

TV-991559

**HOUSEHOLD GOODS RULES WORKSHOP
DECEMBER 9, 1999**

Attendees:

Bruce Palm, Advanced/Affordable Moving
Rick Smith, Corporate Moving Systems
Jim Tutton, WTA
Doug Bernd, Bernd Moving Systems
Deborah Chakos, Washington State Gov. OSP
Brian McCulloch, AIMWA
Todd Glass, Public Storage Pickup and Delivery
Jay Lawley, WMC
Rob Outcolt, Door to Door Storage
Karl Koehler, Door to Door Storage
Dave Wiley, Door to Door and Shurgard Storage
George Fouch, Rainier M's
Mark Naubert, Washington Moving & Storage

WUTC Staff:

Marjorie Schaer
Bonnie Allen
Paul Curl
Ann Rendahl
Gene Eckhardt
Carlene Huhges

MS: Introduction and background of rule. Inquiry stage and draft rule. Marjorie Schaer is the rule facilitator today.

BA: Meeting expectations: To gather information listen and hear the information you brought to us. Types of information we are looking for are in the packet. Bonnie gave explanation of what is in the workshop packets.

MS: Look over ground rules and please ask any questions, we will then move forward. The first thing we would like to take up is discussing comments which have been received and we have provided you with full copies of all the comments and the summary that gives cliff notes of the comments. I would direct your attention to this page in the green packet and at this point lets go ahead and get started at the top and look through these. Then after we finish this then we will open up the floor to comments about any of the other rules and

SEE MISC.
Folder for entire
WORKSHOP PACKET

DOCKET NO. TV-991559

we have a copy of the full chapter so we can refer to those. The tariff has really just been provided for information. We got our first draft back from the printers day before yesterday and we thought it was nice timing to get this out to people and also the compliance plan is for your information but is more of an internal document to the agency rather than a rule.

Lets get started with the definition issue and we have received comments on this issue from Washington Movers Conference, Door to Door Storage, Inc., Shurgard Storage, Public Storage Pickup & Delivery. Are there additional comments that people would like to make? Is there kind of a short version of what you wrote that you would like to bring forward at this time?

JL: Marjorie I'll go ahead and start off. Jay Lawley, Washington Movers Conference. If I may, we're the ones who are requesting the change from the rule which was implemented last January. In defense of the position that was taken last January by staff, there wasn't much to go on at that time. There was a single opinion letter from the Federal Highway Administration attorney and not much else. I think that we would all agree that household goods were meant by RCW 81-80 to be regulated by the state by the Transportation Commission. We don't believe that there is any statutory distinction between either the types of containers to be used or the inclusion or exclusion of accessorial services in regard to shipment of household goods, whether they constitute household goods. One of the reasons that was given by staff in coming to their conclusion was the definition of household goods and the state definition. In the letter that the former assistant director of operations, Pat Dutton wrote to Joe Harrison, she, in fact, does a great job of defining the Commission's position saying that the Commission's rules define transporters of household goods as carriers who provide specialized services or use specialized equipment. We would contend, and we didn't do a very good job of this last year, but we contend that that reference being the last reference in the definition of household goods, in Washington, in the former Washington definition, and which was taken word for word from the federal definition is in regard to the commercial handling of art and exhibits and displays which were third proviso commercial moves and were deregulated in 1995. And that from the end of the first part, from the end of the first sentence, in household goods definition 480-12-400, actually at the semi-colon, from that point on down that none of that should have been used to determine what are household goods, since 1995, since deregulation of second and third proviso articles. The opinion letter from the federal highway administration attorney, which stated that he also did not believe that they were household goods. And he talked about the difference between four hire and private carriage and when he got to the definition he said, you know, regardless of whether it's four hire or private carriage, it doesn't meet the federal definition of household goods because it doesn't utilize the specialized services and

equipment which are described in the definition of household goods. Quite the contrary, a decision that was an opinion letter that was issued just two months ago by the Surface Transportation Board, and for those of you who don't what the Surface Transportation Board is, it's the governing body of interstate commerce since the demise of the Interstate Commerce Commission and there oversight includes interstate movements of household goods shipments. That opinion came to just the opposite conclusion based on the current definition of household goods, which make no reference at all to specialized handling or equipment because of the fact that it was stricken from the definition and referred to third proviso articles which were deregulated. Based on staff's reliance on that federal opinion and also three state opinions which have been issued since, Oregon, Texas, Georgia, which conclude that these types of shipments are household goods, we would ask that the state revisit the issue and reconsider whether those shipments should be excluded from the definition of household goods.

MS: Is the Georgia letter in...

JL: I don't have a Georgia letter. I spoke with the Georgia Movers Association just the other day and it was a verbal only. But upon your research you'll find that Georgia has also decided that those are household goods.

MS: I read your comments yesterday.... Is there anyone else that wishes to speak to this?

PC: Can I just ask a clarifying question. Jay, you've talked about sort of the legal approach, but from a policy perspective, why would be want to regulate sort of a door to door type service. What is the public benefit is there?

JL: That's a good question. You speak to the policy benefit. In fact, in Texas, Paul, the Texas Consumers Union was one of the organizations that was very adamant in getting these types of shipments regulated as household goods. They recommended that they be considered such. We don't see any difference between taking a truck, flatbed in the Shurgard case. A regular truck in our case, enclosed truck, delivering a plywood box, delivering a cardboard box. The customer packs up the cardboard box. Tapes it up, seals it. The customer packs up a plywood box, seals it, we come back, get them, somebody gets off, loads those boxes on to those trucks, goes back to a warehouse and puts them in permanent storage, or temporary storage. We see no difference in that. It is a consumer protection issue in that these movements should have the minimum liability limits that we are bound by.

DW: I'm an attorney representing Door to Door Storage and Shurgard Storage To Go

in this proceeding. We welcome the opportunity to comment and support the current rule. Because the Movers Conference comments were late filed as to the deadline that was sought, we have not seen them until today so cannot respond in any kind of detail to their arguments. We will do that in the renewed round which I see are due on the 22nd. With respect to the issues, and I particularly want to pick up on the issue that was posed by Mr. Curl, that is the primary focus that we think the Commission should engage in possibly re-calibrating its view on this rule. And that is what is the consumer protection interest in any change or reconsideration of this definition. We would submit, and we have notebooks of questionnaires that Door to Door has brought today. Shurgard Storage To Go has also maintained customer files since its inception. There's absolutely no consumer protection issue that has been raised by the status of the current definition. We think the Commission in conjunction with Governor Locke's executive order in 1997 and in reviewing all of its rules in all of its regulated industries, some of which I'm very familiar with, should look upon the household goods definition and the exclusion for containerized self storage as a problem that doesn't need fixing because its been a very successfully implemented definition. Now as far as the regulatory treatment of this industry, I think the Commission has had long standing precedent that it is never regulated this type of movement. As a matter of fact as cited in the letter from Shurgard's general counsel, there is an administrative ruling of the Commission from 1959 that clearly addressed this issue and sets forth the principles that the Commission has adhered to for forty years in its decisions that this type of movement of self contained, self packed household goods, which the transporter has no interaction with, other than moving, is an exempt movement. It's a movement on flatbed equipment. That also echos, and I'll respond to Mr. Lawley's comments about the Surface Transportation Board in my written comments, but the ruling of the Commission also echos a long standing half century rule from the Interstate Commerce Commission which is the predecessor of the Surface Transportation Board, that movements of this type, that do not require specialized equipment, do not require specialized handling, and do not require any accessorial services, are not household goods movements in the traditional sense. So both from a policy standpoint and a long standing intrastate and interstate legal precedential standpoint, there is not justification for bringing into regulation these types of movements. Finally, I would say that when we hark back to the policy of consumer protection, and this rulemaking which is really the hallmark of this rulemaking, as we understand it, there is no better example of an industry that has operated openly, successfully, and without complaint to the Commission than the self storage transportation industry. We would note that, as we did in the comments from Door to Door storage and from Shurgard as at least eluded to in the comments filed on November 29 finally that it appears that the impetus for questioning the validity of the exclusion in the rule seems to be coming from the moving and storage industry particularly the storage component

of the moving and storage industry. The Commission is well aware that in the early 1980's storage was deregulated by the Washington legislature. Any input or effect or ramifications of diversion of business from the storage component of the moving and storage industry is something that the Commission couldn't consider under law. So we welcome the opportunity to be involved in this rulemaking. We will vigorously defend the current definition of the rule and intend to establish, as we have in our initial comments, that there's absolutely no reason to change the definition of the rule.

TG: My name's Todd Glass. I represent Public Storage Pick Up and Delivery. I have been representing them in both Oregon as well as Washington State for a number of years with regard to how their operations are regulated. I would like to respond or add a few things to what Dave Willey has just stated. First off from a legal perspective, I would caution looking to the Oregon or the Georgia or the Texas, or California type of decisions because all of them have come from a different standpoint. From their statutes, their history, their administrative rules and how it's been implemented, and their relation to the Federal law has all been different. In Oregon, for instance, Public Storage Pick Up and Delivery did not in any way ever try to assert that it was not regulated under that state's statute. Indeed we filed a tariff and that has been in effect for I believe for the last eighteen months. So you have to recognize that there are differences according to the state. So, the fact that the Oregon Commission, or I guess it's the Department of Transportation down there, came to a different decision based upon its statute should not in any way determine what this Commission should do. This Commission, a number of years ago, through, I believe its permit interpretation, a informal group reviewed this issue and for the last four or five years has been continuing on with the former policy of not having these entities regulated in this type of service that they are providing that tended to their storage business. None of the underlying law that undergirded that policy and as it developed has changed. So, I don't see any legal basis for there being a reason to change it at this point. From a policy perspective we see even less reason to change because while there are concerns about consumer protection and what not, we have heard from consumers themselves, rather we've only heard from people in the regulated community that are worried about it. I would think that if there's the Washington State Consumers Union or something like that, if they have concerns about our type of operations the Commission should definitely look into them and I am confident that if they did look into my company or there are strong competitors here, they would find that the customers are not exposed in the way that they are in the regulated markets. So we would also request that the Commission continue with the current rule in allowing us to continue in an unregulated fashion because competition is going to be very adequately controlling the types of services and the consumer satisfaction.

BM: Good morning. First of all I think I'm probably the only person here this morning that's not being paid to be here. I don't own a moving company, I don't own a box company. I guess maybe I represent more the consumer and citizen. I have to tell you that when I tell people stories about the last two years of this rulemaking process they shake and they vote yes on I-695. And that's what it comes down to. What we've just listened like how many angels can dance on the head of pin. We're going switch ??? the Independent Movers our position because it's important to what the Washington Movers Conference is trying to do here, just simply because the logic of it, the language of it, makes sense. I'm not a lawyer. I don't care really about Oregon or Texas or anything else, but it seems to me that if you're going to regulated something then keep in mind that our position is that it should not be regulated. Household goods should be, as I think Mr. Lawley said, there should be no difference between putting a box in a container and putting a box in a truck. We don't think there's any difference between picking up soap out of an office or picking up the soap out of a house. Or a TV or a computer or anything else. That said, if there is going to be regulation then it should be consistent and it should make sense. The box guys, as I call you, shouldn't be exempt from that. It's over the highway for compensation. That's, as we understand it, the basic underpinning rule for regulation in this business to begin with. Furthermore I think if the box companies want to stay in this deregulated environment then they should probably have nothing to do with providing the labor that goes into packing those boxes. And since independent moving companies probably more than anybody else benefit from the box business because they're the guys that are hired, we're kind of talking against our own position here. We don't understand it, it doesn't make sense. In fact, one of the companies here has actually referred business to one of the independent companies. We don't need to get into who that company is, I suspect it goes on with all of them. When somebody calls and says, can I rent a box and how do I get it packed? There's probably a list. Or if you pick it up at a storage facility, somebody at that storage facility may know a movers who may not be licensed or have a truck even. It's unregulated. So I would ask the box companies, do you think that the accessorial services that are contained in what the regulated industry does today should also be deregulated? There has to be some consistency here. Same question I put to you Rick or any of the people from the Washington Movers Conference. Do you think that the boxes should be regulated, trucks should be regulated, or what? The labor shouldn't be? Or are we going to be back here in another 15 months talking about trying to regulate who packs the boxes. I think we need to have some reality in this. I have to tell you, again, when I tell people, regular citizens, you may not tell your friends who are not involved in the business, or your attorneys, but they think it's truly bizarre.

RS: I'd like to address your policy question just from a hypothetical point of view from

a moving company. So I'm trying to determine from this point forward if the definition remains the same. At what point does the activity that I do cross over into a regulated activity? If I take a truck out to the residence and the customer brings the items into a truck, does that mean it's unregulated or regulated? Does it require that I have a truck that has storage vaults which are almost identical to the self-storage containers that they use a fork lift. Is that where it crosses over? Do I have to have a forklift on the end where I take the containers off? Is that when it becomes a regulated activity? From the current definition I've tried to understand, when does it become a regulated or a unregulated activity? Because I have a truck, I could have the truck just be a flatbed, or I could have the truck have a cover on it. I could put containers on it or I could not. I could have the customer load the truck or not. So under the current definition it creates an issue of interpretation going forward. And I think that also part of this whole policy discussion of then going forward, how do you interpret what is regulated and what is not. That's why we're taking this position.

PC: Maybe Mr. Lawley or Mr. Glass could answer this question. We've talked to the consumer protection side but another concern we have is for fair competition. In Mr. Smith's case, if he brought out a trailer, dropped it off, then said you load it up and put a lock on it then I'll come back and haul it to your place and let you unload.

RS: Under our definition I think that's regulated.

PC: But it sounds like the same thing you're doing and should it be regulated? If he's trying to compete with you, you talk about competition and how it works now. But I think a segment in the industry is not able to compete at the same level.

DW: Maybe I can answer your question this way Paul, and I don't want to evade the question, but I think. I wanted to respond to a couple comments that I think lead up to your question. And one was initiated by Mr. Lawley's comment that these are household goods, we're regulating household goods, whether they're in a container that's packed by the consumer or whether they're loose and un-crated and packed by an employee of the moving company. And I think that is a key legal distinction. We have to, of course, hark back because this a question of law, ultimately. The Commission has had a lot to say about that specific issue in various context of transportation industries that regulates over the years. Let me see if I can explain why I think it is an important distinction and that is because it's not what goes into the truck that is ultimately the indicator of whether something is regulated or not, it's the purpose for which the transportation is conducted. And that is what the Commission has historically drawn the line on in terms of determining whether a transportation movement is regulated. And there's not better example than it's a statutory definitions that the Commission

operates under for private carriage for regulations on combination of service and for the classically good contrasting example of whether, when you put waste material in a truck that is solid waste or it's a recyclable. What the Commission and the courts have approved the rule on that issue is what's the intent of the person who had the waste put into the truck and where is it ultimately go? If it goes to a recycling center it's a recyclable. If it goes to a landfill or transfer station, it's solid waste. What we're talking about here really is what the purpose of the transportation of the containerized household goods is and whether in fact that movement is a mere incidental part of another business. These people are in the self storage business. They're offering transportation as an incidental adjunct to further that business. The key that I see that has distinguished it historically legally is the aspects that the Commission has always said. Whether it's specialized equipment where there's accessorial services provided. Whether it's just a flatbed with something that anybody transports. It is not a regulated household goods transportation movement. And that's why we've got to make sure that we link the definition of what the material is to the transportation because after all that's where the Commission gets its jurisdiction. It doesn't regulate the distribution and production of household goods. It merely regulates the transportation of the goods. And that I think ultimately is going to be the key important issue in deciding this ultimately this question.

