

*transcript from
adoption meeting
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Speakers:

- Gene Eckhardt, WUTC staff
- Kim Dobyms, WUTC staff
- Ann Rendahl, AAG
- Jeff Goltz, AAG
- Karen Bernd, Bernd Moving Systems
- Doug Bernd, Washington Movers Conference
- Rob Outcalt, Door To Door Storage
- John Woodring, Washington Movers Conference & Washington Truckers Assoc.
- J. Lawrence Coniff, Washington Movers Conference
- Jim Tutton, Washington Movers Conference
- Rick Smith, Corporate Moving Systems
- Brian McCulloch, Assoc. of Independent Movers
- Rob Manifold, Public Counsel
- Chris McKay, Shurgard Storage to Go

- Anne Levinson, Chair
- Richard Hemstad, Commissioner (not present)
- William R. Gillis, Commissioner

LEVINSON: Let me start by thanking everyone who sat through the rest of this meeting to this point for the last item on the agenda.

DOBYNS: Good afternoon Chairwoman Levinson and Commissioner Gillis. I'm Kim Dobyms representing staff in the household goods rule making. First I'd like to make a correction to the backup memo. I've been practicing saying this without smiling and I don't I can do it. On page 4 in the first line of the paragraph — in the first line of the last paragraph — the word "gods should be changed to the word goods." Also, staff has added its response to questions received from Jack Davis to our package. Extra copies are available at the back table. Staff wishes to thank all of those who participated in the process. Participants have included individual consumers, representatives of the Consumer Protection and Public Counsel Divisions of the Attorney General's Office, representatives and members of the Washington Movers Conference, representatives of the Container Storage and Transportation Industry, representatives of the Office of State Procurement from the state of Washington, representatives of the better business bureau, non permitted carriers, representatives and members of the Washington Association of Independent Movers and state legislators.

On November 4, 1997, the Commission filed the pre-proposal statement of inquiry, which is the CR101, with the Coder Reviser giving its notice of intent to review all rules in Chapter 480-12 WAC. On September 23, 1998, a notice of proposed rule making, which was the CR102, and a Small Business Economic Impact Statement was filed with the Coder Reviser's Office. The Commission stated on the CR102 that the proposed rules would ease entry, eliminate barriers to areas of operations, allow pricing flexibility, strengthen consumer protection

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elements, and clarify policy regarding the definition of household goods. During the discussion phase of this rule making which was prior to the filing of the CR102, staff concluded that brokers should be discussed in a separate rule making. In addition to working with stakeholders, through several public meetings and several rounds of written comments, staff has reviewed the historical policies and decisions of the Commission concerning household goods carriers. Other state and federal practices, intrastate carrier practices, and the concerns of consumers. Staff believes it has reached consensus on several issues including rules regarding cargo insurance, valuation, payment options concerning credit and the amount of time a carrier has to respond to the Commission concerning a complaint. However, the following issues remain contested by some participants.

The first one is easing entry. Easing entry into the current household goods carrier market became a primary goal for this rule making. Under the present rules, an applicant for a permanent household goods moving authority must provide a present or future need, must prove a present or future need for its services based primarily upon testimony by shippers. This kind of standard makes sense for carriers who could carry commercial commodities over and over again for the same shipper. It makes no sense for a household goods mover who serves individual consumers who move on average only once every seven years.

The current rules allow any existing carrier to protest the grant of new authority. Given that the Movers Conference and its members have protested nearly every application for new authority, the only practical way for a new moving company to obtain a permit has been to purchase an existing permit at inflated prices. The prices cited by the Movers Conference as purchase prices for existing permits are, to the Commission staff, evidence that the current entry process is not working and that it needs to be opened up.

The proposed rules require new applicants to apply for authority, receive Commission approval to operate, and operate for at least 180 days under temporary authority before the Commission will consider granting permanent authority. During this 180 period, staff will evaluate the applicant's fitness, willingness and ability to provide service, whether the service is in the public interest, and whether the service is needed for the current or future public convenience and necessity. Staff will also provide the applicant with an appropriate level of education, technical assistance, safety evaluation, and will monitor customer satisfaction of the services provided by the applicant. Based on this analysis, staff will make a recommendation to the Commission on whether or not to grant permanent authority.

The Washington Movers Conference appears to have supported easing entry in the hearing concerning the Commission's interpretive statement on temporary authority and during the rule making hearing during the CR102. At this point in time it appears the conference is withdrawing that support and I'm going — they're here today and I'm going to let them speak to why that may be.

The Association of Independent Movers supports staff's proposal with the exception of requiring personal financial information and providing shipper support statements. Consumer interest support easing entry requirements.

The next issue is eliminating the areas of operation restrictions. Staff proposes to eliminate rules governing local cartage and commercial zones and to grant household goods carriers authority to operate statewide unless a carrier chooses to provide service in a smaller area. That smaller area staff is identifying at the county level. Staff believes that it is in the public interest to eliminate restrictions that limit consumer choice and make enforcement more difficult. Staff also believes carriers will benefit from these proposed rule changes. Under the proposed rules, the opportunities for business growth will not be hampered by artificial boundaries. The Movers Conference is opposed to eliminating local cartage zones.

An essential change necessary to opening the household goods moving industry to market influences is rate flexibility. Staff proposes an interim rule that sets a band of rates a carrier may offer at up to 15 percent above and up to 35 percent below the existing tariff rates in effect on the adoption date of these rules. Attachment two, which is staff's memorandum concerning the economics of banded rate, also describes the methodology and reasons these percentages are recommended. Staff also believes the full-allocated cost structure is not the correct method in which to review rates for the new market structure in this industry. Staff believes the new market structure must have time to develop before any useful or meaningful cost information can be gleaned. Staff commits to recommending to the commissioners what they believe would be correct model to set rates not later than October 1999. If the proposed rules are adopted, staff believes the market structure would be adequate enough in two years to perform a meaningful cost study. The Movers Conference supports the concept of banded rates, but opposes the percentages proposed by staff. The Association of Independent Movers supports the staff's proposal, but would prefer no lower limit on the banded rates. Consumer interest support pricing flexibility at the percentages proposed by staff.

The next issue is estimate percentage limits. The Commission has received several complaints from consumers regarding underestimating and has issued penalties against carriers for this practice. Underestimating does not appear to be as great a problem in Washington as it is other states and at the intrastate interstate level. However, staff proposes taking a pro active approach to strengthening consumer protection rules. When the Commission does receive complaint from consumers, even under our stringent existing rules, the nature of the complaint is very often serious. For example, anywhere from 80 percent to 200 percent above the estimate has been noted.

