

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In re Application of

Permit to Operate as a Motor Carrier of
Household Goods and a Permit to Operate as a
Motor Freight Common Carrier

DOLLY, INC.

DOCKET NUMBER: TV-190593

DOLLY, INC. PETITION FOR
EXEMPTION FROM WAC 480-15-530
AND 480-15-550

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I. REQUEST FOR RELIEF

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Dolly, Inc. (“Dolly” or “Company”) respectfully petitions the Washington Utilities and
Transportation Commission (“WUTC” or “Commission”) to grant exemptions from the following
regulations:

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- 1. WAC 480-15-530 (public liability and property damage insurance), and
- 2. WAC 480-15-550 (cargo insurance)

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Dolly protects Washington consumers by engaging JMB Insurance Agency to manage and maintain
its insurance commercial general liability and auto liability insurance policies. In the entire history of the
company, there has not been a single loss suffered by a Washington resident that has not been covered by
the Company’s insurance.¹ For these reasons and the reasons stated below, Dolly requests the Commission
grant this Petition for Exemption from Washington Administrative Code (“WAC”) Sections 480-15-
530(1)(b) and subsection (3) and 480-15-550 (“Petition”).

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II. APPLICABLE LAW AND STANDARD FOR DETERMINATION

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The Commission is an agency of the State of Washington established pursuant to chapter 80.01
RCW and charged by the legislature with the authority to regulate in the public interest the rates, services,

¹ In a few rare instances the Company’s insurer denied a claim. In those few cases the Company directly reimbursed the consumer.

1 facilities, and practices of businesses in the state offering the transportation of goods to the public for
2 compensation.

3 Washington Administrative Code Section WAC 480-07-110(1) provides that the Commission “may
4 grant an exemption from, or modify the application of, any of its rules in individual circumstances if the
5 exemption or modification is consistent with the public interest, the purposes underlying regulation, and
6 applicable statutes.” WAC 480-07-110(2)(c) describes the standard for determination, as follows:

7 *Standard for determination.* The commission uses the public interest standard to determine
8 whether to grant an exemption from, or modification to, a commission rule. Factors the
9 commission may consider in making this determination include whether the rule imposes
10 an undue hardship on the requesting person of a degree or a kind different from hardships
11 imposed on other similarly situated persons, and whether the effect of applying the rule to
12 the requesting person would be contrary to the underlying purposes of the rule and the
13 public interest.²

14 WAC 480-15-035 provides that companies may petition the Commission requesting exemptions to
15 rules contained in Chapter 480-15 WAC and also that the Commission may grant an exemption from the
16 provisions of any rule in WAC chapter 480-15, if the request is consistent with, “the public interest, the
17 purpose of the underlying regulation, and applicable statutes.”

18 In defining the “public interest” test, WAC 480-07-110 states the Commission will consider
19 whether the:

- 20 1. Rule imposes an undue hardship on the requesting person of a degree or a kind
21 different from hardships imposed on other similarly situated persons, and
- 22 2. Effect of applying the rule to the requesting person would be contrary to the
23 underlying purposes of the rule and the public interest.” Emphasis added.

24 **III. BACKGROUND**

25 The Commission has previously classified Dolly to be a household goods carrier subject to the
26 Commission’s public service laws.³ Household goods carriers must have public liability and property
27 damage liability insurance to obtain its certificate and operating authority.⁴ Independent contractor drivers
28 and consumers use the Dolly app and website (“platform”) to arrange for the transportation of property
29 within Washington state. Because the drivers use their personal vehicles to transport their customers’

² See also WAC 480-15-035.
³ *In the Matter of Determining the Proper Carrier Classification of, and Complaint for Penalties Against Dolly, Inc.*, Docket TV-171212, Corrected Order 02 (April 9, 2018).
⁴ WAC 480-15-530

1 property, Dolly requires the drivers to provide evidence of auto liability insurance coverage prior to their
2 using the platform. While on the platform, the drivers' personal auto insurance covers any losses that occur
3 while transporting property for their customers. Dolly's commercial general liability and auto liability
4 coverage are contingent and supplement the contractor's coverages. Therefore, if the driver's insurer either,
5 denies or does not fully cover a claim, one of Dolly's contingent policies will step in to cover the
6 consumer's loss.