KR: Your questions based upon what Dave just said. I think that if a currently regulated mover wanted to offer the business in which it provides storage for or a container that it provides the consumer that it delivers the empty container to the customer, the customer loads, the customer locks. The transportation company then comes picks it up. Does not in any way inventory or ever get inside the box or handle it in any way. Returns that box to its storage facility, allows the consumer to come and get in and remove any articles that it wants to and then at the appropriate time when the customer requests then returns the locked box that it has provided to the consumers that to me is the same thing that I'm doing and I would not welcome more competition but I would say that they have every right to compete against us in that business..

PC: Our definition does not say that. You could take a container to someone's house. They load it up and you take it directly to their next residence. Is that correct? I'm just talking about the definition, I don't know...

BM: Excuse me, yes you do my ex-wife had it done and it was your company!

MS: You are out of order.

PC: If somebody requested that service, under our definition you could do that, is that correct?

- KR: Arguably under your definition that could be done. To my knowledge that's not the service that we provide here and in other states, like I mentioned before, we had to be very sure to say that we're not going to do that type of thing unless we were doing it in a regulated fashion because that takes the service that we're doing now to another level that we do not anticipate doing or seeking to do in a or unregulated environment.
- PC: Is that true from Door to Door also, because I seem to recall some advertising from Door to Door which suggested that' exactly what you do.
- KK: I don't think it's the mainstay of the business by any means.
- RO: This is Rob Outcolt from Door to Door. We might have at one time, a couple of times, but I think if you call and you ask do you normally do that and the answer would be no that we don't do that we have to bring it back to our storage...
- BM: The fact is you did it. You advertised it that way. That's why she bought your services and it was a very convenient thing. I'm not denying that this is a good thing to do. I think it's a great business. I saw it up in Canada where they have funny looking boxes up there, for some reason, they must have funny looking trucks. But the fact of the matter is that whether it's the law or not sir, maybe you should help us change the lawyour associates or members to do that the last time and now we're here back a year again talking about the same thing, the same people. This is unbelievable. Now again, you guys are all paid to be here and that's why, with the exception of Bruce, there are no other independent movers here. These guys are out working. They've now decided that they're going to change their....
- MS: We are not taking argument today we are taking data and factual information. Are there any more comments that you want to add today.
- BM: Other than the fact the these companies, these box companies, are hiring, or I shouldn't put it that way, they are referring business to moving companies. Now just making the legal distinction, putting a legal wall between one activity and another, that fact that you may not be billing for that service you wouldn't be getting that box business unless you have somebody to pack it. Rick's company would get it, or Bruce would get that business. Bruce probably gets it anyway, one way or the other.
- MS: OK. Is there any other factual information that needs to be added?
- KK: I'm Karl Koehler, Door to Door Storage. Sir, you asked a question about advertising the business of moving. I guess Mr. Smith brought up the question

about if he brought a truck out, they loaded up the customer himself...did we advertise that? No, we do not advertise that. I don't where may have seen that, I wish I had, do you have a yellow page here for the south end I could probably show you. We're under storage. That's what we focus on. We have storage people come to use directly to our facility in a move, sometimes we bring it out to them. It's both locations.locations around the country. The other concern...mentioned about referring of labor. The majority of people that use, and again I'm one where, start at the ground level. Used to be we were a storage industry and now at Door to Door. I've been on the phone for three years and the majority of people use our service because they want to do it on their own. They don't want to pay for movers to go through that process here. Once in a while, yes, people do recommend calls. Mr. Smith and I had conversations about that also, about referring....and I currently recommend two movers to go through it. One mover is up in the north end because up there I also hired professional movers, we recommended professional down south.....and if the customer wants that service to do the work, let them do that. That is not our intention. We aren't looking for labor or a mover. We're helping on the storage,...the same thing when people move out of our facilities. Sometimes they're in a location we cannot go to because of access or things of that nature. I give them three or four names to go through. In fact, Mr. Smith's location, Corporate I recommend. You go down there and hey, you need a labor it out, you need it to a location, it's either a different location....call them they're more than happy to come to the facility... and take it away. To say that we're in the labor business.....

BM: You are in the same business. That's, I think, Rick's point here is that just because you put a legal wall in there doesn't mean you changed the function.

??: This is ??????. I just need to make the distinction that Karl Koehler has made, we don't provide that labor. And that's a key, key distinction, and that's a key ...cost of the moving and storage side versus the storage side. You don't have the labor to pack the goods or load the containers. That's not our business. We don't want the truck drivers out there. It would be very inefficient for us. We don't say we have it. We don't do that. We don't have that.

BM: You should then not even make the referrals.

JL: We would submit that the references between two types of business will still occur even if they are included in the definition of household goods. No one is denying that it's brilliant business model and that the niche for that type of activity is veritable. But, and I want to go back to the case references that were made. Joe Harrison president of American Moving and Storage Association and the comments that I submitted rebuts most of the reasoning for those opinions that were submitted by the Federal Highway Administration attorney for that. I

believe the intent is important. I believe at Shurgard they will tell you, and it's been stated, that 90% of their business, or I think the other way, a growing 10% of their business involves no household deliveries at all, to and from households. That means that 90% of their business involves the transportation of these containers to and from households. What are the contents of those containers if it's not household goods under the definition of Washington law and Federal law? I think that if it remains an unregulated portion of the business then other movers will have to consider then opportunity to establish separate profit centers, which do nothing but transport customer packed and sealed. I don't know how the self storage type containers can possibly stand up in the long run, but if it's going to come down to customer packed and sealed then if one of the movers show up at a house and there's nothing but cardboard boxes there, they don't know if the person has a home office and that all of the office equipment is unregulated. They shouldn't have to ask that question. Those are household goods, but they possibly will in the future if they remain unregulated. And the unfair difference in regulation remains. There's a different standard that our businesses are being held to because of the fact that we do provide also accessorial services.

JT: I have a question for both Mr. Willey and Mr. Glass from the clients that you represent, do they consider the contents of the boxes to be household goods? Is there any question?

RG: Well, I'm sure they have business accounts too. So I don't know if you'd call it business equipment, business supplies, records....

JT: When they go to a residence though, is that typically considered, or is there still a distinction in the terms of content.

TG: I think they consider it as personal contents of a residence. What's in it they have no idea.

JT: The reason I ask that question, and again in terms of the Commission and in terms of the policy that has been considered in the current exclusion of your clients types of business, which again, is a good business, is that the contents have not typically been identified as household goods. I think the Commission's policy, as I understand it, is that that's more a general commodity. If in fact it is household goods, and that seems to be the question, and we may never resolve that here today, but if it is household goods and you consider it to be household goods or personal effects from that particular residence, then the real regulatory issue from a basis of state law is that the transportation, once those goods are put on the vehicle, and whether or not they're going to another residence or they're going to temporary or permanent storage, the transportation of household

goods in the state of Washington is the regulatory aspect. And that is state law and therefore the legal definition or the legal challenge is probably what this is all going to come down to in terms of this definition.

BP: Bruce Palm, Affordable Moving Services. I don't have the time to sit and focus on learning all this paperwork between doing the job and working on my vehicles.....to me the public has not, I've talked to, out of 15 or 20 customers a day that call me, 99.8% do not understand that this goes on that this is regulated to this extent and they don't really care. All they want to do is get their stuff moved at the best price that they can. I've saved clients 50% over an interstate move by going with an ABF truck where I just load this truck. So I'm providing a service where I load a trailer, it's not the customers, they're breaking down the move. That is they're having me load it, I'm covered between the house and the truck, the contents, once it's on the truck is covered by the trailer company and then they hire someone on the other end. They're having to do a little more work (turned tape over)... the option for the public to be able...we're talking about public protection, or consumer protection. Protection to me is price protection. Being able to have options. Otherwise this is all...eventually if the public knew this went on to this extent, I think the public would just vote this stuff out of business. So you guys can keep doing this but eventually if enough people find out about it, that is if like the mover and other people like myself get more publicized that is if you want to keep pushing buttons, we just take it to the public, I'm thinking about an opinion poll. Every person I move, what do you think about this? And start saying to you you're going to start seeing some significant problems, I think as far as public comment. Because what they're concerned about, I agree that we need to protect our highways and public transportation. We need to make sure these people are safe out there. But whether something is a household item...I work out of house. My office is my house. So what is that? Is that an office or is it a residence? You know, it really doesn't matter. The point is, I have a certain income level of things that I have to move and I have so much money to do that and there needs to be competition. If I could afford \$8,000 if somebody else is paying for it, hey, I'd let them do it. But, if I have to do it myself and I have to do it the cheapest way I can then I need options. So, I got to go to work, so you all have a good day.

PC: Before you leave, I know that one of the things you've left out of the equation is sort of what happens to damaged goods and those kinds of things?

BP: It's an option to them. They understand their options. When they...they have the option of buying additional insurance. They have homeowners policies. Some homeowners policies will cover it. Some take the risk.

PC: Do people understand the risk?

- BP: If you're a good business person you explain them your options. I do. I explain to them what their options are. They can either buy more insurance or they could keep the standard rate. If they're going with a freight company they have this. They have to look into their homeowners policy. Explain to them as a business person that you want them to come back and use your service or refer you to other people. I have a very high referral rating and it's because I do my best to make sure that they have all their options. I'm not saying that I'm perfect, I'm saying that I believe in alternative situations, so just think that people need to have options. If we close it out and only household carriers can carry household property, then we're back to the old days when those no options. There's no U-Haul, there's not storage companies. That's not American and it's not.....
- PC: So your position is different from Mr. McCulloch?
- BP: I don't know. Again we get back down to this nickels and dimes thing. Is it household property. I mean, why unload a ABF trailer, yeah it's household property I just took it out of their house. But, the point is that I put it on the truck for them and a transportation company, once it was loaded, they just came and got the trailer. They didn't do the work. They're just providing the service of transporting that property from one point to another. Yeah, it's household property but it's a different service. They're offering transportation. I'm offering unloading. These guys are full service and people should know that they have to pay for that service. I agree with that. Their charges are different than mine.
- MS: Is there any other new factual information on this issue?
- KK: If I could just ask one question to the Commission staff with regard to the consumer interest in this. Have there been even, since we're not regulated currently, but the UTC generally does have jurisdiction over household goods, is there a number of complaints about Door to Door or Shurgard or my client that have come in? Or are you aware of a consumer interest in this type of thing? Is there something that I presently don't about that is part of this process? Or the record in this process?.
- BA: Not to my knowledge, we have not had complaints against self storage facilities transporting containers.
- MS: (Not clear on tape)
- KK: I they can be referred to by anybody here. We will ultimately put into the records some examples of the kind of notebooks that have been maintained by the companies.

- ??: Sorry to interrupt, but the notebooks representupon every delivery to a customer, we provide them a questionnaire. A self-addressed postage paid envelope that goes right to the It comes in, we put in the binders....and any less than excellent comments get referred to the controller of ...operations, then he goes to the site. Also, I should say this is not just the good but, but really good ones as well so that there's positive reinforcement for good behavior...by the drivers. So we keep track of those. It's are way to make sure that if the customer has a problem and they don't pick up the phone and call that they have this form and an envelope that's already to go and we'll get some response back and glance through those problems.
- DW: I have a separate, just looking at this, the changes that, I'd like to ask if maybe someone can answer, what's the difference between what UPS and FED EX does? Those are customer packed and sealed self-storage, you might say, of household goods, if you want to go to the definition of business goods. They're transported on the highways. Shouldn't UPS and FED EX be here, because wouldn't they be included in that definition. I don't know what other regulatory aspect they're covered with now. But they're doing basically what we're doing. It's just the size of the container is different. Because we're not labor, loading the goods into a package. UPS even goes further. They pick up the goods from the door or from the customer and they load the truck and then they reload all those goods. We do less than UPS.
- ??: Why would not UPS and FED EX and Airborne Freight and all the other companies out there be included in this definition and if so then they want notice about that and have an opportunity to comment.
- JL: I'd like to address part of that. I think that we find upon research that the vast, vast majority of UPS and FED EX shipments are commercial movements.
- KK: In the Wall Street Journal, just recently, FED EX went through, they had a large article about two weeks ago in the Journal that was talking about FED EX's new relationship withand one of the key points of that article was that FED EX just could not compete with the internet residential deliveries because UPS as a \$26 billion company, has developed such sophisticated and powerful infrastructure to develop their ground delivery residential service that over 55% of the internet transactions are going through UPS.....it's also when the kids go off the college, they transportthere are household goods, well a percentage that is, but there are household goods being transported by UPS and FED EX but what percentage that is I couldn't say.
- MS: I think it's probably time to kind of put closure on this discussion because we're not getting a lot of new information.

- RS: I have some factual information that I would like to add. First of all there's been some comments about is the service being advertised under an environment that looks like moving or moving and storage and the answer is yes it is. If I have to go back to my office and find examples of where Door to Door Storage or Shurgard are advertising in what is a place that I would advertise, in the same place, we have plenty of examples of that. That's easy. I'm also on the board of the Better Business Bureau and we advertise in books there. We're all together in the same area. Are these companies providing local moving? Whether they store it an hour, a day, a month the answer is yes. Admittedly, factual that is what happens. Are there issues on the distinction between at what point do what I do become what they do? And I heard descriptions from Todd about well is it inventorying or is it locking the boxes themselves, or what size is the box. I believe there is because what you were saying was close to what I was thinking is that really what it is? At what point does it become regulated issue? It think there is some issues there that may mean that it needs to be redefined.
- BM: Marjorie, as much as we'd like to stay here all day, this is our issue. If we could be excused after you've discussed this I know the four or five of use wanted to just put as much as we could in the record and then be excused, if that's OK with you?
- MS: I think it might be useful to have you here on one or two other issues. I was going to say that this is a good time to take a break and come back at 10:45. Perhaps is anyone is interested it seems to me that either... is the definitionand it might that Door to Door companies would have some interest and give of some of their insight into issues.....and if you have any comments....to make your point know. Is there anything else.....
- PC: One question for Mr. Willey. In your presentation you mentioned that, in effect, Door to Door or Shurgard, providing this service is incidental to their primary business. If the rule said that this is incidental to their....I really cannot see the distinction between what I know that happens sometimes and what in Rick's description, this delivering a trailer, having it loaded and I'm concerned about having a level playing field and fair competitive practices between people who were doing essentially the same thing.
- RO: You kind of eluded to something I wanted toso you've opened the door for me....First of all I want to respond to a comment that either Mr. Smith or Mr. Lawley made which is basically that we're going to have to compete, we as moving companies could have to start a separate division and have accounting and profit centers do that. That's certainly, you're obviously free to do that and it's something that I can say that the Commission has had a lot of experience with in other transportation sectors that it regulates, particularly in the solid waste

field where garbage companies have city contracts that are unregulated and they have regulated solid waste service and they allocate costs and it's not that difficult and the Commission has very much established to account for that. Certainly they could start a division of door to door service and not be regulated and compete with us head on. They already, obviously, compete with us in some aspects of their business, particularly the storage aspect. Now with regard to your question about incidental, transportation, as I understand it from most of the companies, is offered as a convenience service to customers should they select that service. It isn't the mainstay of their business. They are primarily moving companies. Also, not a mainstay, at all of these businesses, and I would certainly, I will talk to Chris McKay, Shurgard's general counsel, about the statistic, that 90% is from residence to residence. That is absolutely an anomalous situation. Yes under the current definition of the rule, it could be provided. It is not a something that is in any way, shape, or form the mainstay of their business. They move containers from a residence or a business to their location because their primary business is storing containers. That's where they make their money. Now, one final comment that may help us get to the nub of the issue, Mr. Tutton raised what, essentially as I see as sort of chicken and egg and beg the question issue and when you asked, do you consider these household goods? That's the whole point of the definitional issue right now because the definition has traditionally always excluded goods that are moved in these specialized containers without accessorial services from the definition of household goods. So we start with that premise. That again is no different from the fact that when you put a waste material in a truck, do you consider that waste? Well, if it's going to a recycler the Commission says it's excluded from the definition of regulated solid waste transportation. That's, again, what we're talking about here. It may be a little bit more complex to make that comparison but it's exactly the same legally. So because the rule excludes the subsequent transportation of those affects from regulation, those aren't regulated household goods transportation. But, again, what's the purpose of the transportation? That's where we ultimately go in making sure that this definition works, which it clearly has worked.