Therefore, staff proposed a consumer protection rule that sets a limit on the amount a carrier may charge a consumer above its non binding written estimate. The proposed rule states a carrier may not charge more than 25 percent above its written estimate plus its supplemental estimates for an hourly-rated move, nor may a carrier charge more than 15 percent above its long distance-rated moves. Assessorial charges are also limited to 15 percent above the written estimate. The percentages that staff has proposing are set at the level the Commission penalizes a carrier for underestimating its bid. Under existing rules, if a carrier underestimates the cost of a move by the percentages noted, the Commission may penalize the carrier, but the consumer is still required to pay the full amount. The proposed rules allow the Commission to not only penalize the carrier for underestimating, but also provide relief to the consumer. The Washington Movers Conference opposes this rule. Consumer interests support this proposed

rule.

The next issue is binding estimates. A strong consumer protection in these proposed rules concerns binding estimates. The current rules do not allow for this option. Staff proposes that at the carrier's option, it may offer a binding estimate to its customer. Binding estimates are allowed for interstate moves. Allowing binding estimates at the intrastate level will reflect what some carriers currently offer their Washington customers for interstate moves. The Washington Movers Conference opposes this proposed rule. Consumer interests support this proposed rule.

The next issue is the definition of household goods. The proposed rules define household goods by clarifying that household goods refer to residential rather than commercial and clarifies the services that fall under Commission regulation. Previously, the Commission has excluded from regulation, the transportation of customer-packed-and-sealed-self-storage containers when no assessorial services are provided by the carrier in connection with the transportation of the container. This exclusion has come through staff opinion of the permit interpretation committee. Staff does not believe the transportation of stage [sic] containers involves the same need for consumer protection as a typical household goods move. Staff has reviewed and considered opinions and opinion letters concerning the classification of the transportation of storage containers issued by the federal highway administration and several other states. The proposed rule is consistent with the determination reached in some other jurisdictions. The Washington Movers Conference and the Association of Independent Movers object to these proposed rules. Representatives of the container storage and transportation industry support the proposed rule.

The next issue is the compliance rules. The proposed rules in part 1.3 describe authority the Legislature has given to the Commission to enforce state laws and rules and describes what actions the Commission may take in any given circumstance and describes the Commission's policy on compliance. These rules are offered so a carrier may know what to expect and what options are available to the Commission to address non compliance. The Washington Movers Conference does not believe the proposed rules concerning compliance are sufficient.

The next issues is rule waiver. The proposed rules include a provision allowing carriers to request and the Commission to consider granting rule waivers. The proposed rules state the Commission will grant a waiver when doing so is consistent with the public interest. The purpose is underlying regulation and sound public policy and is consistent with applicable statutes. Comparable rule waiver provisions presently exist in rules governing other industries regulated by the Commission. Washington Movers Conference opposes this proposed rule.

Based on comments the staff has received since the CR102 was filed, staff has drafted four clarifications to the proposed rules. These clarifying rules were distributed and the Washington Movers Conference is opposed to one of the clarifying proposed rule changes. That is WAC 480-15-660(2) which states "What rates must I use to prepare a supplemental estimate? You must use the same rates as you used in determining charges for the original estimate." The Movers Conference believes this rule penalizes the carrier who accommodates a customer who has made a last minute change. They believe the carrier should be able to charge a higher rate for services that were not included on the original estimate. Staff added this clarifying rule in

response to comments received at the October — excuse me — at the August 12, 1998 open meeting regarding a perceived problem that an unscrupulous carrier could give an estimate at the bottom of the rate band knowing full well it could increase the price on a supplemental estimate. Staff's recommended rule proposal is not intended to penalize a carrier. It's intended to protect consumers. Staff believes the consumer benefits outweigh the Washington Movers Conference concerns because the carrier always has the option of not providing the additional service or providing the additional service at the rate quoted in their original estimate. Staff believes the proposed rules are good public policy and will ultimately benefit both the industry and consumers. Therefore, staff recommends the Commission 1) repeal all rules in Chapter 480-12 WAC except WAC 480-12-100 and WAC 480-12-375 which refer to brokers and 2) adopt a New Chapter 480-15 WAC Governing carriers of household goods.

Several people have signed up to speak today and I'm available for any questions you may have. Thank you.

LEVINSON: Questions for staff?

GILLIS: Not at the moment.

LEVINSON: Okay. Thank you. We have a number of people who've signed up to testify. We'll take them in the order in which they've signed up. Karen Bernd from Bernd Moving Systems.

K. BERND: Good afternoon, Chairman Anne and Commissioner Gillis — Chairwoman — excuse me. Just a little nervous because I didn't expect to be first, so I thought I'd get to sit through the others speaking. I am currently a salesperson for a moving company on the eastern side of the mountains.

LEVINSON: Can I interrupt you just for a second?

K. BERND: My name is Karen Bernd with Bernd Moving Systems.

LEVINSON: Thank you.

K. BERND: Thank you. And reading over the staff's rules — rule changes, I had some concerns that I thought I should bring to the floor and I believe they've been brought before. My understanding of the intent of the rules changes is for consumer protection and also ease of entry. And, um, I would like to have you take a look at the part 3.3 the tariffs and rates, particularly — this is on page 19 to help you out, line, it's 2b lines 5, 7, 15 through — excuse me — lines 715 through 722. Um, I'm concerned, the proposal of the 10 percent over the current rates and the proposal of the, um, decrease by 35 percent. And I guess my question to the staff that has investigated this is what is the rationale for coming up with this decrease versus increase study? Where did these numbers come from?

Um, the, um, second concern I have is under part 2, um, excuse me, part 5.2, it's on page 36, regarding estimates and that's regarding the binding versus the non binding that they can be

provided either. To me as a salesperson this can become more confusing for a consumer who currently only remembers maybe 10 percent of what you're giving them during a sales process under our current options available. Now you get to offer them a non binding estimate or and a binding estimate, but you also have to explain to them on the binding estimate more thoroughly if they make any changes, there'll be a supplement to that and now they have to remember that — you know — before you just know that your estimate is based upon your actual charges and that we try to the best of our ability based upon what their input that we can give them a fair and accurate estimate. With a binding, they think they're going to get a binding estimate, but now the mover hands them a supplement for all the changes they've made, and all of a sudden the binding estimate is gone, and I'm not sure that's really clear — will be very clear to a consumer during a sales process.

I have a concern that there has been no or little consideration of the comments or recommendations made by the moving industry who works with the consumer on a daily basis regarding the recommendations of the Washington Utilities and Transportation rules and regulations and also I have a concern over the written memorandum that is dated November 9th which we were on vacation so the first I saw it was 12:30 this afternoon in regards to that, and I think there's been very little time for these additions for any comments or responses to be adequately prepared to their proposal.