7 Insurers do not provide a Form E filing for contingent coverage thereby necessitating this petition
8 due to Dolly's inability to provide a Form E filing, even though it does possess insurance coverage
9 protecting consumers' property.

10 Commission Staff also expressed concern that one of Dolly's insurance providers is "nonadmitted"
11 in Washington.⁵ Simply stated, nonadmitted insurers are not backed by the state in the event the insurer
12 becomes insolvent. WAC 480-15-530(1)(a) requires only that an insurer be "authorized to write insurance
13 in Washington state." An "authorized" insurer is one that has received a Certificate of Authority from the
14 Washington State Office of the Insurance Commissioner ("Insurance Commission" or "OIC").⁶

15 Commission Staff stated that they do not discern a distinction between "admitted" and "authorized"
16 insurers because the two "go hand in hand."⁷ Commission Staff proports this interpretation which is
17 unsupported by any authority prevents Dolly from satisfying WAC 480-15-530 because Dolly's insurer is
18 not "admitted." The Commission should find that Dolly's insurance providers are authorized by the OIC
19 and meet the requirements of WAC 480-15-530(1)(a).

20 IV. ARGUMENT AND GROUNDS FOR RELIEF

21 1. Dolly Requests to be Exempt from WAC 480-15-530(1)(b) and Subsection (3)

22 WAC 480-15-530 outlines the requirements for public liability and property damage insurance
23 coverage issued by an authorized insurer.⁸ Specifically, the rule states:

24 The policy must include the Uniform Motor Carrier Bodily Injury and Property Damage
25 Liability Certificate of Insurance (Form E) or Uniform Motor Carrier Bodily Injury and
26 Property Damage Liability Surety Bond (Form G).⁹

⁵ See Attachment A, Notice of Deficient Household Goods Moving Application - Dolly Inc., email from Michael Dotson (July 16, 2019).

⁶ RCW 48.05.030.

⁷ See Attachment A, email from Michael Dotson dated July 18, 2019.

⁸ WAC 480-15-530(1)(a).

⁹ WAC 480-15-530(1)(b).

1 ...
 2 Carriers must file a Uniform Motor Carrier Bodily Injury and Property Damage Liability
 3 Certificate of Insurance (Form E) or Uniform Motor Carrier Bodily Injury and Property
 4 Damage Liability Surety Bond (Form G) as a condition of maintaining a household goods
 5 permit.¹⁰

6 The public liability and property damage coverage required by the rule refers to auto liability and
 7 physical damage coverages. A Form E (or Form G) filing simply certifies that a company’s liability
 8 insurance complies with the state’s financial responsibility laws with respect to insurance.

9 **A. Description of Dolly’s Insurance Coverage**

10 Dolly possesses contingent insurance policies for both commercial general liability and automobile
 11 liability coverage. Dolly’s contingent policies provide coverage in excess of the driver’s personal auto and
 12 property damage coverages. As it does not own or operate any vehicles Dolly does not have auto property
 13 damage coverage, however, Dolly’s current policies cover that risk. The table below shows that Dolly’s
 14 commercial general liability and automobile liability policy limits (which cover the same risks covered by
 15 public liability and property damage coverage) far exceed the minimum limit requirements of WAC 480-
 16 15-530(2):

Insurance Type	Insurance Provider	Dolly’s Commercial Insurance Coverage Limits		WAC 480-15-530 Minimum Coverage Limits (As Applied to Dolly’s Business Model)	
Commercial General Liability	First Mercury	Each Occurrence	\$1,000,000	Cargo Insurance	\$10,000 (GVWR under 10k pounds)
		Damage to Rented Premises	\$50,000		
		Personal and Advertising Injury	\$1,000,000		
		General Aggregate	\$2,000,000		
		Products – Completed Operations Aggregate	\$2,000,000		
Auto Liability	James River	Combined Single Limit	\$1,000,000	Combined Single Limit	\$300,000 (GVWR under 10k pounds and non-hazardous substances transported)

17 Dolly’s commercial general liability policy covers losses and damage to the consumer’s property
 18 and acts as what would be cargo insurance if Dolly owned vehicles and purchased cargo insurance. Dolly’s
 19 auto liability policy covers any damage arising from the independent contractors’ operation of their vehicle.

¹⁰ WAC 480-15-530(3).

1 Again, Dolly’s insurance policies, which are issued by authorized insurance providers, satisfies WAC 480-
2 15-530 (1)(a) and (2).

