BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Determining the Proper Carrier Classification of, and Complaint for Penalties against: TRANSIT SYSTEMS INC. d/b/a MOVES FOR SENIORS	DOCKET TV-170747 COMMISSION STAFF'S POST-HEARING BRIEF ON PREEMPTION

I. INTRODUCTION

1 The Commission complained against Transit Systems, Inc. d/b/a Moves For Seniors ("MFS") after Commission Staff ("Staff") found evidence that the company was engaging in business as a household goods carrier in Washington without the necessary permit. MFS defends against that complaint, in part, by arguing that even if it is a household goods carrier as defined by Washington law, federal law preempts the Commission from enforcing the state's public service laws against it. Specifically, MFS contends that it is a broker[1] as defined by federal law and it notes that Congress preempted the states from enacting or enforcing regulations "relating to" brokers' intrastate rates, routes, or services.[2]

2 The Commission should reject MFS's argument. Preemption turns on congressional intent, and two means of discerning Congress's intent in enacting the preemption provision relied on by MFS indicate that Congress did not intend to preempt state authority to regulate entities like MFS. These means include the text of the preemption provision itself, as well as numerous canons of interpretation and rules for interpreting preemption provisions. Because

[1] Entities "brokering" household goods moves are household goods carriers under the public service laws. *In re Determining the Proper Carrier Classification of, and Complaint for Penalties Against Ghostruck, Inc.*, Docket TV-161308, Order 05, at ¶¶ 7-13 (May 31, 2017). To the extent that Staff uses the terms "broker" or "brokerage" in this brief, it does so to facilitate the discussion of federal law and not to concede that MFS is not a household goods carrier as defined by RCW 81.80.010.
[2] 49 U.S.C. § 14501(b)(1).

federal law does not preempt state law in this context, the Commission should conclude that MFS is subject to its jurisdiction, order MFS to cease and desist operating until it has obtained a permit, and penalize it for its violations of the public service laws.

II. FACTUAL HISTORY

3 The Commission, based on a Staff investigation, ordered MFS to appear at a classification hearing after finding that it had probable cause to complain against MFS for engaging in business as a household goods carrier without the necessary permit.[3] MFS sought dismissal of the complaint, claiming that federal law preempted the Commission's regulatory jurisdiction over it when it acted as a broker.[4]

4 The Commission, in accordance with its procedural rules,[5] declined to dismiss the complaint given the impending classification hearing.[6] At that hearing, Staff presented evidence that MFS engages in business as a household goods carrier as defined by RCW 81.80.010 by advertising for the transport of household goods[7] and offering to transport household goods.[8] After MFS renewed its claim that federal law preempts Washington law as applied to its operations, the parties agreed to brief the issue rather than present oral argument.[9]

---

[3] *In re Determining the Proper Carrier Classification of, and Complaint for Penalties against: Tara Chila d/b/a Moves For Seniors*, Docket TV-170747, Order 01, at ¶ 28 (July 25, 2017). The complaint initially listed Tara Chila, a Transit Systems, Inc. employee, as the respondent. After a request from Transit Systems, Inc., the Commission amended its complaint to name the company rather than Ms. Chila.
[4] *In re Determining the Proper Carrier Classification of, and Complaint for Penalties against: Transit Systems, Inc. d/b/a Moves For Seniors*, Docket TV-170747, Petition for Declaratory Proceeding, at 1-2 (Oct. 20, 2017); *In re Determining the Proper Carrier Classification of, and Complaint for Penalties against: Transit Systems, Inc. d/b/a Moves For Seniors*, Docket TV-170747, Letter from Andrew Shafer to Steve King, at 1-2 (Sept. 15, 2017).
[5] WAC 480-07-930(1)(b).
[6] *In re Determining the Proper Carrier Classification of, and Complaint for Penalties against: Transit Systems, Inc. d/b/a Moves For Seniors*, Docket TV-170747, Order 02, at ¶ 3 (Oct. 24, 2017).
[7] *E.g.*, Paul, TR. at 49:23-50:17, 56:25-58:1, 58:8-60:6, 60:16-61:13, 61:21-64:15.
[8] Paul, TR. at 64:19-67:19.
[9] Tr. at 112:5-117:6.

III. ARGUMENT

5 Whether federal law preempts state law depends on Congress's intent.[10] Two pieces of evidence show that Congress did not intend to preempt state regulation of intrastate household goods transportation, including brokerage of such transportation.