In regards to ease of entry, um, I believe that a new business can come on board and be equally competitive with a regular mover based upon their services that's how we started. I mean, anyone who starts a business knows the only way you're going to attract a consumer is by providing a service and if you don't provide the service, you won't get the business. Currently, a consumer can, um, standardize their moving costs. They're not locked into an eight-hour local and they're not locked into a certain amount of weight except for the expedited service, so, for example, if a consumer realizes that their weight of their move is going to be 8,000 pounds and they were only expecting to pay for 6,000 pounds, there's things the consumer, and this is I feel a sales person's initiative, if they're a good sales person, we'll share what the consumer can do. Therefore, a consumer has the choice of getting three estimates. So the customer or the company that can meet the consumer's needs based upon their costs, what they're able to afford, I think should receive the move. And they already have that option available to them. So, you know, a consumer can pay as much as they wish to for a full pack and move or as little as they wish to by providing or doing some of the moving services themselves. That's it.

LEVINSON: Questions?

GILLIS: No.

LEVINSON: How long has your company been in business?

K. BERND: We've been in business for over 60 years. My husband and I have owned it for, um, seventy-four, so, um, 24 years, 25 years.

LEVINSON: But the company started 60. . . ?

K. BERND: Yes, 60 years ago.

LEVINSON: Okay, thank you. Doug Bernd, with MMC.[sic].

D. BERND: Thank you. I'm coming as a spokesman for the Washington Movers Conference. I'm president of the Washington Movers Conference. I come to you with great concern that all these stakeholders' meetings, rate meetings, our organization rewrote the tariff to make it easier to understand, to make it simpler, so people could understand it to make it smooth, to make it streamline. So far, that was two years ago. So far, none of that has been implemented. We've been to I don't know how many stakeholders' meetings. Almost everything we've come-- brought to the table has been totally disregarded. I think the agenda was established for this hearing two years ago. I think the whole process so far has been a waste of my time. I can't tell you how many times I've driven over the mountains to meetings. My life is the moving and storage business. My father was in the moving and storage business. My grandfather was in the moving and storage business, um, my kids plan on being in the moving and storage business if there is any left, and I consider this assault on our industry — and that's exactly what it is — binding estimates, 35 percent discounts, let anybody in who wants to be in, it's going to basically ruin an industry which right now has an excellent reputation. I think if you look at the numbers, the number of people who've actually filed complaints about being treated unfairly by the movers, I think you'll find it's less than 1 percent, um, and I don't think they're too many industries that can boast a record like that — the Washington Movers Conference is a Better Business Bureau of the moving industry, we monitor our members to make sure, you know, people are not being predatory, that they're taking care of their customers, and, um, I wish we could get taken care of like we take care of our customers. I'll entertain any questions.

LEVINSON: Questions?

GILLIS: [inaudible].

LEVINSON: I cannot read the name signed up, but Door to Door Storage.

OUTCALT: My apologies for my lack of penmanship. I'll blame my, no, I'll have to take credit for that myself. Madam Chairwoman and Commissioner Gillis, this is my first time, I'm sorry, my first time in the hearing, so I apologize if I don't follow the customs and protocols to their letter. My name is Rob Outcalt from Door to Door Storage. For Door to Door, I've been a driver for 10 months and also now work in the operations area of the company. Our attorney, our main counsel is not here today. His name is Dave Wiley. He's been working very closely with the staff regarding the issues that are brought to your attention.

We do support the change, particularly to section f, 4f, and today's document which regards the definition and the exclusion of the self service storage containerized, or, containers I should say. Um, there's primarily three reasons and I'll make three brief points and then take any questions. My first point really boils down to the staff's position really seems to be following sort of the general trend towards deregulation. You know, 1994 began with the Federal Aviation Authorization Act and 1995, the ICC Termination Act and, of course, Governor

Locke's 9702 having these bodies review the rules and take a look at what really was out there for the consumers.

My second point is that the portable containerized storage service really is appreciated and very much utilized by consumers in the state of Washington and that's really the nut of it. The consumers really enjoy that. I can speak from personal experience of driving the trucks and being a customer care rep for 10 months and many, many times people say "This is such a great idea. Why didn't we think of that? That's such a great idea." It gives us another option and I think that's the main key here and my point, too, is that we provide a new possible option for people.

And that leads into my third point, and really the most important point — consumers want options. They want to save money. You can take a look at the U-Haul and Ryder Truck Rental Companies and how explosive their growth has been. You know, they're multi-billion dollar companies because people want to do it themselves or they want to save money. Now, with the portable containerized storage, people can hire a moving company to load the containers — the portable containers. That's fine. We don't do any of the — handle the goods whatsoever. People take — if even if they don't hire a moving company, people take very good care of the goods. I mean they are their own goods so they do have a vested interest in packing carefully. So, in closing, I would also like to say on point three that because of competition and the portable storage industry, your price for each container has dropped in recent months. It was \$65 for a container just even earlier this year. Now it's down to \$49 per container, so there is great competition within the industry, again, providing a better cost of service for consumers. And that's really what it boils down to.

So, in conclusion, I just urge you to accept the staff's — and I appreciate all the staff's hard work taking many, many comments, and I'm sure you've seen the record, so I won't reiterate that, but I urge you to accept the staff's recommendations.

LEVINSON: Thank you. Questions?

GILLIS: No Questions.

LEVINSON: Thank you.

D. BERND: Thank you.

Tape stopped at 291 on Side B

[Beginning of Tape Side Blue]

WOODRING: For the record my name is John Woodring. I'm the attorney for the Washington Movers Conference and the Washington Trucking Association. And Mr. Coniff, my associate counsel in this matter will make the comments — major comments in regard to our concerns. I just want to make one comment. What you're talking about here with these rules is deregulating a regulated industry. And the Washington Movers Conference and Washington Trucking

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Association feels that's the prerogative of the Legislature to do that — not this Commission, in all due deference to you. Thank you.

LEVINSON: Mr. Coniff.

CONIFF: Thank you Madam Chair and Commissioner Gillis. My name is Larry Coniff and I am also a representative — representing the Washington Movers Conference. It is our suggestion to you today that this proposal as far — with the far-reaching and rather violent, if you will, changes that are proposed, ought to be deferred for an indefinite period for several reasons. Number One and most importantly is that staff's responses to date are incomplete or based on inaccurate information, and I will discuss those points in detail. Further, staff's view of its mission in terms of preparation or drafting of these rules, **did not consider the statutes** under which this Commission and the Commission staff must operate, and I will discuss that in further detail. Finally, I would suggest to you that staff's view of the economic impacts of the proposed banded rates does not con. . . -- is not based on solid data and that there is a need for a fully-allocated cross-study which staff is familiar with. And it is imprudent, to say the least, to suggest that this Commission adopt a **banded rate as proposed by staff which is based upon inadequate and non representative data.**

Now, I suggest to you that the information that's been provided to the Commission to date is incomplete and that we have not yet had an opportunity to fully respond — to consider and respond to staff's basis for its recommendations. The packet of staff information was served upon my office at 10:00 Friday morning — last Friday. As you know, from your packet of material, it is an extensive packet of information and it mostly is new to us. By working over the weekend, I filed today with the Commission a reply to staff's recommendations at approximately 9:00 this morning, and I would inquire as to whether the Commission has received this document.