3 **B. Dolly’s Insurers are Authorized in Washington State Thereby Satisfying the Objectives**
4 **of WAC 480-15-530**

5 The Insurance Commission protects Washington consumers by authorizing only legitimate and
6 reliable insurance companies to operate in Washington.¹¹ The Commission has incorporated those
7 safeguards into its rules, and allowing a carrier to rely on insurance provided by an unauthorized carrier
8 undermines the consumer protection objectives of both state agencies.¹²

9 Dolly, who also has a vested interest in protecting Washington consumers, possesses contingent
10 insurance coverage from an authorized insurer that protects consumers in the event of loss or damage to
11 their property. However, a Form E filing is not provided for contingent coverage and Dolly is therefore
12 unable to satisfy the *prima facie* requirements of 480-15-530(1)(b) even though, substantively, its insurance
13 satisfies WAC 480-15-530 (1)(a) and (2) and more than adequately protects consumers in the event of loss
14 or damage.

15 In a prior docket, the Commission properly concluded that exempting a carrier with insurance from
16 unauthorized insurer from the requirement to submit a Form E is not in the public interest because it is
17 “inconsistent with the purpose of the rule to protect consumers from loss of, or damage to, their property
18 caused by a household goods mover.”¹³ Here, granting Dolly’s Petition is consistent with the public interest
19 of, “protecting consumers from loss of, or damage to, their property” because Dolly’s insurance is from an
20 authorized insurer and adequately protects consumers. Accordingly, the Commission has sufficient grounds
21 to grant Dolly’s Petition.

22 **i. The Commission has Previously Permitted Carriers to Obtain Insurance from**
23 **Authorized, Nonadmitted Insurers**

24 If the Commission Grants this Petition, Dolly’s insurers, which are authorized, nonadmitted
25 carriers, should be allowed to provide Dolly’s insurance coverage. In a prior docket, the Commission
26 granted a passenger carrier’s petition to obtain insurance from a nonadmitted provider, on the condition that
27 that the carrier eventually obtain coverage from “a highly-rated surplus line insurance company [with an]

¹¹ *In the Matter of the Petition of Kevin Lee Miller dba KLM Movers, Seeking Exemption from the Provisions of WAC 480-15-530(1) Relating to Filing Verification of Public Liability and Property Damage Insurance by Household Goods Companies*, Docket TV-140790, Order 01 ¶ 10 (June 13, 2014).

¹² *Id.*

¹³ *Id.* at ¶ 7.

1 AM Best A- or above rating.”¹⁴ The Non-admitted and Reinsurance Reform Act of 2010 (“NRRA”) defines
2 “nonadmitted insurance” as “any property and casualty insurance permitted to be placed directly or through
3 a surplus lines broker with a nonadmitted insurer eligible to accept such insurance.”¹⁵ So, a “surplus line
4 insurance company” is one that is nonadmitted.

5 As stated above, the Form E (or Form G) filing simply certifies that a company’s liability insurance
6 complies with the state’s financial responsibility laws for insurance. The NRRA restricts the eligibility
7 requirements a state may impose on non-admitted insurers and states that non-admitted insurers are
8 permitted to place non-admitted insurance provided they maintain minimum capital and surplus of \$15
9 Million. Here, James River’s minimum capital and surplus is \$500 Million to \$750 Million and First
10 Mercury’s is \$1.25 Billion to \$1.5 Billion. These amounts far exceed the financial responsibility laws for
11 nonadmitted insurers in Washington which means both companies are allowed to provide nonadmitted
12 insurance in the state. Although Dolly’s insurers are nonadmitted, they are undoubtedly financially
13 responsible by virtue of their minimum capital and surplus amounts exceeding the state minimum
14 requirements. Thus, the public safety concern of a company’s liability insurance complying with the state’s
15 financial responsibility laws for insurance that Forms E and G are intended to certify are eliminated.

16 Here, even though Dolly’s commercial general liability insurance provider, James River,¹⁶ and its
17 auto liability insurance provider, First Mercury,¹⁷ are authorized, nonadmitted (“surplus line”) insurers, they
18 both possess AM Best ratings of “A”, which exceeds the minimum “A-” standard the Commission
19 permitted for a passenger carrier company. Both companies are also financially eligible to provide surplus
20 insurance in Washington. Accordingly, the Commission may properly grant Dolly’s Petition because it has
21 done so previously when faced with the similar facts of a passenger carrier seeking to obtain insurance from
22 an authorized, non-admitted insurance company that had an AM Best rating exceeding an “A-”, which are
23 the same facts presented here.