6 First, basic rules of statutory interpretation provide that the terms "rates" or "price," "routes," and "services" have the same meaning in all the subsections of 49 U.S.C. § 14501, the relevant preemption provision. The text and legislative history of one of those subsections makes clear that states do not regulate rates, routes, or services, as federal law uses those terms, when they regulate intrastate household goods transportation. Because brokerage is "transportation" as that term is used in 49 U.S.C. § 14501, federal law does not preempt the Commission's regulatory jurisdiction over MFS.

7 Second, various rules for interpreting statutes in general, and preemption statutes in particular, indicate that Congress did not intend to preempt state regulation of entities like MFS. General canons of statutory interpretation require tribunals to avoid statutory conflict, superfluity, and absurd results. And interpretative rules specific to preemption provisions require tribunals to interpret those provisions narrowly and with a reasoned understanding of how Congress intended the provision to work. All of these rules require the Commission to reject the argument that 49 U.S.C. § 14501 preempts state authority in this context.

A. Preemption Doctrine

8 The U.S. constitution "establishes a system of dual sovereignty between the States and the Federal Government."[11] One sovereign, the federal government, possesses certain

[10] *English v. Gen. Elec. Co.*, 496 U.S. 72, 78-79, 110 S. Ct. 2270, 110 L. Ed. 2d 65 (1990).
[11] *Gregory v. Ashcroft*, 501 U.S. 452, 457, 111 S. Ct. 2395, 115 L. Ed. 2d 410 (1991).

enumerated powers vested in it by the constitution.[12] The remaining sovereigns, the states, retain those powers neither "delegated to the United States by the Constitution, nor prohibited by it to the States."[13]

9 The Supremacy Clause of the United States Constitution limits the states' exercise of their reserved powers.[14] The clause permits Congress, when acting within the scope of its enumerated powers, to preempt state regulatory power and "take unto itself all regulatory authority" over a subject.[15]

10 Nevertheless, tribunals seek to avoid unnecessarily upsetting the division of powers between the state and federal governments enshrined in the constitution.[16] They therefore "address claims of preemption with the starting presumption that Congress does not intend to supplant state law."[17] This presumption "applies with particular force when Congress has legislated in a field traditionally occupied by the States."[18]

11 Congress may overcome the presumption against preemption by showing "clear and manifest" intent to preempt.[19] Its enactment of a preemption provision evidences such intent.[20] Tribunals, however, continue to apply the presumption against preemption to the

[12] *United States v. Lopez*, 514 U.S. 549, 552, 115 S. Ct. 1624, 131 L. Ed. 2d 626 (1995).
[13] U.S. CONST. amend X.
[14] *Tafflin v. Levitt*, 493 U.S. 455, 458, 110 S. Ct. 792, 107 L. Ed. 2d 887 (1990).
[15] *Rice v. Santa Fe Elevator Corp.*, 331 U.S. 218, 229-230, 67 S. Ct. 1146, 91 L. Ed. 2d 1447 (1947); *see* U.S. Const. art. VI, cl. 2.
[16] *N.Y. Conference of Blue Cross & Blue Shield Plans v. Travelers Ins. Co.*, 514 U.S. 645, 654, 115 S. Ct. 1671, 131 L. Ed. 2d 695 (1995).
[17] *Id.* at 654.
[18] *Altria Group, Inc. v. Good*, 555 U.S. 70, 77, 129 S. Ct. 538, 172 L. Ed. 2d 398 (2008).
[19] *Medtronic, Inc. v. Lohr*, 518 U.S. 470, 485, 116 S. Ct. 2240, 135 L. Ed. 2d 700 (1996) (quoting *Rice*, 331 U.S. at 230).
[20] *English*, 496 U.S. at 78-79.

interpretation of any such provision.[21] As a result, they interpret preemption provisions narrowly[22] and interpret any ambiguity in a manner that disfavors preemption.[23]

B. Federal Preemption of Transportation Brokers

1. The historical backdrop to federal preemption of brokers of property transportation

12 In 1980, Congress deregulated the interstate trucking industry.[24] To prevent states from interfering with that deregulatory effort, Congress in the mid-1990s passed two laws to expressly preempt certain state regulations.[25]

13 The first, the Federal Aviation Administration Authorization Act of 1994, amended the code provision governing the authority of the Interstate Commerce Commission (ICC) over intrastate property transportation. The amendment preempted state regulation of motor carrier rates, routes, or services.[26]