LEVINSON AND COMMISSIONER GILLIS: We did.

CONIFF: That will save time because I won't have to read it and I didn't want to read it into the record. The second thing that I would like to — second item I would like to point out is that — and it's one of the points made in our memorandum — is that on April 16, 1998, the associate Washington Movers Conference attorney, Mr. Jack Davis, submitted a list of questions — and this was after a meeting, a stakeholders meeting with staff where he verbally presented those questions to staff. We — I was handed a response at 1:30 this afternoon to — which purports to be a letter to Mr. Jack Davis, 14 pages long, signed by Pat Dutton, apparently responding to the previously unanswered questions. Obviously, I have not had an opportunity and you will note from Exhibit N attached to Mr. Dutton's comments, Mr. Davis's letter, and from staff's response that covers a lot of ground. They are significant questions which we obviously have had no opportunity — to which we have had no opportunity to respond.

Now, we are prepared to offer our comments on a number of the issues which staff identified in its presentation which essentially is the same as the written presentation that it made to the Commission last Friday. The first comment deals with staff's recommended rules

pertaining to ease of entry and I guess the best way to describe it is from the WUTC Consumer News which talks about these proposed rules. It says the “The proposed rules allow new movers to operate under a temporary six-month permit. Previously, new entrants had to demonstrate they were meeting a demand for service that could not be satisfied by existing carriers, a standard that was rarely met.” Now, that — and in the text of their written comments to you, they talk about the lack of sensibility of the existing regulations, but they fail to note that the existing regulations are based upon existing statutes. This harks back to the point that Mr. Woodring made in general. Under the statute pertaining to the issuance of temporary permits, this Commission is required to make certain findings regarding the public interest and that statute, I believe, is 81.81.70 [he says here 70 and later refers to 170], and I’m sure you folks have that one — you’re familiar with that one.

The public interest is defined in .170 [or is it .70?]by reference to the other provisions of this chapter. The other provisions of this chapter include the statute which relates to the issuance of permanent authorities as well as 81.80.020 [is this reference correct? See above he says 81.81] which sets forth the declaration of legislative policy binding upon this Commission in terms of implementation of these statutes. And it is our submission to you that the proposal does not comport with the statutes.

In fact, the — what is referred to as the Sprint Opinion — the opinion issued by this Commission which is provided to you as an exhibit, is an example of the Commission at the recommendation of staff, not following the existing statutes, attempting to establish a test, if you will, of how the new proposed statutes might work by issuance of a permit pursuant to an interpretative statement. The Sprint — the stated rationale for the issuance of the Sprint temporary permit, was we will not require the normal process and procedure of public notice and public comment or nor will we apply the currently applicable standards because we want to test Sprint’s performance and use that information as of — as of assistance, if you will — to assist the Commission in, uh, determining whether the proposed rules are in the public interest. We question how the 22 days that have elapsed since the Sprint permit was issued, how that information, first, what information has been provided, and how that information has any bearing on this proceeding?

Secondly, we point out, is, you are aware from the written materials submitted that the interpretive opinion and the Sprint temporary permit itself are at least, shall we say, open to legal or are of questionable legality. And I say this because I know of no authority by which any state board or commission is able to essentially waive requirements under its own rules for an individual carrier. Uh, they must change the rule is my understanding of the law. Be that as it may, the ease of entry requirements themselves as proposed, do not follow statutory criteria, they eliminate public input, they are based solely upon an office review of application forms and information provided by the applicant. Existing carriers are not provided the opportunity to provide input as I’ve mentioned and the statutory criteria are not met. There certainly is a serious legal issue that ought to be explored with the attorney general’s office and we’re willing to participate in that to see if the goal of ease of entry can be achieved but not in the fashion that’s proposed by staff.

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Secondly — or further — the next subject that I will address is to do with banded rates. Now, the use of banded rates is clearly within the Commission's authority. There's no question about that. The Statute clearly gives you that authority. However, you are required to rely upon adequate, credible data. The proposal is based, according to the expanded memorandum from staff economists of which we received Friday, upon data from the purchasing division of the Department of General Administration regarding state moves — the providing of state moves by licensed movers. And that data shows substantial discounts from the applicable published tariff rate for the movement of household goods under the existing rules of this Commission.

Rates

That provision of discount for state office moves is expressly authorized by statute. The discounts themselves are based upon the fact that the costs of sales and advertisement are not applicable to obtaining this source of business by licensed movers. Industry-wide, as stated by Mr. Tutton, and he can respond to this further if there are questions on this point, is 25 percent. In other words, 25 percent of the costs incurred, on an industry-wide average, applicable to all moves other than state office moves, are 25 percent. But that cost is not incurred, because there is no need to send sales representatives, there's no need to advertise, or to solicit state — the State Department of Procurement — or purchasing — to obtain this source of business. Therefore, the rationale for the discounts portrayed by the economist in his data as a basis for establishing the lower end of the band is not representative and does not accurately reflect — it cannot accurately reflect the costs incurred by industry — and I'm speaking of the permitted industry — as well as what are euphemistically referred to as the un-permitted industry.

If I may be permitted a footnote, the un-permitted industry in reality is an illegal industry. It does not have the licenses, permits, or authorities required by state law. It is not in compliance with the rules and regulations of this Commission and this I will touch upon when we move to the compliance question. But there is, in terms of the banded rates, a very serious deficiency in the representativeness of the data upon which a radical change in rate structure is proposed. We further point out that the total numbers of moves represented or which are — which occur, uh, from this source i.e. state office moves are less than one-third of one percent of the total number of moves performed by the permitted industry. We do not have data on the non permitted industry or the illegal industry, if you will.

Therefore, it is our respectful submission to you that there is no adequate or solid data upon which staff can opine that a banded rate which extends from — which has a lower end of 35 percent below the existing tariff which, as Mr. Nikula [sp?] points out in his comments is in reality 45 percent below the present rate because of the 10 percent inflation deflator. Should I back up for a minute there, or are you . . . ?

LEVINSON: We're with you.

CONIFF: Okay. I had a lot of trouble with this one. I was first speaking with Mr. Nikula [sp?] and attempting to understand his opinions. So, we have, then, in addition to the criticisms that we've voiced as to the representiveness [sic] and the quality — numerical quality of the data, the fact that the data is — or the data relied upon is not accurate — totally accurate in light of Mr. Nikula's [sp?] comments and I will simply refer you to those comments unless there are

questions regarding them.