24 **2. Dolly Requests to be Exempt from WAC 480-15-550**

25 WAC 480-15-550 requires household goods carriers to possess cargo insurance based on the weight
26 of the vehicles used to transport goods. Specifically, the coverage required is: \$10,000 policy for vehicles
27 under 10,000lbs and \$20,000 policy for vehicles over 10,000lbs. As stated above, Dolly does not own,

¹⁴ *In the Matter of the Petition of Triangle Charter, LLC for Exemption from insurance requirements and requesting placement of Auto Liability Insurance with Limits of \$5,000,000 with a non-admitted, surplus lines insurer, Prime Insurance Company*, Docket TV-1151866, Order 01 at ¶ 14 (October 29, 2015).

¹⁵ See 15 U.S.C. § 8206(9).

¹⁶ See Attachment B, AM Rating – James River Insurance Company.

¹⁷ See Attachment C, AM Rating – First Mercury Insurance Company.

1 lease, or rent vehicles but Dolly's \$2,000,000 general liability insurance policy adequately protects
2 consumers in the event of loss of, or damage to, their property. This coverage is far in excess of the rule's
3 maximum \$20,000 requirement.

4 Here, because Dolly's commercial general liability policy covers the exact risk cargo insurance is
5 intended to insure, exempting Dolly from the requirement to obtain cargo insurance is not contrary to the
6 public interest and imposes an undue hardship on the Company.

7 **V. CONCLUSION**

8 For the above stated reasons, Dolly requests the Commission grant its requests to be exempted from
9 WAC 480-15-530(1)(b) and Subsection (3) and WAC 480-15-550.

10

11 DATED this 21ST day of July 2019.

12

Respectfully Submitted,

13



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Armikka Bryant, General Counsel
Dolly, Inc

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From: Dotson, Michael (UTC) michael.dotson@utc.wa.gov 
Subject: RE: Notice of Deficient Household Goods Moving Application - Dolly Inc.
Date: July 18, 2019 at 2:59 PM
To: Armikka Bryant armikka@dolly.com



Thanks Armikka, as far as the insurance commission thing, at some point our attorney's decided that authorized and admitted go hand in hand. There might be an argument to be made there, but in Dolly's case it's probably not worth the effort. Regardless of the interpretation, we would need the Form E and Form H filing, those are clearly written into the rule. In my opinion, if the insurance forms can't be obtained, submitting the exemption request for the insurance filings would make the most sense.

Mike

From: Armikka Bryant [mailto:armikka@dolly.com]
Sent: Thursday, July 18, 2019 1:27 PM
To: Dotson, Michael (UTC) <michael.dotson@utc.wa.gov>
Subject: Re: Notice of Deficient Household Goods Moving Application - Dolly Inc.

Hi Mike,

I'm more than happy to jump on a call with you and talk through these issues with you and have provided some very high-level responses below:

1. Form E

Dolly has both public liability and property damage insurance coverage, however, because it is contingent coverage (i.e. in excess of the driver's coverage) Dolly cannot obtain the Form E filing.

2. James River

The OIC webpage only lists insurers that are admitted (backed by the state guaranty), not those that are authorized. James River is not backed by the state but is authorized, as required under WAC 480-15-530(1)(a), to write insurance in the state.

Will you please clarify if I am misunderstanding your message or if there is rule or statute stating the insurer must be admitted in addition to being authorized?

Also, Dolly filed a petition for exemptions from WAC 480-15-530 and 480-15-550 in Docket TV-190353. If necessary, I will resubmit the petition.

Thank you,
Armikka

Armikka Bryant
General Counsel
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Suite 600
Seattle, WA 98104-3188

[646.303.3533](tel:646.303.3533)
armikka@dolly.com
dolly.com

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On Tue, Jul 16, 2019 at 2:24 PM Dotson, Michael (UTC) <michael.dotson@utc.wa.gov> wrote:

July 16, 2019

Dolly, Inc.
d/b/a Dolly
901 5th Ave, Suite 600
Seattle, WA 98164

Re: **Notice of Deficient Application**
Docket # TV-190593

Dear Dolly, Inc.:

The following items need to be completed and/or corrected for prompt processing of your application for operating authority. Please complete and return to our office by August 16, 2019. You may not operate until these issues are resolved and you have received your approved permit.