MS: I'm going to ask again, I have offers from different people hereThe Commission is very interested at this point in gathering data. So if you could provide those kinds of data to us it would be very useful. If anyone at this table has information of that nature we would appreciate receiving it. I know we could discuss this issue all day, but unless, I don't think you need to reply to each others arguments, we're not doing that here. But you will have a chance to file additional comments by the 22nd. But if there's anything you want about the factual information gathering that someone wants to share at this point lets do that ... but I would like to come to closure on...because we have some more items to discuss.

JL: I want to make one brief clarification, just so you don't go to Christine McKay with something different than what I meant. I meant that 90% of the boxes are transported to or from households or between households. I have no idea about the percentage that goes between households but there was a statement and I believe it's from Trautman Sanders that states that a growing 10% of the business is not related to movements between households or from households to warehouses, warehouse to households.

?: (Tape is unclear)

JL: I don't know whether it is or not. I'll have to look for that.

MS: But you perhaps can file that.....by the 22nd?

JL: Sure.

?: One question. What would you like for us to send to youtwo foldEvery entity of advertisement... I could send that to you also. Every periodical I could send that too.

MS: I think what I'd like you to do is talk to the Commission staff at break and have them perhaps look at your notebooks....and see what they think might be useful. And if their similar ...to what everyone else has they are going to ...offer to give us your data. But I'm going to take a break now until 10 till and then go on to the next item.

*****BREAK*****

MS: I have your summary of comments here. I'm going to go out of order and I'm going to take the bottom row, 480-15-490 next because Gene Eckhardt is an expert for staff on that and he has a conflict this afternoon. The I will move back up and go into the waiver rule. So, Gene is there anything you would like to say in general about this rule before we start taking comment or would you just like to listen at this point.

GE: **WAC 480-15-490**—Let me just make a couple of short comments as to what's happened since the rule became effective. Referring back to the staff memorandum that we submitted in the rulemaking, staff committed to getting back to the Commissioners with a recommended costing methodology by October of 1999 and, I think as everyone knows, the Movers Conference has contested the rate proposal or the rates that the Commission set, along with other items and there's a pending court proceeding. I was little unsure as how to

proceed, having made the commitment, but I felt that I needed to move forward and I did invite a number of people to come to the Commission and talk to us about costing methodologies and on October 7th we did have a meeting. Mr. Lawley, Mr. Tutton, Bernd were there. There was about four or five others and we did have some discussions on different costing methodologies. At that time the band was in effect and I moved forward assuming that the band would remain in effect. That remains to be seen depending on what the outcome of the court case. But, based on what we had at the time we had some discussions on costing methodologies and I was prepared to make recommendation, but when we re-opened this proceeding we felt that those recommendations would be premature. So, that report and the recommendations are on hold pending the outcome of this proceeding here. I think with that it's appropriate to just take comments at this time.

PC: Well, one of the things that Gene and I were thinking is we ought to roll that into this. I think it makes sense. We've had enough experience and I think there's sort of general agreement that some kind of Indexing is probably appropriate for the base rate and I'm not sure why we can't roll that in to this proceeding and get it all done at the same time.

JL: We would agree that if we can roll the system that is used to adjust the rate into this proceeding then we would love to be able to forgo the costs, the expense and labor of performing a fully allocated cost study. Last year the primary argument that was used to justify the 35% rate floor, minus 35% rate floor, was the prior years average 25% discount that was offered to the Department of General Administration for state moves. The average of 25% was then taken and an additional 10% was added in anticipation of the "lower costs movers" which were speculated to enter the industry, and maybe perhaps doing that. However, based on a conservative estimate of the percentage of moves that the state moves represent, we estimate that it's a tiny fraction. About 1/3 of 1%. The year that was used to base that 25% on was in that year there were 133 state moves done. That means 1, 2, or 3 moves per mover per year. Moving company officials have told me and will we can provide testimony to the fact that these moves are considered filler moves. That they're non-revenue producing, but that if a company gets a move such as this in January, February, when things are slow, they can keep a crew busy and they don't have to let anybody go. No layoffs and they can keep their crew busy until higher revenue moves come in. We mentioned last year the concern of predatory pricing. The Washington economy is strong. I don't believe there is any predatory pricing going on right now. The economy is sure to weaken at some point and when it does more cut-throat practices may be seen and in the greater Seattle area that may not have any effect whatever or it may be transparent because of all the competition that is sure to thrive in Seattle. But in a smaller community such as

the one where Mr. Bernd comes from, Yakima for instance where you have two or three viable movers. We think that the concern of predatory pricing in a weaker economy is a genuine one. Finally we think that the 35% is, we think that it's speculative. It was said than in this staff statement to the Commissioners that based on its history of regulating the moving industry, they believe a wide range of variable costs exist. The latest figures that we believe are available to support that are from the 1993 cost study which justified an average 8 to 10 percent increase in the tariff items which were increased and a couple of tariff items were increased up to 15%. We think that if a cost study, a fully allocated cost study were performed today it would justify similar, if not larger increases to those 1993 increases. So, I think the argument could also be made that the 15% that we've proposed is just as arbitrary and perhaps it is. But what we see it as is a medium between the staff proposal and subsequent rule and what we had before and it's a much more conservative guess, if you will, as to what the banded rate should consist of. We think it also takes into account the balance of the Commission's goal of achieving a more competitive market environment and our goal of making sure that the health of the Washington moving industry remains.

MS: Are there comments? Mr. McCulloch.

BM: My position remains unchanged that we don't need to have any price regulation. But that if we are going to have price regulation at a minimum that it be a maximum and that's it. We don't need 35% off-15% off. In terms of predatory pricing I think that notion doesn't hold up in this industry. Predatory pricing I think is classically defined as where the cost projection is so high that you can beat people out of the business and no one would come in. In the moving industry that's not the case. I asked one of your members, one of the Washington Movers Conference, what... his own trucks and he....The implication of course is that they're being sold to other moving.... the price of entrance to the business was so high that itpredatory pricing. As far as a state discount I think that was pretty much a peg that staff used to provide a band in the first place. Whether it's 1%, 5%, whether it's in January or July I don't think it really matters. The discount's there. The moving companies are willing to take the business and it obviously proves that people can be moved for less than the mandated rate. In terms of the comments that Jay made about the banding being speculative and referring to staffs statement that there was a wide range of variable pricing, I think that's true. I don't think it's speculative. I think there's a wide range of pricing. During the break I was talking with Rick about a fellow who has a classic, I guess we would call it, moving truck. I don't think he ought to be moving furniture, I think he ought to be hauling people around in it it's so nice. He's sanded down the floor and varnished it and put lights in it. His cost of running that truck is significantly less because it was an old truck and a

lot of the fixing he did personally. Well suppose you could assign a labor value to that but the bottom line in that case, and this guy by the way works for the state of Washington moving furniture 8 hours a day 5 days a week for the last 25 years so he's a qualified mover. His cost for that truck is much, much lower than I guess anybody in the business and I don't know why he should be prevented if he needs safety requirements and insurance requirements from being in the moving business. And it might very well put him out of business on a part time basis if he had to charge a much higher. And I suspect he's operating as the 35% off list rate.

TG: Again from the perspective of Public Storage Pickup and Delivery, if we no longer have an exemption, I'll just throw that out there, and if we have to abide by the tariff, I submit that we would have to file a wholly new, or substantially different tariff than this draft tariff 15. The reason is that the distance based, weight based, type of cost methodology that is set forth here simply does not fit in the type of business that we offer. And that the rate that is attended to the storage or the pickup and then the re-delivery of the container, for the company that I represent, is currently \$49 within a certain radius of the facility. There's no distance, there's a weight limitation but, basically that's the flat rate and that's national. That's in the 13 states in which we operate. I'm not saying that that will never change, but that has been the way that it's been for the last couple year. And that is based roughly on the cost; however, that type of a price, the simplicity, doesn't quite come out in the tariff 15 or wouldn't easily be stuffed within the sort of normal tariff rules. We have done this type of tariff in the state of Oregon where we basically took the Movers Conference negotiated tariff type there and we modified it and we negotiated with the Department of Transportation and we came up with a tariff that was quite a bit different from this. So, I only say this in that if we are subject to regulation, in this way, that these types of rates and the banded rates that we're discussing would wholly be different. I am fairly confident that if the only way to do out business in the state of Washington was to abide by tariff 15 as it is here, I doubt that my company would offer that service in this state.

MN: First of all I'd like to say that the rates that the movers agreed to do work for the state of Washington General Administration were all negotiated on the premise that there's sales cost involved and we all understand that. Historically it's never been allowed to solicit state agencies for their business. It all has historically gone through General Administration. So, that's a factor and the sales cost is a very real cost to commercially viable moving companies and that's not considered into that discounted....that 35% discount. So if you took 10%, which is a very conservative cost of sales figure. In the moving and storage around the country it's more like about 19%, but if you took 10% or 15% away that would bring it up to 15% what the Movers ConferenceMy second comment would

be with the Door to Door Storage Company comment that was made...if the ruling is made that they are transporting household goods just like we are everyday then the rules should be the same for them as they are for us. Whatever it is that's on that truck that's household goods, it should be regulated. If I'm regulated, he should be regulated.

RO: Talk about a meat and potatoes issue that is relevant to the traditional household goods industry, this has got to be it. I think this is one reason, this is one area where they should very much consider whether they want containerized movers in the same basket that they're in. And I say that for a number of reasons, not the least of which is this whole concept of a study carrier group that I'm very familiar with in terms of regulated rate settings. I don't think they want us included in that group because they're going to like the floor that's established. I think this is just a perfect illustration of why we're talking about a square peg in a round hole here and why the containerized carriers don't belong under the traditional ambit of regulation. If we're talking about labor costs, if we're talking about all the labor charges that traditional household goods movers have as part of their overhead that we don't, I don't think they want to be measured in our basket. Second of all, I heard a definition of predatory pricing that I would just like to clarify. Obviously for a regulated company predatory pricing is a very grave concern and the definition that I heard is different than the one I understand of predatory pricing, which is in the areas where the cost is low, not high but low, predatory pricing is a concern because larger carriers can price below cost and thereby eliminate competition. So, I think the concept of regulated rates for a regulated traditional industry is obviously the issue that's the most important to the industry because that's where revenues come from. And I think finally that the concept of waiver, worst case scenario heaven forbid that we should come under traditional household goods regulation and definitions. I think this raises the whole waiver issue broadly to us and I'm sure that the Movers Conference, once they talk to us, is going to want to support the exemption for us because from the concept of regulated rate making, we're not going to help them being banded with them in any way, shape, or form.

MS: David, one of the comments that we received from...at Shurgard has applied for

RO: That is correct and that was under protest after a long protracted proceeding where there's essentially a cost benefit decision made by the company not to challenge regulation.

MS: I just wanted to ask you what kind of tariff?

RO: They, and I have discussed this with Chris McKay, the general counsel who's

been here talking about this issue in the previous stakeholders meeting, the Commission staff is familiar with here, I talked briefly to her. I intend to do more if we get further involved in these issues in this rulemaking. But, I understand it is very difficult, cumbersome, and ultimately unsatisfactory process because of what I eluded to, the square peg, round hole. Now in Washington we have a different system for rate regulation than Oregon has traditionally used in the motor carrier field. We have a much more centralized state published system. They, in Oregon, have tariffs bureaus that submit to the Department of Transportation and then approve it, but there's a bit more participation from the ground level, as understand the system in Oregon, but it's certainly a square peg, round hole and as I look, and I've seen Tariff 15 in the past, as I look at even revised Tariff 15 I just see incredible numbers of provisions that have absolutely no relevance to the service that is being provided by the containerized industry. So, I would submit that tariff and rate regulation issue is one of the strongest factors militating against trying to broad brush containerized household goods carriers into the traditional household goods movers.

BM: In Tariff 15, while this is certainly a revision of what we've had in the past, it still contains the most objectionable parts rate regulation, prices of boxes, there's still a differential for weekends. These are not consumer friendly, for sure, or whether they meet the requirement for consumer protection maybe that subset stuff the Gary Locke put forth. And I would say that while this may not be exactly what we're talking about, in terms of banded rates, that we need to do better than this. We need to eliminate the mileage differential go to a different basis for charging. The container companies have said that they don't work that way and a lot of the independent dealers don't either, they charge on a straight hourly basis. So I think that we should not change what the Commission did last year, but rather we should change rule 15 even more than it's been changed, or Tariff 15. If you want to go through it point by point I can do it.with what consumers would find either they couldn't understand it or it's just not there.

GE: The last thing you had was back where you said the unregulated movers.

BM: The unregulated movers typically charge a flat hourly rate. So if you're going to go from here to Spokane. They just charge an hourly rate, you know, so much per hour. And usually so much per person. In terms of the comparison, by the way, it seems to me between the business that you're in and the business that these fellows are in, there's a common component. It's a truck and it's a driver. If we did a fully cost allocated study we certainly would come up with maybe different truck costs but I don't know that the driver costs would be all that different. I don't imagine that your drivers have the same qualifications as other drivers. CDL, that sort of thing, you're paying them about the same hourly rate.

GE: Yes, I'd like to respond to a couple of the comments and perhaps I should have taken bigger step backwards to look at the rules themselves and what the goal, the Commission's goals were, and what we are trying to achieve and we were looking at the rate issue in the context of a relaxed entry and more open regulatory structure and what would be the appropriate rate regulation in that more open environment and what was the goal of the more open environment and that was to attract new haulers who would provide new services. So we're looking at how to set rates that will allow new companies to enter the market and they may not look exactly like the incumbents. They may not have the same model trucks or the same year trucks. They may not have the same size warehouse in the same part of town. They may be located in different parts of the state. So we're trying to look at how we can establish a rate system that will incorporate a lot of variables. Not like from the operations themselves, but the services and that was to encourage both incumbents and new entrants to provide different services and offer price options. Give consumers choice. In looking at how we could approach that, we discussed various opportunities that we are aware of in staff memorandum during the rulemaking. Where do we obtain data to look at establishing rates that will accommodate new entrants to the market, or new services, that we don't know who they are or what those services are. That's pretty difficult and we evaluated our various options. The one thing we did know is that we didn't want to establish a rate system that took a picture of that moment in time of the regulated industry and say this is the range of possibilities. By the rulemaking, that that's not the range of possibilities. We want that there will be different haulers. Those different and even incumbent haulers may offer different services and there will be different circumstances. So clearly whatever the photograph would be, if we could take it in a moment of time, whatever we've crafted as far as a rate design, had to be something more than that. We looked at options of obtaining data from non-certificated haulers from different states who had different regulatory environments and we just didn't feel that those were viable options for a number of reasons and they're discussed in the staff memorandum. We can go into that greater detail. Looking at trying to establish a rate, I think Mr. McCulloch said, well there shouldn't floor, well we had a lot of discussion about whether there should be a floor and that's an interesting issue in and of itself, but the bottom line is that we concluded that there would be a floor, so how would be calculate it. And we used the bid levels, the discount levels filed with the state as the basis for calculating and I believe that was a reasonable approach and I still believe it's reasonable today. And whether, Mr. Lawley stated that that represents a very small part of the moves and those are filler moves. Well, that's exactly what we're trying to do by creating this band, is to give haulers flexibility in the way they price their services to customers and the way they use their resources through different times of the year and perhaps, hopefully, we're trying to get the haulers to provide different service options to customers. If the lowest part of that band gets only one move

per year, I think we've succeeded. And let me address a couple of, you know Jay said that their proposal was conservative, well I appreciate that. It's less than what the staff proposal is but there's some thought that the staff proposal was conservative. We'll try to look at that and evaluate new information as we have it. We committed to the Commissioners to conduct a market analysis and look at costing issues in the eighteen to twenty-four month out. The reason that we thought we need to have that time is that we felt that it would take at least that amount of time for the new entrants to enter the market. For haulers to provide different services and for this transition period to shake out so that we could start looking at some real data, because the data we look at has to be historical. We need time for this to take place before we go out and start looking at everything and taking it apart and putting it back together. (Turned tape over). What the Movers Conference has provided is average data which, as I said, just doesn't provide any additional value or meaning to me. In response to I think it was Mr. Glass, if the definition has changed to include these door to door type services then I do think we need to step back and take another look at that because I don't believe the existing tariffs or rates address those types of services at all and I'm not quite sure how we'd approach that. Let me stop there.