14 The second, the Interstate Commerce Commission Termination Act of 1995 (ICCTA), abolished the ICC. It also amended and recodified at 49 U.S.C. § 14501 the code provisions preempting state regulation of certain rates, routes, and services.[27]

2. The preemption scheme codified at 49 U.S.C. § 14501

15 Three subsections of 49 U.S.C. § 14501, the preemption provision cited by MFS, are relevant to this matter.

---

[21] *Altria Group, Inc.*, 555 U.S. at 76-77.
[22] *Cipollone v. Liggett Group, Inc.*, 505 U.S. 504, 518, 523, 112 S. Ct. 2608, 120 L. Ed. 2d 407 (1992).
[23] *Bates v. Dow Agrosciences, LLC*, 544 U.S. 431, 449, 125 S. Ct. 1788, 161 L. Ed. 2d 687 (2005).
[24] *Dan's City Used Cars, Inc. v. Pelkey*, 569 U.S. 251, 255-56, 133 S. Ct. 1769, 185 L. Ed. 2d 909 (2013) (citing 94 Stat. 793).
[25] *Id.* at 256.
[26] Federal Aviation Administration Authorization Act of 1994, Pub. L. No. 103-305, § 601, 108 Stat. 1569 (1994).
[27] Interstate Commerce Commission Termination Act of 1995, Pub. L. No. 104-88, §§ 101, 103, 109 Stat. 803 (1995).

16 The first is 49 U.S.C. § 14501(b)(1) ("subsection (b)(1)"). Before the ICCTA, subsection (b)(1) applied only to freight forwarders.[28] The ICCTA added brokers to the preemptive sweep of the subsection, and the provision now reads:

> No state or political subdivision thereof and no intrastate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to intrastate rates, intrastate routes, or intrastate services of any freight forwarder or broker.[29]

17 The second is 49 U.S.C. § 14501(c)(1) ("subsection (c)(1)"). Before the ICCTA, subsection (c)(1) applied only to motor carriers.[30] The ICCTA added brokers and other entities to the preemptive sweep of the subsection, and it now reads:

> Except as provided in paragraphs (2) and (3), a State, political subdivision of a State, or political authority of 2 or more States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier (other than a carrier affiliated with a direct air carrier covered by section 41713(b)(4)) or any motor private carrier, broker, or freight forwarder with respect to the transportation of property.[31]

18 The third is 49 U.S.C. § 14501(c)(2)(B) ("subsection (c)(2)(B)"). 49 U.S.C. § 14501(c)(2) provides that subsection (c)(1) does not "cover[]" certain "matters."[32] Subsection (c)(2)(B) specifies that subsection (c)(1) "does not apply to the intrastate transportation of household goods."[33]

---

[28] Surface Freight Forwarder Deregulation Act, Pub. L. No. 99-521, § 11, 100 Stat. 2993 (1986).
[29] 49 U.S.C. § 14501(b)(1) (emphasis added).
[30] *Compare* former 49 U.S.C. § 11501(h)(1) (1994) (repealed 1995) *with* 49 U.S.C. § 14501(c)(1).
[31] 49 U.S.C. § 14501(c)(1) (emphasis added).
[32] 49 U.S.C. § 14501(c)(2).
[33] 49 U.S.C. § 14501(c)(2)(B).

C. 49 U.S.C. § 14501 Does not Preempt State Regulation of the Brokerage of Intrastate Household Goods Transportation

1. The text of 49 U.S.C. § 14501 shows that states do not regulate rates or price, routes, or services by regulating intrastate household goods transportation, including brokerage of such transportation

19 The Commission must begin its analysis of the preemptive sweep of 49 U.S.C. § 14501 with the text of the provision itself.[34] The provision's various subsections show that the terms "rates" or "price," "routes," and "services," do not include any part of intrastate household goods transportation, including brokerage.