Now, what does this mean? This means that staff is proposing a banded rate which does not take into account the historically recognized obligation of this Commission to allow permitted, lawful, moving companies in the industry a reasonable rate of return. It's an invitation to chaos, pricing chaos. It's an invitation to predatory pricing. Those points are developed by Mr. Tutton's comments, to which, by the way, there has been no meaningful staff response.

enforcement
Logically, I think the next point we should look at is enforcement capability. Now, the interpretive statement issued by this Commission as pointed out in my opening comments itself recognizes that there has been a substantial reduction in enforcement personnel — WUTC enforcement personnel. It also expressly states that this Commission recognizes that it presently lacks the capability to enforce its statutes, rules and regulations in all localities and throughout the state of Washington. This is evidenced by the fact that staff found it necessary to round up illegal movers and bring them to the stakeholders conference. If I would draw an analogy — well I don't know that I should do so, but we could think of U. S. Immigration Service in terms of illegal transportation of good across the borders from Mexico or something like that.

LEVINSON: Mr. Coniff, let me ask you to pause at this point and give me an estimate of the length of the rest of your testimony.

CONIFF: I am that far [presumably gesturing]. I will — I'm moving along. I will be done in ten minutes.

LEVINSON: Okay.

CONIFF: Is that satisfactory?

LEVINSON: It is.

CONIFF: I recognize that I'm not going to attempt to address the rifle shots which I call them — the capsulized responses to staff. I wanted to deal conceptually with the major problems and I may not cover every detail that staff has covered, but we have tried to respond in our compressed time available to us, to every salient point or misstatement that staff made. I might interject at this point that everyone else that appeared here this morning or this afternoon was able to compliment staff and say very nice things about them. Our experience has been entirely to the contrary. As noted by Mr. Tutton, and as expressed by the president of the Washington Movers Conference who attended a number of these stakeholder meetings, we've been rebuffed at every turn. We feel somewhat like the smile of the Cheshire cat. All that's left is our smile. Everything that we suggested was rejected by staff. And that is uniform and down the line at every turn. Instead, staff relied upon this self-styled, non existing entity called Independent Movers made up of illegal movers. It relied upon its own notions of equity, its own notions of consumer protection. It declined to follow statutory policies and directives, and frankly we're totally frustrated. Let me move back to the remaining issues.

The Door to Door issue which is the question of exemption from the permitting authority and regulations of this Commission for the customer-packed sealed goods transported to storage things — Shurgard, Door to Door, that sort of operation. Interestingly enough, earlier on, staff relied upon an Oregon decision to support its view. That Oregon decision was subsequently withdrawn and overruled and a copy has been provided to you in our exhibits and I don't know if you've had an opportunity to read it, but it makes eminently good sense to us, and it concludes that the Door To Door type of operations are subject to Oregon licensure or permitting authority and that they must comply with the rules and regulations of the Commission. They did, however, approve the issuance of the permit to Shurgard allowing it to fill this market niche, a position which, I am sure, the Washington Movers Conference would also take in — uh, with regard to that issue, but the issue here is whether there is, in fact, under your legislation, under your statutes a basis for exempting them and it is our submission that there is not — I'll not burden you with a repetition of the legal argument, essentially, that's presented in my comments, but we believe that to be the case.

With regard to the use of estimates, staff for whatever reasons, continues to state that Washington Movers Conference does not support the use of estimates. That's not true. We do support the use of estimates and we always have throughout the course of this proceeding. We do, however, oppose the use of binding estimates and the reasons we do are set out in Mr. Tutton's testimony and in the hypothetical that I set out in our most recent submission of the customer in Tacoma hiring the Lynwood mover and I would urge you to take a look at that to see a factual reason or how the rule applies in a way that's unfair to the consumer and the way it's written. It's also unfair to the company.

At bottom, staff's view of its assignment is based upon the fact that there has been substantial deregulation of the movers' industry— certainly on the federal level and there has been substantial deregulation in other areas. But in each case, where intrastate deregulation has occurred which would obviously have the effect of free and open market competition, no ease of entry issues, licensure, perhaps, not even required, et cetera. Those are legislative questions. We know of no other state where a comparable board or commission exercising comparable state police power authority has attempted to deregulate an industry without legislative, not only acquiescence, but approval.

We do believe that a number of the proposals can be modified to bring them into line with the statutory authority of this agency and we believe that a number of the proposals, including the banded rates proposal, can be based upon solid data. So, the bottom line for us is this. Regardless of the motivation of staff, in terms of attempting to protect consumer interests or stimulate competition in a regulated industry — what has historically been a regulated industry since the 1920s in this state, we suggest that this matter be deferred and that this Commission direct staff as follows. 1) To come back to the table and listen to the Washington Movers Conference and attempt to address our concerns in a meaningful way rather than ignore them. 2) In order to minimize or eliminate confusion regarding the legal responsibilities of staff in terms of devising rules and the legal issues attendant of scope of authority, that sort of thing, we ask that the attorney general be directed to participate in these further sessions with that goal in mind. 3) We believe and strongly urge that the proposed interim band is not based adequate data at all,

and that a fully-allocated cost study be made as has been the historic practice of this Commission. The suggested distinction by staff as to its reason for not having one which they could have had in the past year due to the delays in this matter simply don't hold water.

They — staff suggest that the costs of the new market that they envisage, assuming their proposed rules are adopted, will be totally different and that additional services will be able to be provided by moving companies at extremely low rates. This assumption is certainly not a tested one. Before such a radical change is made in the tariff and our rate structures, we submit that the contrary assumption ought to be made by this Commission; namely, that the cost fixed-cost picture or costs incurred either are permitted or an illegal moving company are going to be essentially the same industry-wide. There'll be some that operate using casual labor rather than union labor, some that have benefit programs for employees, some that do not. Some that have new cars or trucks, large trucks, some that have small trucks, so the depreciation rates differ, et cetera et cetera. But there is absolutely no basis for making the assumption that staff did and that is, "Well, we have to try our — our proposal and in a couple of years, we'll take a look and see how it's, in fact, doing." That puts the regulated industry at great risk. We're willing to live with the existing tariff structure, although it does not track on inflation for the interim period.

We believe and seriously urge and we're willing to fund — assist in the funding of the required, fully-allocated cost study in order to determine whether — and we'll assist in designing it with staff — so that it will pick up as much relevant information as possible — so that it will provide a solid basis for Commission decisions regarding the scope and extent of banded rates. We're not opposed to that as a concept. We believe it is within your authority — I'm repeating myself — but we have very, very serious disagreement with the staff proposal. Now I'm ignoring a number of other issues.

I guess the final thing that I want to — thought I would like to leave with you is that the historic mission of this agency, this Board and Commission in terms of the transportation industry of the state of Washington, and specifically the household goods movers, is to provide stable service and rates to encourage sound economic conditions within the industry, to encourage and foster adequate economical, efficient service, to prohibit preferences or unfair competitive practices in order that common carriage of household goods may be preserved in the public interest and that the public may be assured complete, dependable, stable transport services. I didn't make this up. This RCW 81.80.020, the legislative declaration of policy applicable to this Commission and this staff.

LEVINSON: Questions?

CONIFF: Oh, excuse me.

LEVINSON: That's all right. Thank you.

CONIFF: I'm available for questions. And if I can't answer them, Mr. Tutton will.