MS: ???

PC: I just want to make it clear that Gene is only speaking for himself. I really came here to hear from you not from Gene. I've heard Gene's arguments. So, he is only speaking for himself and I what I hope to hear, and Mr. McCulloch had mentioned one of his associates or somebody he knows is charging 35%. That's the very first example I've heard in the whole time

BM: But realize he's just doing weekend moves. He's not

PC: I'd like to see some of his bills of lading because that would be the first evidence that I've seen. Every person I have talked to is charging more than the base rate and, as you mentioned, the economy is booming and there's lots of business out there. There isn't really isn't any reason to discount. So if you have evidence that somebody is charging more than 35% I'd really like to hear that. But, I just want to make it clear that what Gene says here is his opinion and we have a very open mind and I want to hear from you.

RS: Our position is that the 35% off is too low. We understand that eighteen months ago we took a picture, we took a snapshot and the only snapshot we legally had was of all the regulated moving companies. Part of what you were trying to accomplish was to invite more people in the industry that wanted to be part of the industry. We now have, in Gene's words, another snapshot that we can take of where we are today. It appears to me that you have a number of carriers that

are operating under temporary authority. The entrants to the market. You have existing carriers that are already, or were in the market and are continuing to do local and intrastate moves. You have somebody here that represents or is knowledgeable of, maybe does not represent, but is knowledgeable of many of the companies that are out there that are performing large volumes, not just one person that does, and it costs a lot of money to maintain an old truck so I'm wondering how he does it, but that does large volumes of these moves and I'm going to theorize and suggest to you that you would find that the predominate share of this moving business no where near that bottom rate and just leaving that bottom rate as it is doesn't somehow eliminate somebody from getting the deals that they should get for moving. We believe that the 35% off doesn't represent practically any of the moving that goes on as of right now. In raising that, and you may have examples of that, but I would guess that more than the predominate number of carriers that still choose, for whatever reason, not get temporary permits and become regulated, which defies logic now to me, that they would not try to do that, still are charging no where near 15% or 25% off the rates and I would say that you have to agree with that.

MN: I don't know, 25% I think you would find some. Mr. Eckhardt, I just want you to open your mind for a minute here. I operate in SW Washington and we're going to loose a mover here in southwest Washington that's been in business a long time, within the next year. There either going to sell the company or probably go out of business because they don't have any takers. We've lost two major moving companies in the county here as it is and they're significant moving companies and there going out of business in the county a particular reason. Now there's been some additional entrants into the county too, but in southwest Washington, and this is just an example, there's one mover in Centralia, and there are no movers in Toledo, or anyplace between there and Vancouver. As far as I'm concerned I think if you charge 35% below the tariff you should charge 35% above the tariff. And I'll charge 35% above the tariff, because every time I get a move out of Toledo, Washington I'm going to charge 35% above the tariff. And I think as a state agency, this agency has to regulate the entire state, has to regulate population levels no matter what they are throughout the State. Now you've got a bunch of people, predominately a lot of people that Brian represents especially, that are located up in Seattle where business is booming. But, business isn't booming in Aberdeen, buddy. Business isn't booming down in Centralia. They've got high unemployment rates in Mason County, and I work with these people all the time. I'm telling you, that if I'm going to go to Shelton for a household goods move, which I do all the time, that I'm going to charge them 115% of the tariff at this point. I'm going to charge them 135% of the tariff if I'm able to. But at no point am I going to charge them 35% less than the tariff. Now why should those people, because they live in Mason County, which is one of the poorer counties in the State, pay a price for living there. They are

because of the way you're setting things up here. That's the whole idea. You've a bunch of competition in King County which is going to drive the price up or down no matter what and that fair idea, that perfect idea of capitalism is going to work. But there aren't a lot of new mover entrants in Mason County or in Grays Harbor County or in Lewis County. And Brian, maybe you can tell me, do you have any members that are in those counties? Do you have anybody in Seattle that's going to go down and do a move in those counties.

BM: Well moving down to the places or between...

MN: There are people that are moving within those cities. Most rural people move from one rural community to another rural community.

BM: The question I've got for Rick and I guess for you is if you're not willing and virtually no one else, except this guy who does weekend stuff, to price at the bottom of the now range? Why should we bother changing? Just leave it as it is. Nobody is doing it. I'm not so sure that we shouldn't be talking about the other end of the range, and if you'll remember when we first started this and we talked about banding. I went along with the notion that what's fair for the goose is fair for the gander. I just told Rick that Mike is charging, I think it's either \$90 or \$95 per hour. Now that's still within the 15%, but here is a guy who started his business by charging low rates and he's now at the top of the band probably charging more than a lot of the regulated carriers. And it isn't just that the market will bear this, it's the costs of doing business have risen so dramatically in parts of King County, like what Rick said, because of what is going on there. Yours are going up for different reasons perhaps. You may have uncollectibles in a poor county and that's got to be factored into your cost of doing business. So, I wouldn't necessarily say that we would oppose raising that cap. I think we'd support you on that.

MN: Let me finish my point. My point is is that you have a responsibility to take everybody that lives in this State. You have responsibility to take them into consideration not just the people in King County.

?: Did you have a suggestion on a different approach to rate setting or rate regulation?

MN: What I'm saying is that your argument that 35% below the tariff in a viable metropolis like King County where a bunch of moving activity might drive down the rates, works in that area. Now price regulation, you've got to consider the other areas in the State.

MS: ???

- KK: My question to the board. Again, I was not involved in this conversation last year. My question, and again you guys took a snapshot last year to make your decision, now you're going to try to decide this year. My question is have you guys to actually look at a big business financial statement and a small business financial statement and see what the costs would do to the business. I think you're going to see big differences. For.....would be a lot different than gentlemen that is maybe doing it out of his own house, he's parking his truck in his driveway and doing that and because of this operating cost he can do so and be able to do it at prices that are low but he's still able to make money and feed his kids and everything else. Have you guys done that analysis?
- GE: No, we have not. And we didn't intend to do that analysis until 18 to 24 months. Because we felt that that transition period would take that amount of time. And how long does it take to get an add into the Yellow Pages. We didn't want to be in a position where we've created a different system and go in and measure pieces that are happening within while that system is trying to shake itself and reach equilibrium. What we want to try to get is a more stable picture of what's going on out there.
- KK: Do you guys plan to do that in a year to be able to have some... come on and say hey, here's what company A is like, a revenue stream of \$5 million versus revenue stream of a company who does \$250,000 per year and go that way?
- GE: Staff committed to the Commission to reviewing that, both the market and costing at 18 to 24 months at the time the rules were set because we recognized that there would be a change. And I am trying to get more information and to consider what's going on. My earlier comments were to kind of make sure that everybody understood the context of where the rules were developed and how they were developed as opposed to saying that that's the way it's going to be. I'm trying to get more information here.
- DB: I've been in this business since I was a little kid and I've watched it grow and I've watched cost studies evolve. I've been involved in several of them. It's my understanding that the Legislature's intent way back was to have rates established by the Washington Utilities and Transportation Commission. They gave them that responsibility to establish rates that would give movers a fair, equitable rate of return. I think that's what we are talking about. This fair, equitable rate of return ensures that you have quality movers. You're going to have quality equipment coming out there and you can ensure the public that their personal belongings and heirlooms, their grandmothers china, and their great grandmothers rocking chair, are all being professionally taken of. I feel that, yeah, there are companies that can go out and say we're going to discount this 35%. That might last for a little while, but those people, in the long run, are

taking business away from legitimate people that have been there for years and plan to be for years and that are giving this professional service. You talk about new entrants, suggesting that possibly that new entrants maybe buying my old trucks, or my competitors old trucks, or whatever. Do you have any idea what it costs to replace a set of brakes on an old truck. Or a set of king pins on a steering axle. They're expensive, take my word for it. You talk about different options, well fine, we'll give you a 35% discount, but maybe we'll give you the old truck with the old dirty blankets in it and let you have that and maybe we'll give you the truck that hasn't had a brake job in six years and take your chances going from here over the pass. Maybe we'll also let you have the truck that steering is kind of worn out on because we don't have enough money discounting the 35% to maintain that truck. Maybe we'll go out to Labor Ready and get some people that have never this before and one of them might have a drivers license, if you're lucky and they'll be the ones taking care of your furniture. I think the biggest thing that you're going to see when you start discounting 35% off our rates that were established, these rates I'm talking about transportation rates, line haul rates, not the local moving or the accessorial rates, the transportation rates have not been updated since 1988 from a move like from Seattle to Spokane or Yakima or where ever. People discount the 35% off of that rate just does not make any economic stability or sense. And, as you'll find as happened in the airlines the first thing you start to cut back on as a businessman, is you start cutting back on safety. If I'm discounting 35% and my profit margin is going down below my costs, where do I make my money back? I don't take the pay cut. I don't send the truck in and have the brakes maintained. I don't send that truck in and have an A & B inspection or whatever and make sure that all the steering and the braking and everything is road ready and safe for the public. And that is what the airlines, that is exactly what happened in the airlines. The first place, when the deregulation came, they start dropping their rates, they start cutting out their safety. And I hate to see that happen in the moving industry. We have an industry right now, we've had an industry, when you call the mover you know, because the Washington Utilities and Transportation Commission has had this responsibility that that mover is a mover that, you get two guys coming out to your house, they're not going to be felons, they're not going to be ex-cons, they're going to be professional people that are going to take care of your furniture and your household goods and your heirlooms and the things that mean something to you, and we were talking earlier about, well what's the difference between household goods and office goods. I could care less about my desk, or my house or my office. But my rocking chair that was my great grandmothers is real important to me. There's a big difference a truck load of apples going over the side of a cliff and somebodies personal belongings, you know it's just like a fire if you loose it, there's a lot there.

BM: With all due respect I feel that I need to respond. First of all we're not living in 1933 any longer and the fair and equitable rate of return promised by the Washington Utilities and Transportation Commission, maybe is a promise that now has to be broken. A business that's been in business for years and inherited by family members, the people that I know that I work with haven't had the opportunity. I can go back to our very first session here in terms of rulemaking in response to a similar comment. A fellow jumped up and said "my grandfather wasn't allowed to be in business." So if you're talking about companies that have been there for years, maybe you can continue to survive. I would suspect that you could cut your prices faster in Yakima than some of the other people in town. Now as for safety. Safety is a responsibility of the Washington State Patrol and the suggestion that people are running around in unsafe trucks because they're charging 35% off hasn't proven out. And the assertion that airlines are less safe today, sir, than when deregulation took place, is patently false from the records. There are crashes, no doubt, but airline safety is way beyond what it was when the airline business was deregulated. We have a lot more choice today. We spend a lot less on our transportation from flights to flights. It may cost more to fly to Spokane than it does to New York City than it did fifteen years ago, but deregulation has worked well in the airline industry and I think it will work well if we try it, and I mean deregulation in the moving industry. And as to whether it's a rocking chair or a desk, I happen to value my desk more than I do a rocking chair.

MS: We're not in a debating session today and we're not arguing. We are gathering data. If you have data that you would like to contribute, I would like here about it, but I don't want to sit here and rebut every statement....

BM: Well I'm not going to sit here and listen to someone supposedly put out data regarding safety in the airlines when it's not true.

MS: Is there anything else we need to discuss regarding data household goods intrastate moves.....

PC: Early on when you were talking you were talking of the Department of General Administration. Did you say that you're advertising costs, or your sales is 15% of your cost?

MN: The cost of sales in the moving and storagebetween 14% and 18%.

PC: And your cost of sales and advertising?

MN: My specific costs of sales and advertising?

- PC: Well I'll go down and look at your annual report. But you were making some kind of an equation coming up with the 15% essentially saying if
- MN: Originally back whenMr. Bekins negotiated a state contract, because that's when it was done. It's been years and years and years ago. It's my understanding that that was one of the provisions. Prior to that we were all running on state office moves doing this. And it just wasn't the State and it wasn't working for the moving companies and part of the deal was we'll give them this rotation basis. They won't have any cost of sales, we could provide this discount for you and that's the way....
- PC: I was just trying to get how you calculated the numbers.
- MN: As far as the cost of sales goes, that's my own information from a panel that I worked with that we study each others moving companies.
- RS: It's fairly typical for in the moving industry to pay a salesperson that goes out and sells that local move, at least as long as I sold in the business, somewhere between 7 to 10% of the overall transaction is paid as a sales commission. On top of that you have additional costs associated with that salesperson on top of the sales commission. So if you take the sales commission, the applicable costs in getting that sales person out there, along with advertising costs, you reaching a range somewhere there. Now, if you have business that does not come through a sales commission process, if it's something that's a state agency to my company transaction I would not typically pay a sales commission. That's where this is coming into this discussion, is that there aren't the kinds of sales costs associated. That allows some of that to drift on the discounts that she seeing in the company she works with.
- MS: I've heard Mr. McCulloch offer the send in additional comments on Tariff 15. Tariff 15, technically for our purposes,..... After listening to...I know one of the things that or someone was saying a year ago was how particular companies were going to use the rate.....The other thing I know we discussed a year ago was that data and average data for a group. The Commission was wishing you would share the individual data for members...So if there's any data out there that you're willing share on this issue we would be very pleased to receive it. If there's any other kind of information that you can share with usWe've had this for a year, how's it working, how's it not working.....The range between the low and high mover would be helpful. We're looking for data.
- BM: Are you asking us if companies are... by the week, a year....
- MS: Yes. At least in staff discussions and I think in open discussions a year ago

there was discussion that it might make sense to charge less in January than you do in July. So we would kind of like to know if anyone is doing that.

- BM: There are a couple of companies that are doing that. There are not people that would ever participate in a meeting here. Well, they don't want to know anything about any of this. And you don't want to know about, or you do want to know about them, at least more than you already know about. What they do is they charge less, it's a pretty cool pricing model actually, they charge, the less gets to be less and if you get near a first of the month. You follow me. So if somebody calls and books on the 5th of December to move January, they'll get a lower price than if they call back and book it on the 15th. So they're basically pricing to the demand and that stuff. There are very few of those companies that I'm aware of. Everybody seems to have a price and they stick with it.
- MS: That's the kind of information that I think would be useful to the Commission. We do have a responsibility to set rates.....A lot of what we do is setting rates by company....I don't think we would want to move.....it's not good for you and it's very expensive for us. That's not the way we're trying to move. I'd like to know what is going on. I'd like staff to know what's going on so they can...
- MN:15% ASAPand then you give our sales people the discretion to discount down up to 10%.....So depending on the time of the month, depending on the it's worked very well for us. My biggest gripe about it is that youI can go 35% below and I can ...135% positive.
- MS: Since you could only go 10% down would you only like to go 10% up?. Anything else on this? I would like to just briefly have an introduction....
- AR: I'm Ann Rendahl. I'm and Assistant Attorney General. I represent the staff in this matter and in other matters involving household goods. Concerning the waiver issue, the Commission realized when the judge stayed the waiver rule from the household goods rules last time that there is a concern that there's not sufficient process in the waiver rule to allow people to understand that a) When a waiver is being brought to the Commission; and, b) how to deal with it once it gets there. So this is a matter that's being addressed in many other rulemakings throughout the Commission. The Commission, as you know, Governor Locke directed all state agencies to review the rules. So this agency is reviewing, not just household goods rules, but all other rules and waiver is an issue in all of those chapters. So, because those are on-going, staff in some of the other rulemakings have taken a stab at addressing this process issue. This copy that you have in front of you comes from the solid waste rulemaking. And Marjorie, is that done or is this in process?