20 Subsections (b)(1) and (c)(1) both use the terms "rates" or "price,"[35] "routes," and "services." A basic rule of statutory interpretation requires that the Commission give those terms identical meanings in the two subsections,[36] and one federal court has done exactly that when interpreting subsection (b)(1).[37]

21 Subsections (c)(1) and (c)(2)(B) provide that no aspect of intrastate household goods transportation is a rate or price, route, and service. Subsection (c)(1) does not preempt certain kinds of state regulations, either because those regulations do not relate to rates or price, routes, or services[38] or because Congress chose to preserve state regulatory authority otherwise preempted by subsection (c)(1).[39] Regulation of intrastate household goods transportation is one of the former types of regulations – subsection (c)(1)'s reference to

[34] *Park 'N Fly, Inc. v. Dollar Park 'N Fly, Inc.*, 469 U.S. 189, 194, 105 S. Ct. 658, 83 L. Ed. 2d 582 (1985).
[35] Congress uses the terms rates and price interchangeably, H.R. REP. NO. 103-677, at 86 (1994) (Conf. Rep.), and courts have recognized this by holding that the terms are synonymous. *Air Transp. Ass'n v. City of San Francisco*, 266 F.3d 1064, 1071 (9th Cir. 2001).
[36] *Puerto Rico v. Franklin Cal. Tax-Free Tr.*, __ U.S. __, 136 S. Ct. 1938, 1946, 195 L. Ed. 2d 298 (2016).
[37] *Delivery Express, Inc. v. Sacks*, No. C15-5842 BHS, 2016 WL 3198321, at *3 (W.D. Wash. June 9, 2016).
[38] *See* 49 U.S.C. § 14501(c)(2) (providing for certain "[m]atters not covered" by subsection (c)(1)).
[39] See 49 U.S.C. § 14501(c)(3) (exempting from preemption state regulatory authority over certain matters if regulated carriers consented to the exercise of that authority), (c)(4) (exempting Hawaii's regulatory authority, which subsection (c)(1) would otherwise have preempted).

rates or price, routes, or services does not "cover[]" state regulation of such transportation.[40] Even if the Commission finds the term "covered" ambiguous in this context, it would generally turn to the provision's legislative history to discern its meaning.[41] Significantly, that legislative history provides that:

> [n]ew subsection (h)(2)[42] emphasizes that State authority to regulate safety, financial fitness and insurance, transportation of household goods, vehicle size and weight and hazardous materials routing of motor carriers is unchanged since State regulation in those areas is not a price, route or service and is thus unaffected.[43]

There is no ambiguity after recourse to this legislative history: intrastate household goods transportation is not a rate or price, route, or service.

22 Brokers, by definition, are entities that "sell[], provid[e], or arrang[e] for" transportation.[44] As used in subsection (c)(2)(B), the term "[t]ransportation . . . includes . . . services related to the movement" of property, "including arranging for" such movement.[45] Again, if the Commission somehow finds ambiguity as to whether the definition of transportation extends to brokerage, it would generally turn to the provision's legislative history.[46] Congress provided there that the term transportation "includes all pre- and post-move services directly related to that transportation . . . includ[ing] the entire process from arranging the movement through the final resolution of any claims disputes." Given these

---

[40] 49 U.S.C. § 14501(c)(2)(B); s*ee* Webster's Third New International Dictionary at 524 (1968 ed.) (defining cover to mean "to put, lay, or spread something over, on, or before . . . overlay . . . to lie over : spread over : be placed on or often over the whole surface of . . . [to] occupy the whole surface of.")
[41] *Burlington N. R.R. Co. v. Okla. Tax Comm'n*, 481 U.S. 454, 457, 107 S. Ct. 1855, 95 L. Ed. 2d 404 (1987). But the Commission would not need to turn to legislative history here because, as mentioned above, it should interpret any ambiguity against preemption. *Bates*, 544 U.S. at 449.
[42] *Codified at* 49 U.S.C. § 14501(c)(2).
[43] H.R. REP. NO. 103-677, at 88 (1994) (Conf. Rep.) (emphasis added).
[44] 49 U.S.C. § 13102(2).
[45] 49 U.S.C. § 13102(23)(B) (emphasis added).
[46] Again, the Commission would not need to do so here because it should interpret any ambiguity against preemption. *Bates*, 544 U.S. at 449.

definitions and the provision's legislative history, brokerage is transportation as that term is used in subsections (c)(1) and (c)(2)(B).

23 Because "state regulation in th[e] area[]" of intrastate household goods transportation is not a price, route, or service in subsection (c)(1), it is not a rate, route, or service in subsection (b)(1).[47] Because brokerage is transportation in both sections, the public service laws do not relate to brokers' intrastate rates or price, routes, or services as applied to the brokerage of intrastate household goods movement. Subsection (b)(1) does not preempt the public service laws as applied to MFS.