COMMISSIONERS: [inaudible]

CONIFF: Thank you.

LEVINSON: Thank you. Let's hear from Mr. Tutton, then, at this point. And if I could ask that to the extent that your comments would be, um, redundant, we don't go there.

TUTTON: No, no, no, absolutely not. My name is Jim Tutton, Executive Director of the Washington Movers Conference and Vice President of the Washington Trucking Associations. I will not go into the comments that have already been given to you by our attorney — our legal representative, Mr. Coniff.

I will just say that from the very beginning of this process, I will point out that the initial memo announcing the program outlined, dated the 4th of November 1998, I did address issues with the staff regarding the fact that that was a biased memo right from the very beginning. I was discussing it with Ms. Dutton. I've discussed it with Mr. Curl [sp?], I wrote a letter to the staff which I got no response to. I was also asked the question during those conversations if either one of those two individuals had read that memo before it was submitted for publication and distribution and neither and both said, "No, they had not."

I also want to point out that the Washington Movers Conference does not protest any applications for permit or authority. That was a statement made just prior by Ms. Dobyms. We do not protest. We are not within the statute to protest, and please make that clear.

I want to just reiterate one thing — that we participated with representation by myself and members of the Washington Movers Conference in every hearing, in every comment period, during this last year plus days that have been involved in this process and reiterate on what our counsel said our comments have, in fact, gone unanswered and unincorporated into this process. Thank you very much.

LEVINSON: Thank you. Rick Smith with Corporate Moving Systems.

SMITH: I didn't know that signing up first meant that I got to go last, so. . . I own Corporate Moving Systems. I'm a relative newcomer to this industry. I have no prepared remarks. I bought this company 12 years ago, so that was 1987. We employ roughly — depending, on a good day during the summer, maybe 80 people and in the winter, we're probably a little bit slower. I'm a United Van Lines agency, roughly less than 5 percent of my business is local and intrastate moving.

Although I'm an active participant in yellow pages and all sorts of advertising, so I would expect to do more business than I do. Um, I'm also on the Board of the Better Business Bureau, so I keep track of how the moving industry does with the Better Business Bureau and I'm on the Board of the Movers Conference and I think that my compatriots here would probably consider me to be a bit of a maverick. When we all get together in our private meeting and we talk about what's going on, I tend to be the one that's trying to think outside the box to engage the group in discussion and maybe — I really saw this as an opportunity to do something — I'm going to be in this industry for awhile I hope. I was hoping this process would develop something that I

could live with long term.

Um, I really feel like I'm approaching this part of my business with my hand tied behind my back. The people that are getting the business that we see right now are out there — are out-competing us because we're — you know — we're obeying um, um a tariff and regulations on my business, um, that others do not have to and I don't really feel that the Commission has shown an interest, a desire, a capability, to really enforce anything that has existed — at least in the 12 years that I've owned this company and the years on the trucks and all that other stuff, so I'm the person that you want at the table. Um, I'm a person that came with an open mind to the process.

I personally called Pat Dutton and, and Kim — she brought Kim down to my office when the whole idea of bound estimates came up to say — because I do a lot of interstate moving — to say, you know, here's some of the problems that I think you're going to face when you start applying what is a weight-based provision and we do a lot of that kind of business, to local moving, which is an entirely different animal when people are moving just down the street. They prepare for that move in a different way. So, um, you know, throughout the process, I got really kind of excited at some of the meetings. I had people throwing stuff at me because I thought we should offer suggestions about well maybe we ought offer this or ought to offer that. And I want to say to this group over here, I was wrong. They were right.

The process from my point of view is everything that we talked about — I don't feel like anything — I mean I gave up on the process because I don't feel like anything that we discussed in those meetings came back. It was almost like the meetings happened and then the documentation came out for the next meeting and it didn't include anything we'd talked about at all. I mean it was, uh, surprising. So, we tend to — I tend to do an disengage from the process because of that. But I don't think it's because we have not taken the time as a group to present issues that we think are important to the process. We just don't feel like we've been listened to. I don't feel like my comments have been listened to at all.

So, I'll just get to one point here. The idea of bound estimates. Okay, the application of the rules as stated are unworkable, full of holes, um, um, creates for a devious mind tremendous opportunity for, um, building a lot of mistrust in our industry. I think you're going to have, eh, quite a problem on your hands when you get folks out there trying to negotiate firm fixed prices on local moves. Um, there's too many unknowns, uh, they tend to point back to the idea of this applies on the interstate side of our business, so why the heck can't it apply on the local side. Two different animals entirely. They don't apply. We've talked about this over and over again, but they're not willing to listen to that. If you want complaints and if you want problems, then fly right at that because what you're going to have is consumers and movers not coming to agreements that will hold up later on. You're going to have a lot of unhappy customers. If you look at the interstate side and you took take those figures and you say where are the complaints coming from on interstate moves today, invariable those numbers are coming from the bound estimate environment where [[this tape ended here with blank tape left over]]

[[turned tape to green side and Smith was not talking. Remainder of testimony not dubbed]]

[MCCULLOCH: Testimony was not dubbed.]

[MANIFOLD: Testimony not dubbed]

[MCKAY: Testimony not dubbed]

[Tape starts out as follows]

LEVINSON: Thank you. At this point I would like to ask the staff to come back to respond to any comments you heard here.

DOBYNS: Kim Dobyms again. Um, first I'd like to thank the stakeholders for clarifying their positions in the areas where I got it wrong. I believe I heard Washington Movers Conference say they did support estimates — it was specifically binding estimates they didn't support. And Association of Independent Movers does support the definition and those are incorrect in the backup memo and I didn't realize I'd made that error.

Staff believes that we've responded fully as evidenced by our numerous drafts and comments in the public record. And we regret that the Movers Conference feels that we have not listened to them. We have had numerous staff meetings and discussed the issues over and over again, we feel, and we think that this proposed rule represents a balance between all the stakeholder interests. The staff urges the Commission to adopt the rules as proposed. We believe they are good policy. I don't have any other specific comments to any of the stakeholders in response to their comments. If you have any other questions for staff, I'd be happy to answer them.

LEVINSON: On the issue of the fully-allocated cost study, I would like to hear from staff a little bit more than the memo states as to why a fully-allocated cost study at this point would not be prudent.

ECKHARDT: Yes, thank you. This is Gene Eckhardt. I'm with the Transportation staff. And in regard to the fully-allocated cost study and we were considering various options as to how to proceed and make a recommendation in regards to rates. We considered conducting a fully-allocated cost study, but then we asked ourselves what — to what purpose and what use? And that is an accurate picture of the industry operating today under a what I would characterize as a tight regulatory structure. Will that be useful in establishing rates which the Commission intends to apply in a totally different environment, one of relaxed entry, one that encourages new companies to enter the market, and specifically, as stated in the goals, to encourage both incumbent carriers and new carriers to provide different types of service?