- MS: This is the language that is included in the first draft of the solid waste rule. It's either just been distributed or is about to be distributed.
- AR: Does everybody have a copy of this now in front of you? I just circulated it. There are more copies
- MS: This is just a first draft that has been distributed to the stakeholders in the solid waste rulemaking and it is not in any sense committing to what will be the final language in that rulemaking.
- AR: So this is basically for illustrative purposes to the group, that obviously there is a recognition that we need to address the process issue and make sure that it's clear to everyone what the process is for a waiver. So, I'm not tossing this out there as a draft rule for this rulemaking but for just sort of food for thought that we want your input on what sort of process you think is appropriate for a waiver. Our understanding of how we impliedly thought that a waiver would be addressed is it would come before the Commission at an Open Meeting. It would be circulated out in the agenda for an Open Meeting so anybody who's interested in an issue is going to be aware that it's going to be brought up and allow people input before the Commission to address it and then issues that are brought up before the Open Meeting and determined by Order by the Commission are subject to the administrative procedures act and the judicial review provisions under the APA. So there is a process, in a sense I think it was implied in the rule we had, in the last draft. So, I guess we'd like to hear your comments on waiver and the process that should occur for waivers before the Commission and that's what we're interested in from you today.

WAC 480-15-030-Exemptions

- JL: I'll speak to our thoughts on this issue and the first is that we have trouble imagining the scenario where one moving company would be granted a waiver that should not be applied to the same operations being performed by any other moving company. If those exist and can be justified then it's very possible that we could change our stance on that, but at this point we would feel that any waiver would be available to any other company providing the same service. And we would also suggest that perhaps public notice and opportunity for comment should be provided in the case of any waiver petition.
- AR: Do you think that should be written opportunity for comment or in terms of an Open Meeting option is that sufficient opportunity for comment? What's your thought on that?
- JL: I would think that it would be written or verbal comments.

MN: I would like to add something. I can remember one example when a provision like this would come in handy and that was back in the days when office moves were regulated. There's a large office move going on within the city of Olympia for the State. The company that contracted to do it the employees decided to go on strike right after they started the move and at that time, things have changed of course, but at that time you had to have a special permit to operate in the city limits.....And it would have been of great benefit to the state of Washington to get another local moving company that did not have that operating authority to have been granted emergency authority to operate to provide the service. They weren't able to do that for whatever reasons. But that's the only time in 20 some odd years that my industry experienced this waiver.....

?: Who gets notice.

MS: I believe there would be notice supplied through the publication of the agenda....and that agenda is distributed to anyone to anyone who wants it.... it's broken down by transportation and utilities.....

?: One additional question towards the notification in our new age of communication, is that also listed on the Website?

MS: The agenda is posted on the Website. I don't know if we have an e-mail list for distribution yet, but I know some people prefer that.....

DW: Just a couple brief comments. First of all the concept of waiver being better articulated and better flushed out I think is a good objective and one that we've had problems with in other industries in the transportation fields that the Commission's regulated. I think it's good for us to be consistent for all transportation industries in terms of how we draft a waiver rule. In answer to Mr. Lawley's question, I think waiver's a lot more commonly posed than he may think. Particularly with respect to, I mean the concept of waiver is exception, but it be a fairly broad exception when common circumstances are reached. One area that I think is really prime for waiver has come up repeatedly in the motor carrier field is the equipment leasing rules and exceptions under extraordinary circumstances and rate issues regarding leasing. So, I think it's a lot broader. Obviously these containerized industry under the worst case scenario being regulated by the Commission would probably use the waiver rule. So we do have some self interest in making sure the rule is clarified. One other comment on sub four of the rule Ms. Rendahl, I would recommend that we also consider, when you say setting it for hearing, including Brief Adjudicative Proceedings. I think we want to make sure waivers are handled in a expeditious fashion. Because waivers sometimes are very time sensitive and we need to get a two to three day turnaround maximum and it often can be handled by paper

submissions and either a Brief Adjudicative Proceeding without or handled ex parte, etc. but we've got to get focused on it fairly quickly because they're are usually circumstances beyond the control of the waiving party. Those are my comments and I endorse, for my clients at least, the concept of making this clear so that nobody claims unknown or special treatment under the waiver rule.

- MS: I'd like to pose a question to staff...that you may have experienced in this industry or perhaps other industries in situations where an exception to a rule may have been valuable. I guess I would like part of that question to be, are the kinds of things that come up for exception usually something that would be industry wide or they just particular facts of a certain circumstance?
- BA: I think over the years we've had requests for waiver that were specific to a company or to an instance in time. For example, during labor strikes there are things that have to be done and they have to be done now and you can't do them under the rules the way they are, you may file a waiver petition that the Commission considers and says, yes you can do this for the specific purpose or the specific period of time. Other waivers have involved, motor freight carriers. We had carriers with huge fleets and every year we issued them new cab cards and copies of operating authorities. There were provisions that allowed those companies to petition for waiver of the requirement (this example is broader than just individual company) . Any company that had more than "this many" vehicles could petition of a waiver of the rule and not have to carry full copies of operating authority in all their vehicles or carriers that had huge operating authorities could petition individually not to carry operating authorities in all their vehicles. It was that kind of, thing. The rules were general and applied to everyone if there were specific instances or specific companies that had circumstances that required a waiver the Commission would consider those on a case by case basis. And we always did those before the Open Meeting. The instance I think that we have before us now involves piano movers. In the past piano movers were exclusively piano movers and they didn't have broad household good authority. Now we have piano movers that have statewide household goods authority and they still only do piano moves. They don't do anything more than that. Under current provisions they can petition to file an individual tariff for piano moving, but many of the provisions in the rule apply to broad household goods moving authority that don't really fit pianomovers. Such as a requirement for customer notices that have a lot of information in them and the rule says that they have to provide that specific notice, but it doesn't fit what they do so. That's something that came up when staff was trying to create forms for a piano tariff. We said, gee, this is going to be very awkward for these types of companies that don't do broad household goods moving. If they are only doing pianos then they would need an opportunity to request waiver of certain provisions of certain rules. That I think, is the best situation I can think of, maybe someone else has some others.

- PC: But they are relatively rare. I'll give you an example in the bus industry. This woman ran a bingo bus out of Tacoma and she picked up people in not the best part of town. She didn't want to advertise on the side of her bus that she was Debbie's Bingo Bus because she thought she might get robbed or something. Here are all these elderly people getting on the bus and she was afraid somebody would stop them and take their money away from them. So she asked for a waiver from us so that she didn't have to have the name of her bus on the side. And that seemed reasonable to us. That's the kind of thing. It's not big broad based rules. If there's something that's applicable to everybody in the industry, then you ought to change the rule. And I understand you're concern from the industry perspective. You know you have these rules. We want a level playing field. We don't want this person to have an advantage over somebody else and that's not what the waiver is intended for. It's for those unique circumstances, something that just applies to this particular company. We try to get everybody's input so that we're not inadvertently giving somebody a competitive advantage.
- BM: How do you do that, Paul, and meet Dave's concern about timeliness or what Mark brought up? I think they make a great points that waivers are needed, not for Debbie's Bingo, because she's going to do that repeatedly, but for the case that Mark talked about where there was a customer that was going to be completely wiped out or inconvenienced because of a labor strike that knocked out a company.
- PC: You really have to have some balance, because you want input from others who are going to have a different perspective. We do that through the open meeting process, we meet every two weeks.
- RO: But Dave's saying that we need it in three days in some cases or maybe two days. Sometime you can't wait two weeks. I think there may be a way to balance the concern with bi-weekly Open Meetings to have a provision that if you certify that you've notified the Movers Conference or whomever are interested parties for all waivers, that's what you could do. If you certify under you certificate of service that you've put them on notice then a Brief Adjudicative Proceeding or a staff opinion could be issued as an alternative to the Open Meeting. Because I think Mr. McCulloch is correct, sometimes you can't wait two weeks. If you're waiting on a move the next day and I think if you fax served and had a certificate of service showing the interested parties for all household goods rule waivers, that could possibly be an alternative expedited method.
- ??: I think the waiver has to be limited in scope too. Specific for a specific length of time,

- MS: We could probably write something that would allow until the first Open Meeting and then we do maintain lists for every industry of people who want to be informed and if any of you are not on household goods lists, stop in Records Center which is right below us on the way out and get put on the list. We also maintain a list of news organizations that want to know about things like that and we do have the capability to either e-mail to broad groups or even broadcast fax if we need to. E-mail is really bypassing faxes. Technology of choice in my opinion.
- DW: You do have Brief Adjudication Proceedings also?
- MS: Oh yes. We can do any kind of hearing on a telephone. We can do a full rate case including review in a week and a half if ... bankruptcy. Other stuff gets delayed while we do it.
- DW: Marjorie, I think we do have consensus on this issue at least.
- AR: I guess I'm wondering if we do have consensus? I think the Movers Conference concern, as I understand it, is that they're not comfortable with the idea of waiver period because of the possibility of broad application. But if that's no longer an issue, and we can phrase the rule in a way that would address that issue, is that something staff can go forward and take a stab on. Or if you have suggestions, please send it to us.
- JL: Now I know the direction that you're going, we may need to go back and talk about how this process works. At least we understand where you're headed with this and you understand our concerns.....
- MS: I can think of one more example. We had an application in for garbage authority and this 42 year old guy who'd just gotten out of the military dropped dead of a heart attack and we were trying to figure out how to take care of things sounder 480-09 but I was just trying to make that work....That's why I'm concerned that you wanted something that applies to everyone. That's what rules are about and exceptions are for the things where the rules just going to do something that's going to hurt somebody.....
- JL: I'm confident that we'll be able to go back and come to a consensus among ourselves that situations such as the ones that Paul and Bonnie and Mark brought up need to be able to be accommodated and accommodated quickly and perhaps that they won't apply to everybody. Those are excellent examples.
- AR: I've just been asked by two separate people, so I think there's point of clarification needed. The issue of waiver and exemptions from rule generically is

not containerized in this (turned tape over).

MS: **WAC 480-15-260**—Exemptions to temporary for transfer of purchase by experienced operator.

I appreciate the gentlemen at the table joining us today and look forward to your input by the 22nd.

JL: Staff has already added language, or the rule already has language which allows for transfer of a permit in the case of sale or transfer of control of a company or reorganization of a company where the majority shareholder does not change. What we are asking for is that in the case of transfer of control of the company or sale of a company to an uninterested party or a minority shareholder who then become the majority shareholder, where this person that is taking over the company may have already have the ability to properly run the company. It may be a company manager that is buying, say Rick's manager is buying his company from him. Has been there for fifteen years and knows how to run the company and knows the process and all the legalities about the tariff and liability and consumer protection processes, that they should be able to take control of that company without going through the temporary application process.

BM: We're opposed to that. We think that everyone should have to go through the same process, the temporary process. I will say that our experience with this very thing, this very item, with one person, if the standards that were set by the actions of the Commission in that application or the standard for anybody getting a permit, I don't think anybody will ever be denied. I'm not sure what you'd have to do or be to be prevented from getting authority and that's part of the reason that we oppose this.

??: So what this is saying is that if we've got an existing permit and we are going to transfer, it's going to go into temporary status until the transfer is complete.

RS: To give you an example of when I bought my company, we bought the assets, we did not buy the company. So we bought the trucks and we bought the permit and there was a period of time, three or four months, three months I believe, where we operated under a temporary permit as the process went through. There wasn't very much investigation. This was thirteen or fourteen years ago. But, we filled out all the documentation. When you purchase a company or you purchase assets of a company, whether you purchase the company or purchase the assets, I took possession of all those assets in that company. Let's say if I would have bought the company, I took possession of those assets and I ran it for three months. If I was selling that company there's a certain risk and if I was buying that company there's a certain risk that at the end of that three months

the whole thing now unravels. If I sold my company to you and three months later this process has, three months later the company that I was running looked a lot different than the company that they sold me. I'd already made a whole bunch of decisions. Let a bunch of people go. Got rid of a bunch of stuff. So there is an issue there that as soon as I had possession and went through this temporary process that there would be a risk to the seller and a risk to the purchaser. And I think in certain instances you could look at the individual, in my case I'd been in the business for a lot of years, knew, you could demonstrate the ability to be able to successfully meet certain requirements and expedite that process so that the sale could be smoother and the transaction be cleaner, we think.

BM: Why not just go through the regular temporary processes certainly you wouldn't of had any problems as we have it today.

RS: Well I think there are circumstances where that is not necessary, we believe, and there are circumstances where that could be very detrimental to either one or both parties. And that's why we are suggesting that.

BM: I absolutely agree. What should have happened in the case that I'm talking about at the end of the day the Commission should have said you don't get a permit. And by then the guy who sold that permit and company and the assets and all that might have been out of luck but he might have been a little more careful if he had been faced with the possibility that his purchaser was going to get turned down....

RS: We just think that there's certain examples... that's a different example and I don't want to belabor the point. We think there are certain...in this process we bought the assets a month before we took possession of them. The information you need to determine whether I should be running that company or not and should have permitted authority could have been accomplished all in advance. There was a period of time that existed, I had to say that I was a little bit naive at that point because I was kind of waiting for it to come in the mail because the thought was that at some point I was so worried that we were going to get our permanent authority when the three months ran out. I think there are risks, I think that in those circumstance we could accomplish it in a better way. That's what we're getting at here.

BA: Under the old system anyone could apply for authority without ever have done any operating. You could come in, go to a hearing and at a hearing you could say, yes I'll follow the rules and yes I know how to drive a truck and yes I'll do everything I'm suppose to do and then a judge decided whether you got the permit or not. A transfer authority was that way. You'd go on the docket and go

to a hearing and prove that “yes” it’s an active business and “yes” I know what I’m talking about and I’ll be OK.

??: Historically you had to prove a need though.

BA: Not on a transfer. That was part of the difference between transfer and new authority...the showing of need. All applications had to show fitness. They had to say they followed the rules and all that. The difference between the old and the new is the temporary. Under the old provisions, as well, there was an opportunity to file for temporary authority to operate while the Commission goes through the formal proceeding to grant or deny your permanent application. That’s what you’re talking about. You bought the permit, applied for transfer and then you got temporary authority to operate until a decision is made. On a transfer that had to do with ensuring continuity of service to the customers and ensuring the viability of the business so that when the whole thing is done after six months of hearings you don’t have a dead business that you are acquiring. The whole thing had to do with ensuring people are still continuing to get service from the company and that the company is still able to provide service during the transition. That’s one of the reasons why dormant authorities didn’t temporaries to operate pending transfer, you couldn’t show that there was a need to continue anything or protect anything because there wasn’t anything to protect. And transfer of a dead authority generally didn’t happen. Under the new rules what we have is anybody that’s new and not already the majority shareholder in a company or majority partner of a company has to apply for temporary authority first and operate before they can be granted permanent authority. Even in the case of someone who’s been the general manager of that company for thirty years, who now wants to buy the company, they have to operate for six months under a temporary. That’s the scenario, there’s no distinction necessarily made between a new entrant or a transfer or acquisition. They all operate under a temporary first. The only distinction that’s in the rule are the exceptions that are listed under the statute. Those types of transfers were exempt from the hearing process under the old rule. The law says that these situations don’t have to go to a hearing and they’re not subject to the protest and all that, that it’s just an automatic.