2. The applicable canons of interpretation confirm that Congress did not intend to preempt state regulation of the brokerage of intrastate household goods transportation

24 The rules used to glean meaning from statutes in general, and preemption provisions in particular, support the argument that federal law does not preempt the public service laws with regard to regulation of intrastate household goods brokers.

a. General canons of interpretation support reading the terms "rates" or "price," "routes," or "services" in a way that avoids preemption

25 Three canons of interpretation, those requiring tribunals to harmonize statutes and avoid superfluity and absurd results, support reading the terms "rates" or "price," "routes," or "services" identically in subsections (b)(1), (c)(1), and (c)(2)(B), and therefore support reading subsection (b)(1) as not preempting the public service laws in the manner advocated by MFS.

[47] H.R. REP. NO. 103-677, at 88 (1994) (Conf. Rep.).

26 First, the Commission must attempt to harmonize statutory provisions to avoid conflict wherever possible.[48] The reading implicitly advocated by MFS, which treats the terms "rates" or "price," "routes," and "services" as having different meanings in the various subsections of 49 U.S.C. § 14501, creates a statutory conflict. Under that reading, subsection (b)(1) preempts state authority over the brokerage of intrastate household goods transportation, but subsection (c)(2)(B) expressly saves that regulatory authority. The two subsections cannot both have effect. In contrast, reading the terms to mean the same thing in both subsections harmonizes them and avoids this conflict.[49]

27 Second, the Commission should interpret statutes in a manner that gives meaning to all of its language. It can do that here by reading the terms "rates" or "price," "routes," and "services" identically in subsections (b)(1) and (c)(1). By doing so, each of subsections (b)(1), (c)(1), and (c)(2)(B) have meaning: subsection (c)(1) sets out the general rule preempting state regulation of broker rates or prices, routes, and services; subsection (b)(1) makes clear that this preemption extends to intrastate rates or prices, routes, and services; and subsection (c)(2)(B) makes clear that this preemption does not extend to state authority over intrastate household goods transportation. The reading advocated by Moves For Seniors, in contrast, impermissibly renders the reference to brokers in subsection (c)(2)(B) superfluous.

28 Finally, and perhaps most importantly, the Commission should avoid reading 49 U.S.C. § 14501 in a way that produces absurd or unreasonable results. Congress did not

---

[48] *Morton v. Mancari*, 417 U.S. 535, 551, 94 S. Ct. 2474, 41 L. Ed. 2d 290 (1974).

[49] Of course, if the Commission determines that the conflict is irreconcilable, subsection (c)(2)(B) would control given that it is the more specific of interrelated and closely positioned provisions. *HCSC-Laundry v. United States*, 450 U.S. 1, 6, 101 S. Ct. 836, 67 L. Ed. 1 (1981). Subsection (c)(2)(B) is more specific because, with regard to brokers, it applies only to intrastate household goods transportation, whereas subsection (b)(1) applies to all intrastate transportation.

grant either the Secretary of Transportation or the ICC's successor agency jurisdiction over purely intrastate household goods transportation.[50] The Federal Motor Carrier Safety Administration, which regulates the transportation of household goods pursuant to a delegation of power from the Secretary of Transportation,[51] has implicitly signaled that it does not understand federal jurisdiction to reach intrastate household goods brokers by promulgating regulations that govern only brokerage of interstate household goods transportation.[52] MFS's reading thus produces an absurd result: a "regulatory vacuum."[53] If states cannot regulate intrastate household goods brokerage, no entity can, and that cannot be the law.

b. Specific rules for interpreting preemption provisions require the Commission to reject MFS's reading of 49 U.S.C. § 14501

29 Two specific rules for interpreting preemption provisions counsel against reading subsection (b)(1) as preempting the public service laws as applied to companies like MFS. These include the rule requiring narrow construction of preemption provisions and the rule requiring interpretation of a preemption provision in light of the regulatory scheme surrounding it.

30 First, as mentioned above, the Commission must interpret 49 U.S.C. § 14501 in light of the presumption against preemption, and therefore it must read the provision narrowly.[54] Reading subsection (b)(1) as using the terms "rates" or "price," "routes," or "services" in the

[50] *See generally* 49 U.S.C. § 14104 (enacting regulatory requirements for carriers subject to federal jurisdiction as specified in 49 U.S.C. §§ 13501-13508, which do not extend federal jurisdiction to purely intrastate activity).
[51] 49 U.S.C. § 113(f).
[52] 49 C.F.R. §§ 371.101-.121. *See* 49 C.F.R. § 371.101 (noting that brokers must comply with FMCSA rules if they operate in interstate or foreign commerce.).
[53] *See Pac. Gas & Elec. Co. v. State Energy Res. Conservation & Dev. Comm'n*, 461 U.S. 190, 207-08, 103 S. Ct. 1713, 75 L. Ed. 2d 752 (1983).
[54] *Cipollone*, 505 U.S. at 518, 523.

same way as subsections (c)(1) and (c)(2)(B) is the narrow reading of 49 U.S.C. § 14501. The reading results in the preemption of fewer state regulations and leaves intact more state regulatory authority.

