



proceedings.

Each of these three (3) cases involves (a) a *different* series of State statutes; (b) a *different* series of State regulations; (c) *different* state regulators; (d) a completely *unique* history of regulation by State regulators; and (e) completely *different* facts incident to the motor carrier regulatory process. Complaint Counsel's Motion contains no evidence or factual basis which suggests otherwise.

real issue for resolution in the case. This issue, by definition, will be unique in all three (3) cases.

~~This is the same issue that has been raised in Case No. 1 and Case No. 2.~~

~~for purposes of the "grouping" of these States together in the manner suggested by~~

of the Mississippi regulatory scheme. *Id.* at 1724, 1730.  
When trying to adduce the legislature's intent to regulate  
intrastate motor carriers, the Court referred only to the

Mississippi statute, concluding that its permissive language  
had received the sanction of the state and was sufficient to  
satisfy the first prong of *Midcal*. *Id.* at 1730-31.  
Therefore, faced with Mass. Gen. Laws Ann. Ch. 159B,  
and language that is comparable to that of the Mississippi  
statute, we conclude, notwithstanding Massachusetts'

to expand on what a rate indicates a determination that

the rate has been found to meet the regulatory criteria of the statute, orders, rules, and regulations. There is an administrative mechanism in place for aggrieved parties to register their complaints and be heard. Further, the Massachusetts courts are available and are empowered to force the regulators to act at the suit of aggrieved parties.

Commissioner of the Department of Public Health, Commonwealth of Massachusetts

against the Indiana Household Goods Movers Association. (Motion to Consolidate; p.7.) The document referred to as “guidance” is a fairly presumptuous, self-serving manifesto which is more a description of the law the way that Complaint Counsel believes it *should* be than a statement reflecting any

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Result in Judicial Economy

Opportunities abound for limiting the use of judicial resources in this proceeding which would still allow the Kentucky Association and the Commonwealth of Kentucky to have a fair and independent opportunity to be heard clearly in this case. These could include the following, all of which can be explored prior to determination of the within Motion: (1) a stipulation by the parties as to the existence of a clearly articulated and affirmatively expressed state policy in favor of the activity challenged in

V. Conclusion

Decide on the Complaint, the Interstate Association, and Call

requests that Complaint Counsel's Motion to Consolidate be in all respects denied, and

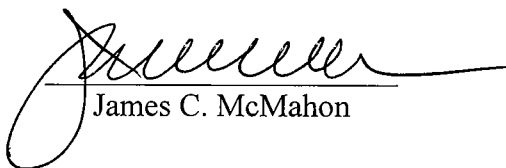


**CERTIFICATE OF SERVICE**

This is to certify that on August 18, 2003, I caused a copy of the attached **Respondent's Opposition to Complaint Counsel's Motion to Consolidate** to be served upon the following persons by U.S. Express Mail:

Hon. Richard Dagen  
Associate Director  
Federal Trade Commission  
601 New Jersey Avenue, N.W. Room 6223

Dated: New York, NY  
August 18, 2003

  
James C. McMahon