BM: One of the other concerns is that this would be currently the only way to get permanent authority. But no one else can get permanent authority unless they buy and I don’t think that’s fair. If it were that we had, I don’t know what the lawsuit’s done to it or the statute or whatever we need to do to open the road for these people that have stepped up and gotten temporary authority so that they now have to be rolled over.in this limbo ...where they can actually step up and say I want permanent authority then I think that would lessen, at least my objection. But right now it looks to me like what this really does is provides for a

special way to get permanent authority and maybe provide some residual value for a permanent.....So, on those two points....

MS: I hear you saying that this is tied somehow to the lawsuit....

BM: Well I think it is, I'm not sure, because I didn't participate in the lawsuit, I haven't even read it, but I assume from what I've been told I think by Paul and by Jim that one of the things that the Mover's Conference brought up in the lawsuit was this whole notion of permanent authority. And we're concerned about that too. If there were a road cleared for this then there wouldn't be as much, there wouldn't be an advantage necessarily other than streamlining the process of taking over, if I want to buy Rick's business, for example. So, on two points, again number one, why shouldn't Rick, if I'm going to take over Rick's business, why shouldn't I have to go through the same process as someone else who's coming new into the business. Or one of the guys that's been an illegal and wants to step up. And the other is we ought to have it so that people coming this way can get....

JT: I just wanted to respond to Brian's comments. He did talk to me and yes it is tied to the lawsuit but not in the fashion of a transfer of authority. The lawsuit deals with permanent authority and what is done following the six month temporary period prior to granting to those new applicants. We have agreed to open up entry to the household goods market, and you need to understand that. And that is a procedure whereby at no cost, other than your cost of operating your business, you can now enter in to the household goods market. You don't have to buy the permit to get permanent authority.

BM: Right now it's the only way you can get permanent authority.

JF: What do you mean right now, we're operating under new rules effective in January of... based on with the exception of the lawsuit, but the only thing that lawsuit does is it identifies and directs reviews of how the company operated under temporary authority and we wanted to see that rule in the rule books strengthened. That's what the lawsuit addresses. Transfer of authority just as in the case of what Rick has just said and I know there's another major moving company in Seattle that's about to transfer ownership from it's present owner or majority stockholder to its management team. To preclude any particular problems in that, that transfer ought to be able to be done, in stock options exchanges or whatever the case may be in terms of payment. But it ought to allow the company to continue to operate. And yes if you or anyone else in a qualified manner can demonstrate that you know how to do, can handle the business, conduct the business and you want to buy an available state authority that's presently available for sale, then yes, possibly you would be able to do that under this particular criteria. Right now that's precluded.

BM: What I'm saying is as I understand it there's no way that anybody who's gotten temporary since we've opened up entrance, can graduate, if you will, to a permanent.

JT: There is a stay of that particular rule.

AR: The Judge has imposed a stay on both the waiver rule and on the Commission granting permanent authority. Now that case is going to be heard in March. There's going to be argument on the case as a whole in March and that's the status of the case right now. Right now the Commission is precluded from issuing permanent authority, but until the resolution of the lawsuit.

BM: But if, let's say they drop the lawsuit, would that just automatically open the road or not.

AR: I think that if the Mover's Conference chose to drop this case that part of that would be the stay as well, but the stay would be lifted.

BM: OK so then you would be able to process people

AR: Then the Commission would be able to process permanent authority.

BM: So I guess up until we hear what the Judge is going to say or something different ...What I'm saying Jim is that it just doesn't seem fair that the only way you can get to permanent authority right now is to have to buy it and this major company in Seattle ...

BA: You can't even do that now.

JT: That's not the intent to get it right now. That's now the intent of this particular proposal. This intent is even following the lawsuit or we dropping the lawsuit that removes the stay. This is for future use.

??: Why would you not want to have the people in Seattle that are going to acquire the company, either as individuals or whatever their new entity is going to be to go through the temporary process?

JT: Why should they have to be burdened with that requirement? The purpose of temporary authority is to do an evaluation of those that have never been in the business and ensure that they understand their requirements, their responsibilities and they have the necessary counsel. There is a level playing field between Mr. Smith who has been in this business and somebody new coming on line.

- BM: We know who I'm talking about. This is a guy who bought authority that from the get go has been breaking the Commission's rules and violating business practices. And this was the only chance that we had when he went through that temporary hearing to even raise the issue. So, just because a company's management is taking over doesn't mean that there aren't ...from outside that might want to step up and say to the Commission that gee, they've been in business for thirty-five years and the management team has been here for fifteen, but we don't like them because of this.
- BA: It appears from the Mover's Conference's comments that they aren't saying that there shouldn't be a public notice, that it was my understanding that the comments said that there should be a public notice that there just should be some way of identifying when a person wanting to acquire an existing business already possess the knowledge to run that existing business and that the issue.
- MS: (very unclear on tape) Wanting the rule to allow for a joint exception on the waiver.
- JT: I'm going to speak first. No, as Bonnie just pointed out it just allows, it still needs to have public comment to determine the requirements called for by the statute which is public meeting, etc.
- BM: So you're saying I could still jump and say that I know this guy from Seattle....
- JT: Sure, absolutely. It's not tied to the waiver rule.
- MS: Well if you look at the first paragraph. Changing the rule to allow joint petition for waiver.
- AR: It does say waiver. Maybe we need to use a different term.
- MS: So do you want this to be something that is a separate rule on transfers?
- JT: In the current rule there are about six sub-sets to the rule that talk about the transfer of authority under permanent authority basis. It talks about from majority to majority, husband to wife, etc. We just want item number 7 added to that list and that is the transfer to a non-related, non-majority stockholder. If somebody on the outside qualified in the business, it's been determined by a review of the Commission that people are qualified, it's opened to public hearing and comment, then that opportunity is still there. Somebody can buy an existing authority, start their business without going through the six month temporary provisions.

MS: So you were seeking another section of that rule rather than seeking...

JT: It's an addition to the rule not ...

BM: Let me say I want to buy Rick's business. I've never really worked for a moving company other than a couple weeks of dispatching

JT: Maybe and maybe not. You can apply for it you can provide.

BM: How's this different than the temporary then? Other than the fee that we're talking about and the six month part why bother with it. I'm not opposed to what you're, I understand there's a good business reason for it, I'm not necessarily opposed to that idea, I'm just trying to understand how this would be different than....

JT: You would not have to go through the requirements called for in the rule under temporary authority. You would forgo the economic audits that are required by temporary authority prior to obtaining permanent authority.

BM: But they could still walk in and do you.

JT: As well they should.

MS: But it's not really designed, to my understanding, for people with....(not clear on tape)

??: That's not true at all. I think if you bought Rick's business, he has lots of people in his business that know how to run his business.

MS: That's not what this language says so let's not talk about that.

PC: My understanding is what we want to be able to do is, in that instance if Brian said look I'm maintaining Rick's staff, they know what's going on here, then the Commission would say then well fine, that makes sense. I think the notice period has more to do with fitness than it does with the do we need this company because the company already exists. You don't have to prove all that again.

JT: If there's a renegade, if there's somebody that's connected with the mafia that's coming to buy Rick's business and I may not know that, Jay may not know that, somebody out there in the business may know that, may know that there's something detrimental in the character of that particular purchaser and that needs to be brought forward. There needs to be an opportunity to bring that forward. That's all. It's just a matter of formality. And it does, in your comment,

provides some remuneration to Rick for the value of his permit which is not allowed at the moment.

AR: So if I can characterize this Bonnie, tell me if I'm wrong, what this does is eliminate the need to show that there's need but it doesn't address the fitness issues. And that's what the public notice and the opportunity for comment is all about.

MS: In terms of operational fitness, that's part of it, and if you have someone like Brian said with experience not buying it's company but buying a company where there's two employees who each know what it's doing then you might treat someone with his level of experience as not qualifying for...either that or we're going to have to change a lot of these words because when I read this thinking it of it as someone having a lot of experience in the field. And that's not what I'm hearing right now.

BM: It kind of bothers me that if I buy Rick's company I get treated one way but if I buy Bruce's company I get treated another way just because of the...the sophistication of the operation.

MS: And I'm not sure that you do. I'm just trying to understand myself.

BM: I think that's what I heard.

PC: We can talk about those instances where you buy Bruce's company and maybe the agreement that you file with us says something like Bruce is going to stay on for five months and make sure the buyer knows how the read the tariffs, etc. So, that's not precluded either.

BM: Although it might be easier in that case for me to do temporary and take over the business that way.

??: It's also economically feasible to do it that way than the temporary basis. You don't have to buy the permanent.

PC: You certainly have the option but there...

BM: So this is for the big guys like Rick right?

??: We have to work on the language

MS: But it sounds to me like... Mr. McCulloch do you still think this is a bad idea?

BM: I'm just bothered by not, I understand why the Mover's Conference, and I'm not opposed to it, but I just don't like the idea that until we have a way clear somebody to get permanent authority after March, that we're going to create another way to do it. And that would increase the economic value because.....(not clear on tape)

AR: I don't think the Commission can issue any permanent authority even with this modification. Right now the Commission can't issue permanent authority even under a transfer. Right now.

BM: So what happens if I'm buying Rick's then? What do I get?

AR: Temporary

BM: So I'm still running the risk that you described earlier.

MS: Because we cannot by law issue permanent authority until the stay is lifted or the lawsuit is resolved. Is that right Ann?

BM: I guess as long as we have the second part here and it gets into the fitness issue. Is there any difference, Bonnie, between how the fitness would be judged on a transfer versus the fitness being judged on a transfer versus the fitness being judged on an application for a new temporary? Say if I'm going to be buying Rick's company I'm going to be judged the same way as if I just start up my own?

BA: Yes, I believe so.

BM: On fitness. I'll withdraw my objection then. As long as nobody can get permanent right now there's no distinction.

MS: So that is sounds to me like this that everyone in the room agrees we should work on language for it and when we get to a time when permanent authority comes in..

JL: I'm sorry guys, I thought it started this way, saying this was the one way to get permanent.

MS: **WAC 480-15-280**

The next rule on the table is WAC 480-15-280. My understanding is that people might want to pull out this document for information so you understand where the Commission is on.....

JL: We agree that the Commission should be assisting carriers and complying with these rules, providing ongoing technical assistance and training. We're not opposed to that, but we feel that, and this kind of blends in with the next rule which is 480-15-330 When Must I Apply for Permanent Authority. We feel that at one of those points within that six month period before permanent authority is granted, at some point a carrier should be visited and should be scrutinized for their safety and economic compliance. In lieu of that happening at prior to the temporary authority being granted, we feel that at least a positive determination should determine that appropriate accounts have been established the Departments of L&I and Employment Security and Revenue. And that in our new environment that perhaps every moving company, established moving companies and new entrants into the market should be required to take a test demonstrating their knowledge of the new tariff rules, new valuation requirements, the requirement to give the rights and responsibilities booklet out. Various parts of the new rules. Now, I don't include in that how to rate a move. I think that that's a little bit different and I'm not inferring that that should be included, but a rules test. This is similar to, I'm sure, Bonnie and Carlene will remember that California does this and it seems to be working to some positive extent down there. I think what it will at least insure is that somebody coming into the market, and those that are undergoing the change in the new rules, at least has a good idea of what's expected of them in terms of how to comply.

BM: First of all I think you guys know that I have all insurance licenses you can have. At no time has the insurance commissioner ever asked for financial background. At no time have I and have never had to demonstrate that I had an L & I account for my employees. None of this. I don't see why a household goods moving license should be different than an insurance license or that of a contractor. There are any number of licenses that are issued by the state of Washington. I can do more damage to a family in a shorter period of time than the worst moving company you've ever had. That's a fact. And whether I have an L & I account or not doesn't change that and in some cases there are moving companies that are formed in partnerships and so what we would have the Commission Staff say let's see your L & I account and they'd have to say no we don't have one because we're partners and we're not subject to L & I. I don't think it's the WUTC's responsibility to enforce any of this stuff, it's the responsibility of these agencies. Now, if someone believes that a competitor or somebody in a business is not paying their taxes or not doing what they're suppose to do there are plenty of ways to take of that. And I can ensure you, having seen L & I come and do audits, not only of moving companies but of others that they're perfectly capable of taking care of doing their own. So I just think it's not a good idea. I do think, and I think we may have proposed this previously, that a test, as long as it's not, I mean I'm real good at tests, I probably

take tests better than most people, but the test is not used as another way to prevent otherwise good people from getting into the business. But, sure, we'd support that. Maybe some of the bidding ought to be on the test too, because if there's any place where I think a lot of problems creep into the business, it's when that salesperson on the phone or out in the residence actually selling the job. I thought for years that we ought to get rid of continuing ed for example and insurance and.....

RS: Let me make a comment here. I don't think we're all that far off. I had not seen this until today so I'm happy to see that we have a business practices compliance plan. Just trying to step back, I think all of these issues can be grouped into one from my point of view. We want a circumstance where before people are granted temporary authority that there's some knowledge that they are not going to be in and out of the business, that these are people that know something about the business and whether they operate out of a garage or whether they operate out of a huge facility, it really doesn't matter at this point, that they meet some sort of basic standards that we can agree on. What business practices, however, that they're reviewed. We feel that at some point in the process that it is useful to have a visit from somebody from the staff before, during, and issues that you're concerned about that somebody that potentially gets a temporary authority, that they really should not have a temporary authority. That those issues can be ferreted out and addressed through this business practices process. So that before they get permanent authority that we know that these are people that belong there. We think that it's a unique opportunity to find out whether they are actually endangering the state in areas the yes, OK, the Department of Labor and Industries is responsible for that and that yes, OK there are other issues that are not really the responsibility of this staff to govern, but if you're going to go out and visit them or go through a fitness process, I mean, why not? All you need is just a couple numbers that you need to verify that are there. So it just seems to me that I don't think we're than far off. We'd like to see the process be there. We're concerned that it may not exist and we want to make sure that it is there. I need to review this. But this maybe goes a long way in getting there.

BA: In the rules now we require applicants to provide us with information. In the rules we don't say what the Commission will do with that information. In our compliance plan is where we have our staff procedures on here's what we do when we get this information and that's procedural. Staff procedures on how we verify things and how we do things. We always verify with the Secretary of State that corporations that apply are registered. We require UBI numbers now so we at least know companies exist through the Department of Licensing. And we do verify Department of Revenue tax account numbers and L & I. There are situations where companies are, we have partnerships of four partners and they

have one truck and they all four do the work and the business and they don't need some of these things. It is not our desire to try to interpret L & I's laws of Employment Securities laws, but that we do verify that they have accounts on file. If there is no account on file we ask them, "why don't you have an account?" That's what we do and this is in our procedures but it's not in our rules. We require them to tell us this stuff and then we go off and verify.

RS: We're also adding to that is that now it is a regulated business as it exists now. It would be for me as a competitor in the marketplace if you have a new temporary competitor I'd like to know that that person can't stand there and say, well I didn't know these rules existed and I don't know what these rules are. I think it would be helpful and useful and logical in the process to have them read these rules, and it wouldn't be bad if you're an insurance or a moving company to have them potentially, and they do this in California they pass a test, simple tests. I understand that there is this kind of stuff here. All of those things we think are necessary in the process. We want to see that happen.