And we concluded that a detailed time-intensive and expensive study of that type would not be valuable at all in that we — if we — especially looking at representative carriers. If we looked at the entire industry, we would have more data, but not necessarily better data. So, on that basis, staff concluded a fully-allocated cost study especially as conducted in the past would not be useful either today or probably not valuable in the future. When, ah, when the Commission would reevaluate the rates — rate structures throughout the industry.

And each company with — in looking at fully-allocated costs, if your looking, you know, establishing average rates, each company within its own structure has rates that vary. You can look at variable costs, you can look at average costs, marginal costs. There's lots of different view — ways to look at a company's business and cost structures and, ah, staff again felt that the companies should have the ability to exercise their judgment in applying their rates to best match the costs in their operations to the services that they are providing.

So, having considered the various means of acquiring data, and looking at what was available, staff did make our proposal to the Commission in regards to the bands. The methodology is set forth in the backup memorandum and, you know, quite simply we did rely upon the, um, the rate proposals the companies filed with General Administration in providing services at a discount. As the companies state, the, ah, discounts are reflective of the industry not providing sales and administrative services which amount to approximately 25 percent. What do we expect if the companies have the ability to make decisions in their operations, are new companies entering the market may not have sales and administrative expenses of 25 percent, either.

And staff does disagree with the idea that there's certain costs that are fixed and — and there's nothing you can do about it. We don't subscribe to the idea that, um, new companies can enter the market as long as they look like the existing companies, provide the same services as the existing companies, and have their same rate structures as the existing companies. Staff's understanding and the entire intent of the — of this proposal is to allow companies to provide different types of service under different structures and, yes, I expect every company will have office space, but I submit the office space may vary substantially in cost as would terminals, any storage facilities, officers' salaries, labor expenses, in general, just as general discussions, ah, we were talking in, uh, variances of up to 40 percent on average with — between companies and certainly and then again within companies you have again even broader variations, so, uh, uh, looking at the, uh, discounts that the companies had filed with General Administration and staff concluding an average 25 percent offered — actually there's 23 companies or more than a third of those companies offer higher discounts, but staff based its estimates on 25 percent discount. And we did increase that by 10 percent to make some allowance in the range for new companies entering the market that we expect will have different cost structures. That's basically what we did.

LEVINSON: Thank you. At this point I would like to ask the Attorney General's Office to come and — on the testimony with regard to the Commission's authority under the Statute to proceed in this direction.

GOLTZ: This is Jeff is Goltz of the Attorney General's Office. I just wanted to say one thing prefaced to that and in response to what Mr. Coniff said and then turn it over to Ms. Ann Rendahl who's been working on this substantially.

Ah, Mr. Coniff made the statement or suggestion that there be future workshops in which the Attorney General's Office should be involved, the implication being that the Attorney General's Office may not have been involved adequately to date.

I've known Mr. Coniff for over 20 years when I was a rookie attorney in the AG's Office, he was there and he was a mentor to me and a lot of other people and, uh, as a matter of fact my first big case was involved with Mr. Coniff. We were representing different agencies, but we've worked together, and I saw him represent the public clients in the same thorough manner that he's representing the — his client today — his private client. And I'd like to think that I learned from him all along and I can assure him, um, that our office has been involved substantially in this rule making proceeding. We've devoted a lot of time, a lot of effort to make sure that the draft rules are in conformance with the statutes and within the statutory authority of the Commission and they meet all the applicable requirements of the Administrative Procedure Act. And Ms. Rendahl has been doing the lion's share of the work on this, so I'll turn it over to her.

RENDAHL: I would just reiterate Mr. Goltz's comments that this office has been involved. Myself, um, Mr. Goltz, at times, um, also Ms. Cullen [sp?] from the Consumer Affairs, uh, Consumer Protection Division up in Seattle, and we do believe that the statutory requirements have been considered and met in the proposed rules, although we understand the Movers Conference may disagree with that.

And that ties into my next comment, um, as Mr. Manifold [his testimony was not recorded on the dubbed tape] stated, even in a very inclusive process, there may be disagreement. That doesn't mean that parties have not been listened to or their proposals have not been seriously considered. Because they may not have been taken does mean they were ignored, and I would just like to state that throughout this process, we very much do appreciate the involvement, and the continued involvement, despite their frustration of the Movers Conference, and that it has been very helpful to the staff, and even though we do believe many of their comments have been incorporated, whether or not they believe it or not.

And finally, one last point Mr. Coniff made that, uh, the Movers Conference doesn't believe there is a sufficient ability to comment in the application process. Um, the temporary process and the permanent application process have always been somewhat — always been handled somewhat differently under the current rules. Under the current rules, um, it always has been an internal process — a staff review process of temporary applications once the Commission makes a decision to grant a temporary permit that's under the current rules, then it's placed on the Commission's Docket and at that point there's an opportunity for protest and comment. That opportunity for comment is exactly the same under the current rules. Once a decision has been made to grant or even to deny a temporary permit, there is always an opportunity to comment on that once it's been placed on the Docket. That opportunity for comment is the same under the current and the proposed rules.

As for permanent authority, while the current rules — the proposed rules don't specify that existing carriers can protest, there is a comment period. Uh, applications for permanent authority are placed on Docket when they're filed and there — during the, the pending period of the permanent authority, there is an opportunity for anyone — not just an existing carrier — but any consumer, any interested party may comment and that does include protests. And whether or not a permanent authority will go to hearing depends on the nature of the comment that's provided. Understandably, if there's serious issue and, and, and, comments as a protest, then the

Commission would consider seriously whether that issue should go to hearing. And I think the staff would make the appropriate recommendation to the Commission as to whether to hold a hearing on that. So I don't believe there is an issue with the application process and the ability for meaningful comment or protest by existing carriers or anyone else for that matter.

And one comment for Mr. McCulloch's [his testimony was left off the dubbed tape]— in response to Mr. McCulloch's comments. Um, staff does disagree that verbal estimates are appropriate, and I think the Movers Conference would agree with that. We think it opens up a can of worms that creates additional consumer protection issues and, um, so we appreciate their input as well, but don't agree with that position either.

And finally, the overtime weekend rates are really more appropriate — appropriately dealt with in the currently ongoing [Pareil sp?] Tariff review process. Um, and that's a process we are working with the same stakeholders and participants and that same process.

LEVINSON: Thank you. Commissioners, do you have further questions of staff?

GILLIS: You asked my two questions.

LEVINSON: Okay, at this point discussion is appropriate.

GILLIS: Well, uh, I guess to begin, it's unfortunate that members of the Movers Conference still you aren't listened to and I certainly don't doubt your sincerity — I know that must be frustrating, but I — my experience with the staff is that they're highly professional and they're, they're committed to independent evaluation and I think it's much more likely that there's a, there's a difference of, of position, not being listened to, and I should also report our process as commissioners is we don't rely on filtered information. We, we do read the staff documents, but we also request and receive regular briefings on, on rule makings of this import, as well as we directly read comments that are written, so we have our own evaluation although we rely heavily on the staff and as I say, their judgment is something that I trust. But, there's been a lot of information that's gone into this and I have no doubt that this is a good faith effort on the part of everybody at the Commission, but I do recognize your concern and I, I, I know that you state it sincerely.

