mover in Spokane to provide an unload crew. I contacted the Spokane-based moving company and asked for the names of the unload crew. Of the two workers, the dispatcher knew the full name of only one of the workers and knew only the first name of the second worker (yet this was someone he claimed to have hired for many, many moves over a long period of time!). The only contact information he had for either worker was a telephone number. This telephone number was answered by a generic US West voice mail greeting instructing us to leave a message. No one ever returned our calls.

A moving company employee was the driver of our moving van from the Seattle area to Spokane. Because of his late arrival in Spokane, he told the unload crew, in the presence of another moving company employee that he would give them *additional cash* to cover them for their idle time. Upon his return of the van to the Seattle area, the driver did not return to the moving company. The police and the insurance company investigator both attempted to reach the driver. However, the driver had no phone number and the address he had provided was apparently that of his daughter. In effect, the entire delivery crew that arrived in Spokane was *anonymous and unreachable*. I'll bet these workers care a lot about accountability and responsibility!

The anonymous workers have no accountability or interest in the success or quality of the move. The moving companies are hiring people in this fashion because, as I have described in my September 14<sup>th</sup> filing, this distant relationship between moving companies and workers encourages the “tipping” of crews through the theft of personal property.

The use of unreported cash payments is widespread. I hypothesize that these cash

payments are being made by the moving companies specifically to evade the payment of income taxes by day workers, thereby lowering their costs of providing service. While cash payments might be legal, I allege that the intent of cash payments is to evade the tax laws, lower costs of business, and to further the anonymity of load and unload crews so that they can “tip themselves” through pilferage.

This matter is worthy of an investigation by the WUTC or the Office of the Attorney General. The moving industry must demonstrate accountability of its work force, both for the quality of the move and to abide by the tax laws.

### ***Summary***

In summary, I favor:

Steps to deregulate the moving industry

A regulatory infrastructure that encourages competition, not protection from competition,

The simultaneous enhancement of “Your Rights and Responsibilities as a moving

company customer” to fully inform customers to help them make quality decisions

about movers. In my September 14<sup>th</sup> filing, I presented a number of suggestions and

also recommended using the guide provided by the USAF JPPSO for additional

ideas. This guide should be required to be delivered to moving customers whenever a

written estimate is given.

Further, a mechanism must be established to collect service reliability and quality metrics

(such as is done by the State of Georgia) so that a carrier’s bad moves result in a

market feedback mechanism, resulting in future lost business.

The regulatory process and the change of regulations require the solicitation of feedback from interested parties. These steps necessarily take time. Consumers and business need to recalibrate to the new set of expectations and responsibilities placed upon all parties (government, business and the consumer ) by this rule change. As a result, the process of moving towards a less regulated environment is likely to be phased in over time. The steps proposed in the current rulemaking proceeding are an initial step. If this rulemaking is effective, it may be possible – and let's hope likely – that further regulatory reduction can be made in the future. Future steps might include wider latitude in pricing and lowered requirements for entry. Competition is good; protection from competition is evil.

Thank you for listening,

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