BM: Again, I don't think it's the Commission's business to worry about other agencies state government business any more that it's an insurance commissioners worry to worry about such things or any other agency of state government. Now as far as testing, I absolutely agree. I think one of the things that would be interesting is get somebody to test and see how much liability coverage do you need? And if they don't have a clue, maybe that's the drop dead question. You get that one wrong you don't get the ticket. Something like that. Or maybe you don't ask that question you just simply say give me your insurance certificate. We don't ask the question because we've got the certificate. In other words don't do something you don't need to do driving up the cost for everyone. Including the agency.

BA: I have never seen the California test. I've heard about it from the people from California as various conferences around the country, but I've never seen it. We used to do kind of a question and answer thing on the safety regs that we copied from the Feds for quite a while. So, I would be curious if you can give us a copy of that test that we can look at and see what kinds of questions, because I certainly don't think that's a....even if something like that were used as part of the application to determine an applicants level of competency to say, gee we need extra time on tariffs or we need extra time on something else and I don't see that as a problem but I'd really like to see one.

MS: I like that concept that you just expressed, maybe using it as a screening tool to see where we need to provide assistance rather than a pass/fail kind of thing unless that came later in the process because it's very hard to design tests that don't discriminate against some groups in society. We want to be careful when

designing a test. Some people are not very good test takers.

- AR: There's a difference between experience and fitness. You may not have any experience but you may be very fit for providing this type of service and with some training you would get there. On the other hand you may be very experienced and not very fit so it could cut both ways.
- JT: One of the things, and I don't know about the California test, maybe Jay might but I heard from a couple of others states that the test is an open book test. So it's a matter then, you know and everyone else knows at least they've got the copies of the rule book or the tariff book or what have you. They know how to look in there and find the applicable response to the question.
- JL: We're proposing that it be applicable to the entire industry. I see in the compliance plan that the staff have addressed that verification will occur of the account, L & I, Employment Security, Revenue, Secretary of State. So, are you guys accountable to this? Could you change it tomorrow and decide not to do it? That would be my only minor concern.
- PC: We do have a business practices compliance unit which now has five people in it. One of the things they do is household goods but we also do telecommunications and lots of other things but it's more focused on investigatory type work rather than just inspections. It's been set up since April of this year.
- MS: I think from what I've seen it has made a difference to have that group that just goes out and checks for compliance and investigates things in more detail if needed. Since we don't have offices all over the state now like we did when I came here.
- BM: I think part of what the goal was to have a staff that could administratively do what we can do administratively and have the people in the field doing investigations, investigating those things. We can verify from here that Labor and Industries accounts exist and things like that. We don't need people driving around in cars doing that. It was more to concentrate resources. As far as changing, as an Agency we have a responsibility to verify the information we receive is correct and to do certain things and how they allocate resources that of course a procedure manual can change, but we have always verified that corporations exist with the Secretary of State. We don't issue any permit until it has a UBI number on it. There are some things that are actually fixed down at process and I would guess that allocation of resources our Commissioner's could probably say no one's going to do anything investigative in this area and that could happen. I don't think that's likely though.

- JT: I think the intent here is a person or entity wanting to get in the business when it's in the rule book it's something that they're going to study and review and they'll know what it is that you potentially are going to do and the fact that you've got to have an account with L & I, in some cases and some cases you don't. It's just that there's something in the rule because the way you are now doing the rules, which I think is good, is you're writing it to a level and in a format that is kind of a question and answer scenario and that's all, it just need to have a couple more sentences under that particular rule to accommodate that and then when it's in the plan the plan is great. The establishment of the section or division for compliance is terrific and that just ties it all together in my opinion.
- BM: You brought up the question I guess of compliance. There's one outfit out there that when I became involved with this whole rulemaking processthere still out there, they're still doing it. And as a result of that it is virtually impossible to get independent movers to voluntarily come in here and go through the temporary permit process. Why should we, why should be bother with this if they can't even put that criminal out of business? And now we have that criminal had one of his drivers die as a result of a truck getting loose and the brakes failing. We would like to see compliance actually stepped up. Make it meaningful. Bust somebody that needs to be busted. And those people that don't need to be busted that need to be brought in, my suggestion still stands that we have a day or a night at South Center or wherever in the state is necessary where safety people come in and you invite the insurance guys to come and sell their products and we get these guys in, you don't have to chase them, you can do it on the spot. Mail it to them. Tell them it's going to be an open book test. Go over there and take it. Let's get the movers in the club. We really haven't accomplished much in two years. The number of permits that have come through is just meager and it's in Bellingham and it's in Vancouver but you could pick up any of the Seattle phone books and find more than half of the ads now, and the biggest ads of that are from unregulated firms. We really need that otherwise we're just really wasting our time.
- MS: I'm going to take off my facilitator hat for just a moment and talk about just what kind of stuff the state usually puts in rules and what kind of stuff we don't. For the first six years I was in the Attorney General's office I represented the State Auditor and I worked mostly with the municipal corporations. (Turned tape over) I think part of the problem on these issues that I see is just a sense of what belongs in rule and what doesn't belong in rule and how much should the regulator tell the regulated about how we're going to be enforcing the law. I have a real strong discomfort with putting a lot of this in rule when it's the governing agencies internal procedures. And my discomfort has nothing to do with doing the kind of compliance that everyone is talking about. It has to do with how state government should function, and how to be an effective regulator and use the

limited resources we have most effectively. Part of that might be compliance stuff. But we don't want to show you guys because we don't want you to know what we emphasize in this rule. I would like to plant that idea with you.

JT: I concur with what you're saying and I'm not looking to put any language from your compliance plan in the rule book. But in the rule book one of the questions could be: What accounts must have I established as an economically regulated moving company? Then you list, L & I, necessary insurance levels, etc. How you enforce that is your business. We would like to make sure you have a compliance plan to do the enforcement based on the resources you have available. But, at least the prospective companies getting into this business knows what it is they have to have. I thoroughly concur with what you just said. To address Brian's concern, one of the goals, about the illegal movers, one of the goals from this whole process, from our perspective, was to put some additional teeth into that particular process. We have agreed, as a conference, through our board of directors, that open entry is a requirement to make that happen. And as those that still ignore that opportunity and they are discovered and they are facilitated through the legal system, at the various court levels the judges can't just slap their wrists and say don't do that because it's been a good old boy network and you've been prohibited the opportunity to get a permit through whatever means. Now they've had opportunity. The perspective illegal mover doesn't have an excuse.

BM: I'm sure that he doesn't Jim because I didn't call every one of them, but I doubt the state has contacted every one of them. That's the mystery to me is if you have a phone book full of them it's not hard to identify them. Call them on January 15 of last year when the rule went in and say the doors open. Come on in and here's the packet. And instead it's done on a, I don't know if this is true, but a catch as catch can basis. It seems to be that way. When public enemy number one identified by one of the people in the agency is still out there, not only flaunting the law, but just being a bad guy and giving the whole industry a crappy reputation. We're on the same page on this guy.

RS: First of all we think that there could be an opportunity in the future for this to evolve into a more cooperative environment rather than people sitting across the table with court cases going back and forth. So, we're hoping to get there, I'm hoping to get there under my watch as being president of this organization. So, that's why we're here rather than just abandoning the process. We agree with you that enforcement, in every meeting that I've attended in ten years in being in this group here, is enforcement the key because we feel that once these issues get resolved and we don't need to know the detail on how you investigate these people, that really should be your business. We just want to know that it exists. We want to know that the process exists. And if I know that it exists and that

they have to understand the same rules that I do and that enforcement exists, the whole process is going to smooth out. This whole contention between all of us disappears we think. It doesn't disappear but I think it's going to get a lot better. We even talked as a group of offering classes that are free to anybody that wants to come to say, come and we'll help teach you what the rules are, when we all agree what these rules are of how we can help facilitate the process so that people can become movers and understand the application process and understand the rules so that they can become movers. Let them compete. I love it. As long as there's some enforcement. We have to resolve that because, as Brian says and I say, if that doesn't exist, then what's the point? What I'm seeing is that we're moving that direction and I like that. We like that.

JT: Rick is absolutely right. And the cooperation standpoint, it even goes into the legislative arena. When we have legislative issues we want the Commission's support. The Commission has a legislative issue they're going to want our support and we're going to want to provide that. Paul and I have had these discussions and we're going to facilitate that happening. But that's the, as Rick is pointing out quite articulately that that's where we want to go and where we want to develop. Brian you weren't here two or three months ago the California PUC came up and had a session on, not just household goods, but a whole lot of regulatory affairs that they're involved in and what the Washington Utilities and Transportation Commission is involved and there was some very interesting dialogue that went on. And what goes on in California and we're welcome to have that happen up here as is the Commission staff. So, we're not trying to be the adversarial folks in the regulatory business. We want it to be equal. We want it not to hinder competition and we want it to be enforced and that's all we're asking for. We pay a regulatory fee. All of the regulated moving companies pay a regulatory fee that is to go toward the regulatory enforcement of the household good industries. Right now that's a quarter of a percent of the annual revenue. If there's resource issues then maybe we need to address those too.

BM: Well, that's the other reason, if we could get these unregulated companies or a large number of them in and their paying regulatory fee we have the economic resource to do that.

RS: Don't think that we're opposed to that open entry standard, because we're not.

MS: Paul is here and we've just heard from Rick and Jim about goals and I would just like you to say anything you have to say about whether those goals are consistent with your goals.

PC: We do have common goals have some real frustrations with (not clear on tape) Give us some tools to get these people out of business (not clear on tape) we're

working on it and that is a slow process. We have a common goal. We try to prioritize.

- BM: I don't want to be critical but I saw the power of the Agency. I haven't seen anything like that come against Jay. You mentioned his name, I didn't, I was very careful not to. But that's who we were talking about.
- PC: We've had it there for about six months and we're trying to get the court action against Jay. We're working on things that don't take so long. That's what frustrates me is it just take forever to get to people like that. Yes we have common goals. I think the Movers Conference help us along. You think it's easy because there's all these phone books to contact people, well it's not. We try to take care of the worst characters first. We need all of your resources.
- ??: The thing is if you ask you'll get the same names, they come up. It's like, OK, lets go get those guys.
- MS: It's not really part of the rulemaking but that is a very appropriate thing for you to contact the Commission about. Even when we get to court perhaps at some point to have people saying that (not clear on tape)
- JT: I want to make this clear because you bring up just an exceptional point, enforcement has to be part of the discussions at some point. How you enforce doesn't need to be codified but that it exists is important for this group of people to go back and to collectively move forward and I think we all agree with that. We want you to have your own enforcement tools, we just need to see that it is there and that will drive this process a lot further forward than where it exists right now.
- BA: After what Jim was saying about, we just want something in here that says that that's the stuff that the company has to comply with. That's a little different at least from how I understood these references, was that we wanted in rule that the Commission would do these things. I was looking through the rules trying to find, I know in solid waste and most of the others and I thought in this one there was a separate rule that specifically says, in addition to these rules you have to comply with all the other rules in the state and kind of look at line items out of those. I wasn't seeing that in here. Am I missing it?
- JL: It was written as it was written. As we talk today and we negotiate, that's the purpose of this, maybe it was a little too strong and we can downplay that requirement. But something needs to be in the rule, since these are informative rules to prospective new incumbents to the marketplace that they need to know

what it is they need to have and not to put your enforcement plan into the rule.

BA: I guess what I was looking for is that I know in every other instance we have a rule that says you don't have to just follow these you have to follow all the other rules too. And, here's a summary of those. I don't see that in here. That may be an omission that we want to address through a separate new rule that says, these aren't the only rules you have to follow in this state. You have to follow the tax and anything and outline that because I didn't see that in here clearly as a separate rule and that may be an omission.

MS: So you're suggesting that we should look at the solid waste rule and maybe some of the other rules and we could probably pass out some language something like we did with this to say this looks like a good idea. Looks like 480-15-130 somewhere in there would be the place to put it.

BA: My thinking was more along the lines of in addition to the rules in this chapter, every household goods moving company must comply with the other rules of the state, federal, etc. and then you could list some of the other specific agencies. I think we did that in solid waste. I'm not seeing it in here. I thought there was one in here and I'm looking and I'm not seeing that.

AR: If it doesn't exist is that something the group would feel comfortable having the staff draft something up for circulation?

JL: I think that would be helpful. I think more importantly is what you guys have put in the compliance plan where you're actually stating that you will check for these accounts. That's what our board has told us is that we want to make sure at some point that they actually check to make sure these new guys, as they do us from time to time or have the ability to check on us, that they actually do check these accounts.

BA: And we do have the responsibility of making sure that the companies comply with all of these things.

?: We just want a level playing field.

AR: 480-15-330 we haven't dealt with and then the four on the back.

MS: **480-15-330**. Are there any rules that aren't identified on this page that anyone at the table wants to talk about in addition in this rulemaking. I'm looking right now as this rulemaking being the reopening of the household goods rule. Anything on tariff 15 we would like to get your comments on. Anything on other problems or concerns that are outside our rulemaking that we can be helpful with we'd like

to get your comments on. In terms of household goods rules are there other sections that aren't identified here that we need to talk about?

JL: We haven't identified any.

MS: We're early in the process still but if you look at the agenda that was the next thing on the agenda.

BA: We're routinely rolling over existing temporary authority and they are not having to pay a new application fee.

MS: That's my understanding and I'll ask Ann to address that.

AR: I'll ask Bonnie to address that.

MS: OK I'll take my hat off again. There is a Department of Licensing case that went to the State Supreme Court that said once you have applied for a temporary authority and you're operating it, it can't be taken away from you until, unless for cause, until you have permanent. So the agency has always allowed these temporary, if you have a temporary going and a permanent application on file, we've always allowed the temporaries to keep going until we get to the permanent unless there's some cause for taking it away. I don't know how the books have been handled but I know legally that's what we've done.

BA: In this situation we have not been able to accept permanent authority applications from any of these people so what we have done is reissue temporary authorities until they have the opportunity to file the permanent authority to even be considered.

BM: But they don't have to fill out a new form or pay a new fee.

BA: We have not required that.

BM: In one case I know of, for some reason it didn't get renewed. The guy was scared stiff that he was breaking the law but he's now been assured that that's not the case. Are we going to make sure that we don't leave people out there wondering? That may have been just a one time thing that slipped through.

BA: Customer service staff didn't have his ending date marked properly.

BM: So everybody else is taken care of?

MS: Yes and if he contacts Bonnie he'll be fine. Sound to me then, looking at our

agenda that we don't have anything under discuss any other rules not identified in notice or comments. The next steps I think we can handle quickly so if you want to try and get through the rest of these before we break, we can go ahead and do that.

****BREAK****

MS: We have two things here we will take additional comments up until the 22nd of this month. So next steps additional comments by the December 22nd and we're going to start preparing a draft that will be circulated at some point as a first draft and it will be circulated.

JL: We support the Federal regulations the state regulations.

AR: Alright, that takes care of 560 and 570 right?

MS: 480-15-330 on the first page is there anything more you have to say about that?

JL: We were just talking about that, that's just our proposal that at some point before permanent authority is granted that we know that the moving industry knows that that new entrant has been evaluated. You go out, you take stock of their operation via a safety audit of their vehicles, if they have any and check their estimates. Maybe look at some of their moves that they've done on paper and see if they know the rules.

BA: What we do is our compliance checklist audit which is the same audit that we give to any company. That is what we complete. We don't necessarily do it in a one time sit down and go through it all in one sitting, we may do it over the course of the temporary, but that's what we complete on each new entrant before we would consider permanent authority. I think we have two or three temporaries now that have been completed. On safety we use the Federal safety compliance audit, which is consistent with State Patrol and all the other states that are in the commercial vehicle safety alliance. On each new entrant we do the safety compliance review and we do the household goods economic checklist audit, or something like that, the name on the form has changed, but its the same one we use for everyone. And I think that's spelled out in our compliance plan.