The issue of authority has been addressed from my perspective from Ms. Rendahl's comment. The — this one thing influences my, my view of this, is, is that this isn't the first segment of the transportation industry where we've begun the process of, of, of, less regulation and, uh, it's turned out to be, quite frankly to my surprise, more successful in the freight segment of the industry than I would have thought it would be with less consequences and you never quite know going in, but there, there, there are some precedences [sic] to learn from, from that. And there certainly is a need to, to balance the consumer, um, benefit with any potential harm to industry with respect to rule making like this and it is something that we take very, very seriously and the comments made particularly by the Movers Conference raise legitimate issues of potential harm.

But my view, um, is one that a lot of your, your concerns — well maybe not to your full satisfaction — have been addressed as [interventions?interventions?] of the rule. They have been incorporated to some extent. But the issues of, particularly of banded rate, it's a tough one and I guess we've got to answer two questions: 1) what is the potential harm? Uh, setting the band too small, the potential harm is, is you never will get to a point of competitive entry which you may or may not agree is appropriate. But from the starting point that, that competitive entry is appropriate, then a band too small would limit that opportunity. And, so there would be harm to consumers of setting the band too small. Uh, a band too large, um, could potentially result in predatory pricing which is part of your comments that you've raised many times. But on — what is in the favor of, of setting larger, potentially larger bands for this particular industry is pointed out by the staff economist's memo is, is the structure, the cost structure of the industry having high variable cost component and to the extent we're successful with the ease of entry, it — I think it's going to be pretty hard for anybody to sustain a predatory price very long. Uh, so that kind of weighs in favor of a bit more of a liberal approach. And I'm also just pleased with the staff's commitment to work with the stakeholder groups over the next year or so in developing an appropriate methodologies. I do think it needs to occur. There needs to be a discussion of the right cost basis for setting banded rates and if banded rates are appropriate at all in the long run. And there just needs to be stakeholder work together with that and I hope that occurs.

Um, if I have any qualms at all, it has to do with issues raised — it has to do with the binding estimates. I have real mixed feelings about that for reasons that have been raised. The — but it works both ways. The consumers are frustrated when a mover — we'll say an unscrupulous mover — uh, to the extent they exist — show up and, and would not provide what was expected of the consumer ahead of time. That's a frustration itself. Uh, a binding rate can result in consumer confusion indeed, but it's a different type of confusion and we just need to deal with the balance. In all consumer protection measures there's a balance between doing the best we can to give consumers the best information, the best [competence or confidence?] as possible and I think we're all on the same side on that one, but it's — that is a difficult call, but I, I, I, would tend to, um, I agree with the position that's in the rules on that one.

LEVINSON: Okay. Let me start by saying I think this, uh, docket, instead of decisions inherent in this docket, is one of the most important that's faced the Commission since I've been here. The magnitude of change that we are proposing with regard to this industry is the most significant this industry has seen in this state in all the decades it has been in existence. So, I'd like to first express my appreciation to the members of the industry and to the staff and to the members of the public and the public counsel for engaging so thoroughly for more than a year for treating each other respectfully, for offering serious and thoughtful input at each stage of the process. There are obviously quite diverse perspectives on a number of very important issues for good reason and those, I believe, have been fought out in the fashion that they should be of matters of import before this Commission.

I have reviewed this docket very carefully. I've read all of the comments filed at each stage of the rule making from members of the public, from members of the industry, from various legal counsel. I have sought my own assistance from legal counsel from the attorney general's office throughout to make sure that we were, in fact, consistent with our statutory

authority. I took the time to tour facilities, meet with the Movers Conference to learn what I could firsthand about those operations. So, I do believe the process has been a thorough one and I do believe all parties have been heard, although obviously agreement has not been reached on some significant issues.

I think that anytime consumers in our state are incited [sic] to seek illegal support for the activities that they want to pursue, that is their consumer choice — something is wrong with the system. Consumers in our state are confused about how moving intrastate residential moving works. This is an example for me of where the government is viewed by the consumers as being in the way of what consumers need rather than being there to help consumers. So, I believe, despite what I think are very good issues that have been raised today — legitimate issues that have been raised by the industry today from their perspective is not a perspective I share and I believe that the rule as drafted, um, is the right thing to do. I think the rules represent good public policy for the Commission and for the state by promoting open markets and consumer choice and by eliminating barriers to entry in by enhancing consumer protection. Um, I recognize the concerns expressed about our ability to enforce the new rules. I think that is a legitimate issue to raise. I think for any public agency the — whether we have sufficient staff to enforce as we might like is always going to be an issue regardless of what the rule is. It has been an issue in the past and we need to commit to do all we can do working with the industry to enforce appropriately the new rules. In keeping with our past practice, we will first focus on technical assistance and use enforcement as a last resort, but we will use it for those who do not come into compliance.

With regard to easing of entry and rate flexibility, I concur with the rule as proposed. With regard to finding estimates, I had some of the initial concerns that Commissioner Gillis expressed, but given that is not mandatory but optional for the carriers, I am comfortable moving forward with that as well. And on the issue of definition of household goods, I again agree with the language proposed in the rule. I think that is the logical extension of the rule that we have before us today.

Let me say if I can inject a note of at least what seemed humorous to me was in dealing with this rule for all the months that we have, um, and in wondering why this job feels like it's with me 24 hours a day, I was driving down the highway listening to Kathryn Graham's autobiography which was supposed to be about Washington and politics and other things critical to our country, and she said there are certain experiences in life — among them, child bearing and moving — that for some reason, due to the passage of time between them, we forget how painful they really are. And she was commenting about a bad experience she had with moving — not childbirth.

Um, but that was a good reminder to me that although you don't see hundreds of consumers in this hearing room, the nature of the beast is that people don't move all that frequently, but when they do, and the experience is not one that serves them well, they let us know that. And I think the reforms that are proposed here today are, uh, exactly what the consumers of this state have a right to see and I fully support them. I am sorry that we were not able to come to consensus among everybody who participated in this rule making. It's always

our preference, but when we believe that the approach suggested is the right one, and consensus is not possible, we need to proceed apace. So I will support the rule as proposed today.

GILLIS: Okay, with that, I'll offer a motion. With regard to Docket TV971477 the rule making for motor carriers of household goods, I move the Commission repeal all rules in Chapter 480-12 WAC except WAC 480-12-100 and 480-12-375 and adopt a New Chapter 480-15 WAC Governing carriers of household goods.

LEVINSON: And I will second that. That motion carries. Um, at this point we will not adjourn. We will recess until the 23rd of November for our hearing on our universal service rule.