- Request a Uniform Motor Carrier Certificate of Insurance (Form E) and proof of Cargo Insurance from your insurance company. The insurance must show your legal name, and, the Washington Utilities and Transportation Commission (WUTC) must be shown as the certificate holder. Please ask your insurance company to email the insurance to transportation@utc.wa.gov.
- “James River Insurance Company” is not authorized to write policies in the state of Washington. Washington Administrative Code [WAC 480-15-530\(1\)](#) describes the insurance requirements in detail. You’ll need to secure insurance from a company that is on the admitted list with our state [Office of the Insurance Commissioner](#) or request an exemption of Washington Administrative Code, [WAC 480-15-530\(1\)](#) consistent with the requirements of [RCW 48.15](#).
- Per [WAC 480-15-302\(3\)](#) all persons listed in the application must provide identification. Please provide a copy of Armikka Bryant’s government issued ID.

Who do I contact if I have questions?

You may call 360-664-1222 or e-mail us at transportation@utc.wa.gov.

Thank you,

Licensing Services

Washington Utilities and Transportation Commission

James River Insurance Company

A.M. Best #: 012604 NAIC #: 12203 FEIN #: 222824607

Mailing Address

P.O. Box 27648
Richmond, VA 23261
United States

[View Additional Address Information](#)

Web: www.jamesriverins.com

Phone: 804-289-2700



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Based on A.M. Best's analysis, 055488 - James River Group Holdings, Ltd. is the **AMB Ultimate Parent** and identifies the topmost entity of the corporate structure. [View a list of operating insurance entities in this structure.](#)

Best's Credit Ratings

Financial Strength Rating View Definition

Rating: A (Excellent)
Affiliation Code: g (Group)
Financial Size Category: X (\$500 Million to \$750 Million)
Outlook: Stable
Action: Affirmed
Effective Date: August 14, 2018
Initial Rating Date: July 03, 2003

Long-Term Issuer Credit Rating View Definition

Long-Term: a
Outlook: Stable

Action: Affirmed
Effective Date: August 14, 2018
Initial Rating Date: November 18, 2005

u Denotes Under Review Best's Rating

Best's Credit Rating Analyst

Rating Office: A.M. Best Rating Services, Inc.

Associate Director : Robert Raber

Senior Director: Gregory T. Williams

Note: See the Disclosure information Form or Press Release below for the office and analyst at the time of the rating event.

Disclosure Information

Disclosure Information Form

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Press Release

A.M. Best Affirms Credit Ratings of James River Group Holdings Ltd and Subsidiaries; Assigns Credit Ratings to Carolina Re Ltd
 August 14, 2018

Rating History

A.M. Best has provided ratings & analysis on this company since 2003.

Financial Strength Rating

Effective Date Rating

8/14/2018	A
8/18/2017	A
7/29/2016	A
6/26/2015	A-
5/20/2014	A-

Long-Term Issuer Credit Rating

Effective Date Rating

8/14/2018	a
8/18/2017	a
7/29/2016	a
6/26/2015	a-
5/20/2014	a-

Best's Credit Reports



Best's Credit Report - Where applicable, includes Best's Financial Strength Rating and rationale along with comprehensive analytical commentary, detailed business overview and key financial data.
Report Revision Date: 6/5/2019 (represents the latest significant change).



Historical Reports are available in Best's Credit Report Archive.

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Press Releases

<u>Date</u>	<u>Title</u>
Aug 14, 2018	A.M. Best Affirms Credit Ratings of James River Group Holdings Ltd and Subsidiaries; Assigns Credit Ratings to Carolina Re Ltd
Feb 23, 2018	A.M. Best Comments on Credit Ratings of JRG Reinsurance Company, Ltd. and Its Affiliates
Aug 18, 2017	A.M. Best Affirms Credit Ratings of JRG Reinsurance Company, Ltd. and Its Affiliates
Jul 29, 2016	A.M. Best Upgrades Ratings of JRG Reinsurance Company, Ltd. and Its Affiliates
Jun 26, 2015	A.M. Best Assigns Rating to James River Group Holdings, Ltd. and Affirms Ratings of Its Subsidiaries
May 20, 2014	A.M. Best Revises Outlook for Ratings of JRG Reinsurance Company, Ltd. and Its Affiliates
Jan 23, 2013	A.M. Best Affirms Ratings of JRG Reinsurance Company, Ltd. and Certain Affiliates
Nov 03, 2011	A.M. Best Places Ratings of Infinity Specialty Insurance and Infinity General Insurance Under Review With Negative Implications
Sep 30, 2009	A.M. Best Assigns Ratings to James River Casualty Company
Jun 12, 2007	A.M. Best Comments on the Announced Acquisition of James River Group, Inc. by the D. E. Shaw Group