?: We need to review that.

RS: To get back to your question and again we're not trying to create rules that cover things that you would do, but what we're trying to get to is a system where we're comfortable that says that there's a process in place for making sure that these

people understand the rules, are operating by the rules. When that starts to develop, and we see that happening, a lot of these issues, this is where we're getting at with these issues. So, tests, audits, those kinds of things that can be administered within your organization, however you see fit will go a long ways to solving these issues for us.

BA: I was just wondering if there was anything else we needed say. (Not clear on tape) We may not go outbring things to us depending on what's going on.

??: Bonnie said she did them over time during the six month temporary.

BA: We do contacts, yes.

??: The observation if I had the group around here of movers that participated in these meetings, their consensus would be that none of it happens and it never happens. So from our perspective we're just trying to get comfortable that it's happening and that these people actually understand anything about this business at all.

MS: I think on that point, on other thing, we talked about doing some classes. I'm sorry Paul is gone, but I wondered, Bonnie, if you want say anything about how staff would be willing to assist in that.

BA: Yes, that's something that we've talked about. That's one of the goals that we wanted to accomplish was to be able to provide, well actually it's probably one of mine for several years, is that rather than doing all this constant one on one stuff that we should have someway to have or make people come into a class, much like the traffic class. You get three speeding tickets you go to school. That's where I thought new entrants go to class and anyone that has penalties and violations, or whatever, maybe even an existing company might have to attend a class. That was one of things that we've talked about as far as making better use of resources, was to have like, maybe, scheduling classes on a regular basis and safety and as far as your industry, you guys know a heck of a lot more about how to properly pack, and handle and transport goods that we could not train people. We couldn't teach people that, we could only teach them rules. So, yes, and I talked to Paul about this recently, as well, any opportunities to partner in getting training out there is an excellent. We do that in the solid waste industry quite frequently. The waste haulers association sponsors open safety training and tariff rate filing provisions and they so sponsoring and it's open to anyone and including non-members and members and our staff and regulated companies on a show.

??: A partnership could be where you teach the class on the tariff and how to use

the tariff and the movers conference through their affiliates in the industry do the other operational kinds of things.

- BA: Those are things that, and this is probably another case, but those are things that I think would go a long way to supporting the idea of a new entrant and relieving some of the over-sizing. Somebody comes in and says I went to a training class on this and that always helps to lower
- MS: (Not clear on tape) Discussions of how well trainings work in different areas such as packing, tariffs, etc.
- ??: The consumer would benefit. It would be a whole different world if we could cooperatively go out and say, yeah we work with the Commission and all the training programs we're developing consistency.
- BA: Or mitigate penalties. You can mitigate penalties if someone agrees to take a...it just opens a larger door to educating the customers and the companies about what our rules mean.
- MS: This year (not clear on tape) at the solid waste training and Cathie Anderson has done that....
- JT: Cathie has done that for us too. We've had classrooms full, the full complement of students that we could handle at any one time for tariffs classes. We've done that several times.
- ??: I could have packers that are lead packers come to a packing training class. I have people that rate bills of lading that understand the tariff far better than me that could talk about certain issues that relate to how these things apply. We could participate in groups sessions. We would love to be a part of that.
- BA: That was one of the, and I don't how far, actually the draft of the compliance plan was part of it had to do with trying to partner on this educating local government and industry. Let's co-educate some of these other housing authorities on things on what's legal and what's not.
- MS: (Can't hear on tape)
- AR: On a practical level, the Mover's Conference has proposed these change for 280 and 330 basically on compliance issues and I know Bonnie, we've committed to go back and look at that issue about complying with all the other rules of the state, etc., etc. But if there are things that the Movers Conference think s that we still should be including in the rule do you want to revisit this issue for us by

the 22nd or how do you want to handle that? Do you want us to do some drafting?

JL: And you're talking about in the drafting of the language in compliance with other state rules?

AR: We need to have that piece about complying with other state rules and requirements. But on the other issues is that something you guys want to go back and talk about.

JL: I think we're going to have to. We're going to have to talk about what we've proposed there. And again, we like the idea of adding that new language where you have to comply with other state rules and regs, but what I hear from talking to my guys out in the field is, I want to know that the state has checked that already. These guys they say, well this guy knows that he has to pay his L & I and establish his Employment Security account and Department of Revenue account. He just doesn't do it. So they want to make sure that you guys have done it.

BA: Because in the existing rule it says one of the things we're going to look at is their compliance with those other agencies.

JL: I think it says that those are things that you can take into consideration. I think it's just not a definitive rule. It doesn't say that you will take those, or that you ...

BA: And when determining if an applicant is fit and able, we will consider any information provided by the applicant and other members of the public regarding all this stuff.

RS: Again, I remember, and I'm going to tell just a brief story. I know we're in a big hurry but I when I started my company I went into a partnership and the other two gentlemen ran a moving company and I was just a salesman for another company so I was going to be a 1/3 partner. I kept trying to write into the agreement all these different protections within this legal partnership agreement that would protect so that these two yahoos couldn't have their way with me. I remember my attorney took me out the door at one point and he says, you know something Rick, at some point, there is no way I can write this agreement to protect you entirely. If these people want to mess with you they can. And so, I can't create this agreement to protect you. You have to decide whether you trust these people or not. And as illustrative as to what we deal with when we go back and talk amongst ourselves is that if we're coming from the point of you where we don't feel that enforcement is a part of any of this, the conversation that generates into what's the point. We're trying to get away from that and we're

looking for ways to get away from that. So what you see here is examples of how we're trying to jump and say why don't you check this, and why don't you check that, when actually what we're really looking for is to demonstrate that you're actually training these people and checking them out and that actually not just getting licenses to do what they did before. Does that make sense? So that's what we're looking for.

BA: We're trying to share, when we share our activity reports on household goods with Jay and we're trying to tailor those because we didn't use to track every contact. We're trying to tailor those so that it does tell you more of that information. It used to be just more of an assignment tracking, rather than providing more useful information. So those are some of the things that we've been trying to get the word out.

MS: Say they wanted to come and look at some of the temporary filings to see what we've done.

BA: Sure

MS: And you would take the time to kind of tell them what that is and let them know how to meaningful so they can go back and say, hey I've looked in the files and they're doing this and this and this. Would something like that help you?

RS: We need to go back to the group and start establishing a process that is your process that shows what happens when somebody applies for a temporary authority, is granted a permanent authority, what this process is and once we see that that will go a long way in determining whether enforcement is happening.

BA: I think that compliance plan pretty much spells out. We tailor them as different situations arise. We may have to change things but that's the process we're using.

MS: **WAC 480-15-740**

JL: I guess this is first time that a rule requiring that the names of each person that works on a job be noted in the start and stop time and any interruptions. Jim, if you or Rick want to speak more eloquently to that then.

JT: The only part of that statement under the Movers Conference supports is that it be done for each person. I'm kind of curious as to why that requirement is there. If there is to be an enforcement issue or an evaluation of a claim or an evaluation of the audit process the enforcement people can certainly go to the company

and pull time cards and all that sort of stuff. The crew lists would be available, but to put that on a bill of lading is going to be very cumbersome, number one and in some case there are crews of ten or more and start time and stop time and interruptions, yes because that's a part of the billing process. You need that information to do, particularly and hourly rated moves. But by individual? I don't quite follow why that's needed.

DC: When I had first read this I had not read down far enough where it said where it said for each person. And I can agree with not recording the start time, stop time for each person. But I do feel that, although we have very few hourly moves, we're getting more of those for our clients and it is imperative that the initial start time of the job and the stop time is recorded on the bill of lading because we get a lot of challenges from our clients on that and we're able to deal with it at that level without even having to go back to the carrier where it is the initial start time, stop time of the job itself.

??: A lot of times people don't understand that their start time starts when we leave our office.

DC: And that is an example when the start time represents on the job 7:45 and the client's telling me, well they didn't get here till 8:30. Then your looking at the distance of the warehouse to the location of the pickup and I'm factoring that in for them. But if I see that the distance and location should not, even under the worst traffic scenario should not exceed two hours and I've got three additional hours then we do have a challenge. So for the initial I would like to state that we want that on.

RS: Coming at this from two angles here, we've got this process going on and when we compare this, if you can imagine what I'm dealing with, I've got a bill of lading that's about this size and I send five guys out on the job and I have to put all of their hours and their names within an area that's about the size of this stamp and so what we've proposed on this part of the process is that we take and we tier these pages now and we create an accessorial page, much like we do on the interstate side, and you and I have talked about that, so that we can create more room to kind of, when the auditor looks at the paperwork they're going like this trying to figure out, OK when did it start and when did it stop and if people are arriving at different times it gets rather complicated. So they're trying to create more room to have information so that they can audit and you can be description to the customer. And just thought that throwing these names in, if you need to audit it the time cards are suppose to be in the file anyway. It's a rule. So, you've got the hours and if you get the time cards you can audit it. You don't need all of this stuff. You just need to make it clear to the customer what they're being charged for. Start and stop times is OK.

- BA: I asked Cathie Anderson about this. We do have a bill of lading established in the tariff. But the rule says that start and stop time for each employee has to be recorded. Two different issues, I think, one of them was that there are times when you will have two men in the truck and they all start at the same time and end at the same time and other times you may send someone else out only for a couple hours and that the customer doesn't know that. The customer doesn't what their charges are based on unless it is somewhere on the bill of lading.
- JT: Only in terms of numbers. Two additional men, or additional whatever. Then additional labor charges are appropriate.
- MS: Then you'll have a record in your office. If you read Mr. Mitchell's comments, Mr. Mitchell had a move from Seattle to Spokane, someone broke into the truck while it was sitting somewhere and stole some of his stuff. He couldn't find out who the people were who were suppose to be with the truck. There were probably a lot of existing rules that were already broken and that may be where part of the problem was. One of his strong complaints was that he couldn't find out the names and addresses of the people. They couldn't identify who those were. If you've got that taken care of in one rule you don't need to take care of it twice. I think maybe that's part of what is leading to this.
- AR: I think that was the issue that people are concerned that if you do something like the labor ready you go out and take someone off of the street and I think that was the concern, as I understand it. You identified on the bill of lading who are working on the job so that if the customer, it's a customer issue, as consumer protection issue. Identify who these people are so that if the customer has an issue they have this bill of lading and they'd know who they can...
- JT: As was pointed out the time cards need to go into the file.
- RS: I have a requirement to take those time cards and put it in the file so that when the auditor comes out and grabs the file and investigates it they see the hours. They see the time cards and they need to match up. And the time cards have peoples names on them.
- MS: Do we have that in our rules? Or is that just your internal business practice?
- RS: No, every time I've been audited, if I don't have the time cards in there somebody is jumping on me.
- BA: So, over the past year having to do the edits you saying up to ten people and you'd have to list extra and there's not room on the bill of lading and that's what's happening now under the rule. Is there another way to frame this rule that says any additional you'll need something that it has to be complete and documented

in the records and somehow referenced to the file. I mean is there someway to still address that issue without having to require it line-itemed on the bill of lading?

AR: I think our angle is from the consumer point of view. We know you guys are required to do it and if you don't then you've violated a rule. But that doesn't help Joe Consumer who's hired the company to do the work and wants to know who these people were.

RS: An investigator would come out. They'd open the file and say Rick's company screwed this up. And somebody I think stole something from me or did something and I'm not resolving it. My requirement is to provide those time cards. I just can't say I don't know. Maybe it doesn't, but every time you guys came out and investigated my, that was a long time ago, that was suppose to be there.

MS: Would you guys read Mr. Mitchell's letter? And think about what we could do to resolve that.

JT: First of all the moving company involved may or may not have been a regulated moving company. I know who the company was. I talked to the owner. My opinion was that it was a non-regulated company. Although her husband has a regulated company she should have known. She didn't have any of that stuff. She didn't have any backup documents.

MS: And that's what I'd like to be able to say to Mr. Mitchell is that if you're company

JT: He chose a company that would charge lower than tariff rates. I mean he got what he paid for. I hate to say that but that's what he got.

MS: That's part of giving a response for us to know those things.

BA: At this point it's more of a....Since this has been in effect for a year what has been the problem with doing this and how can we do something different in the rule that would remedy that problem?

JT: What you suggested is an opportune change to satisfy that requirement.

RS: I think if you had a bill of lading sitting in front of you and you had six or seven people on a move right now and you were looking at it you would see what the issue is. And we're trying to resolve some of this through this other process of trying to create possibly multiple forms, accessorial forms.

BA: What we said is that it has to contain at least this contact. It may not have to contain it all on this same page.

RS: Initially they were trying to shove more stuff into that whole document and I'm looking at that going for crying out loud how are you going to get there. Then I have a tough enough time getting, I don't want people out there in the street having to explain everything in the world that my salesperson potentially should have done a very good job of affirming that they understood getting them to sign that they understood and then having a driver show up and trying to re-explain that exactly, verbatim that the salesperson... so there's a lot of issues surrounding this. This is not that complicated of an issue that we can solve. But when we try to take a six or seven person move, where people are arriving and leaving just because they're certain there is a hot tub that needs to be moved and now we need five people rather than two people there. It's hard for us to accommodate that within the current circumstances and their names.

MS: **WAC 480-15-650 Form of Estimates**

JL: This is a new rule that requires that estimates for which know services are to be provided to be kept for two years and most of the movers that are members of mine that I talked to don't see the need to hold these for any length of time.

RS: This is an existing rule?

JL: It's a new rule.

RS: So this is a proposed rule.

BA: We had a little discussion about this. This rule was formulated to try to address an issue that was brought up by some members. It had to do with a binding estimate and using estimates to try to undercut rates and avoid tariffs and that you couldn't tell that there was a pattern of that unless you saw all the estimates. So this was told all the estimates. However, in our discussions of the rules, this was one that staff identified as a problem. It is unenforceable, Estimates are not required to be numerically filed or maintained so you have no idea if all the estimates are there anyway. Since it is unenforceable and it doesn't seem to be serving its intended purpose, at a staff level, we suggest we find a way for it to make sense or eliminate it. So we would support that it is not serving its intended purpose.

MS: **480-15-560, 570**

JL: I think we addressed 560 and 570. We are fine with whatever definition they

want to go with. Whether it includes all vehicles or those that fit the federal and now state rule.

MS: Bottom of page, anything there we need to deal with?

BA: This is another one of those persons who had a bad experience one time and writes in every time. I think we answered Mr. Gladstone and I think his issue was addressed in the tariff and that for the move any valuation of the damages that occurred in the move are covered and I'm not quite sure if it didn't specifically say that, but I think that his issues are addressed already in the tariff. These had to do with valuation issues and that's in the tariff. Next steps: If we will be receiving any more comments, participants here to day. If we don't get your comments by the 27th then we will have to wait. I think part of this is that these people have been receiving the tariff notices and the rules notices and I think that they want a distinction between the two processes.

MS: Bonnie did you want to discuss next steps?

BA: I need to clarify again is we can make sure which we were going to be receiving more comments on the discussion today. Anything additional that we've agreed to provide or that the participants have agreed to provide. We'd like have them by December 22nd if possible. If we don't get your comments by the 22nd then were looking at after the holidays and that just pushes everything back farther. Then based on that staff would begin preparing whatever language we have agreed to work on here and try and pull it together.

AR: I guess all together some kind of a draft by mid-January.

BA: That's what Paul's hoping by mid-January we were suppose to say by the end of January and hopefully get it done by mid-January. But yes, January is the goal on this. So that we can at least have a draft out there to talk about and physically look at based on what we get by the 22nd and what we've talked about here today.

MS: OK, so any questions on next steps?