31 Second, the Commission must interpret any preemption provision in light of a "reasoned understanding of the way in which Congress intended the statute and its surrounding regulatory scheme to affect business, consumers, and the law."[55] Congress intended 49 U.S.C. § 14501 "to prevent States from undermining federal deregulation of interstate trucking through a 'patchwork' of state regulations."[56] But Congress determined that certain state regulations, such as the ones related to intrastate household goods transportation, do not undermine its efforts at deregulation and it did not preempt the states from enacting or enforcing those regulations.[57] Further, as discussed above, Congress did not empower any agency to regulate the intrastate brokerage of household goods transportation. A "reasoned look" at the regulatory scheme in place indicates that Congress had no intent to displace state authority over intrastate household goods transportation, including brokerage.

3. The cases cited by MFS do not control whether subsection (b)(1) preempts the Commission's jurisdiction over MFS

32 In past correspondence with Staff, MFS cited two cases to support the proposition that subsection (b)(1) preempts application of the public service laws to its operations. These cases are inapposite because they analyze subsection (c)(1), not subsection (b)(1). Staff

[55] *Medtronic*, 518 U.S. at 486.
[56] *Am. Trucking Ass'ns, Inc. v. City of Los Angeles*, 660 F.3d 384, 395 (9th Cir. 2011).
[57] *Cf.* 49 U.S.C. § 14501(c)(2)(B); *R. Mayer of Atlanta v. City of Atlanta*, 158 F.3d 538 (11th Cir. 1998) (noting that 49 U.S.C. § 14501(c)(2) sets out some of the regulations that do not interfere with the interstate deregulation of the trucking industry).

found no case analyzing whether subsection (b)(1) preempts application of state regulations to brokers of the intrastate movement of household goods, and at least one federal court has noted the "dearth of case law analyzing § 14501(b)(1)."[58]

33 The first case MFS cites, *Kashala v. Mobility Servs. Int'l*, LLC, No. 07-40107-TSH, 2009 WL 2144289, at *1 (D. Mass. May 12, 2009), involved claims for losses related to the shipment of household goods between North Carolina and Massachusetts. The court found the plaintiff's claims against the shipment's broker were barred by subsection (c)(1). This case has no bearing because it concerned an interstate rather than intrastate household goods shipment.[59] Here, the Commission is seeking to enforce laws that regulate intrastate household goods transportation, and 49 U.S.C. § 14501 does not preempt its authority to do so.

34 The second case, *Asarco LLC v. England Logistics Inc.*, 71 F. Supp. 3d 990 (D. Ariz. Dec. 22, 2014), is even less helpful to MFS. That case involved claims for the loss of a shipment of copper anodes between Arizona and Texas. The court determined that subsection (c)(1) barred any claims against the defendants.[60] Again, this case has no bearing here because the shipped items were not household goods and the shipment was an interstate, rather than intrastate, one.

IV. CONCLUSION

35 Federal law does not preempt the regulation of intrastate household goods transportation, including brokerage thereof. The Commission should reject MFS's

[58] *Delivery Express, Inc. v. Sacks*, No. C15-5842 BHS, 2016 WL 3198321, at *3 (W.D. Wash. June 9, 2016).
[59] Because the shipment crossed state lines, the parties analyzed the issue under subsection (c)(1) rather than subsection (b)(1).
[60] Again, the parties analyzed the preemption issue under subsection (c)(1) because the shipment crossed state lines.

preemption claim, classify the company as a household goods carrier, and penalize it for its violations of Washington's public service laws.

DATED this 31st day of January 2018.

Respectfully submitted,

ROBERT W. FERGUSON
Attorney General

/s/ *Jeff Roberson*, WSBA No. 45550
Assistant Attorney General
Office of the Attorney General
Utilities and Transportation Division
P.O. Box 40128, Olympia, WA 98504-0128
(360) 664-1188
jroberso@utc.wa.gov