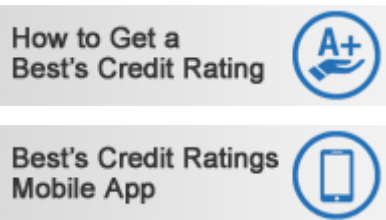
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First Mercury Insurance Company

A.M. Best #: 011883 **NAIC #:** 10657 **FEIN #:** 383299471

Administrative Office

305 Madison Avenue
Morristown, NJ 07962
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Best's Credit Ratings

Financial Strength Rating View Definition

Rating: A (Excellent)
Affiliation Code: r (Reinsured)
Financial Size Category: XIII (\$1.25 Billion to \$1.5 Billion)
Outlook: Stable
Action: Affirmed
Effective Date: April 30, 2019
Initial Rating Date: July 21, 1997

Long-Term Issuer Credit Rating View Definition

Long-Term: a
Outlook: Stable

Action: Affirmed
Effective Date: April 30, 2019
Initial Rating Date: May 04, 2007

u Denotes Under Review Best's Rating

Best's Credit Rating Analyst

Rating Office: A.M. Best Rating Services, Inc.

Director: Jennifer Marshall, CPCU, ARM

Senior Director: Michael J. Lagomarsino, CFA, FRM

Note: See the Disclosure information Form or Press Release below for the office and analyst at the time of the rating event.

Disclosure Information

Disclosure Information Form

View A.M. Best's Rating Disclosure Form

Press Release

AM Best Affirms Credit Ratings of Fairfax Financial Holdings Limited and Majority of Its Subsidiaries
 April 30, 2019

Rating History

A.M. Best has provided ratings & analysis on this company since 1997.

Financial Strength Rating

Effective Date Rating

4/30/2019	A
2/28/2018	A
10/20/2016	A
6/4/2015	A
5/30/2014	A

Long-Term Issuer Credit Rating

Effective Date Rating

4/30/2019	a
2/28/2018	a
10/20/2016	a
6/4/2015	a
5/30/2014	a

Best's Credit Reports

Best's Credit Report - Where applicable, includes Best's Financial Strength Rating and rationale along with comprehensive analytical commentary, detailed business overview and key financial data. Report Revision Date: 5/29/2019 (represents the latest significant change).



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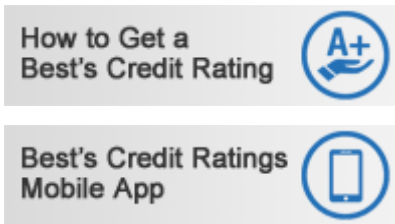
Press Releases

<u>Date</u>	<u>Title</u>
Apr 30, 2019	AM Best Affirms Credit Ratings of Fairfax Financial Holdings Limited and Majority of Its Subsidiaries
Feb 28, 2018	A.M. Best Affirms Credit Ratings of Fairfax Financial Holdings Limited and Majority of Its Subsidiaries
Oct 20, 2016	A.M. Best Affirms Credit Ratings of Fairfax Financial Holdings Limited and Majority of Its Subsidiaries
Jun 04, 2015	A.M. Best Affirms Ratings of Fairfax Financial Holdings Limited and Majority of its Subsidiaries
May 30, 2014	A.M. Best Affirms Ratings of Fairfax Financial Holdings Limited and Its Subsidiaries
Mar 28, 2013	A.M. Best Affirms Ratings of Fairfax Financial Holdings Limited and Its Subsidiaries
May 03, 2012	A.M. Best Affirms Ratings of Fairfax Financial Holdings Limited and Most of Its Operating Companies
Aug 08, 2011	A.M. Best Affirms Ratings of First Mercury Insurance Company and Its Affiliates
Mar 18, 2011	A.M. Best Upgrades Ratings of First Mercury Group and Its Members
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