



WASHINGTON REFUSE & RECYCLING ASSOCIATION

September 27, 2018

Mr. Mark Johnson
Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

Re: WRRRA Responses to Digital Application Based Micro-Mover Task Force Questions

Dear Mr. Johnson:

The Washington Refuse and Recycling Association (WRRRA) is a trade association representing the private sector solid waste industry in Washington, much of which falls under Commission regulation. Washington's solid waste system and the customers it serves have long benefitted from robust and effective regulation by the Commission. WRRRA member companies and the solid waste industry serve a vital role in public health, safety, and environmental protection.

Much of the attention paid to digital application-based micro-movers has been within the context of the Commission's household goods mover's regulation. WRRRA's primary interest in digital application-based micro-movers is the potential for such companies to operate as solid waste collection companies without the required certificates, or operate as a third party waste broker that facilitates the illegal hauling of solid waste under RCW 81.77.

Solid waste issues are highly relevant to the current discussion. The Commission has already found the most visible digital application-based micro-mover, Dolly, to be operating illegally as a solid waste collection company (Docket TV-171212, Order 02), and Dolly has indicated the company may apply for a solid waste certificate in the future (Docket TV-171212, Response Opposing Commission Staff's Motion to Impose Penalties, on behalf of Dolly, Inc, Attachment B).

WRRRA's answers to the questions posed by the Commission in the "Recap of Second Task Force Meeting and Request for Comments from Members" begin on the next page.

1. Consumer protection and safety needs to be a priority in any recommendation considered by the task force. How does the UTC ensure consumer protection and safety for a digital app-based micro mover?

It is not clear that the Commission can reasonably ensure consumer protection and safety for digital application-based companies, particularly in the collection of solid waste, for reasons discussed throughout WRRRA's other answers.

2. Is the current process of obtaining a permit by the UTC cost prohibitive or complicated?

WRRRA does not view the process of obtaining a permit from the UTC as cost prohibitive or over complicated, particularly for a solid waste certificate. Solid waste collection is more "robustly" regulated by the Commission than household goods movers, and rightly so. Solid waste collection is a highly specialized industry with many public health and safety implications, both for the customer and employee or contractor performing the collection.

For these reasons, among many others, applicants for solid waste collection permits must demonstrate that they are fit, willing, or able to provide the applied-for services to the satisfaction of the Commission and that either existing certificate holders have failed to provide service to the satisfaction of the Commission. Existing certificate holders are subject to routine safety inspections from the Commission, must respond to customer complaints filed with the Commission, and have their rates periodically reviewed by the Commission (among many compliance obligations). Few of these practices are possible with an application-based company that only connects consumers with individuals willing to perform a service regardless of qualification or fitness. The Commission's statutes, rules, and practices have ensured high quality service, safety, and public health through the effective regulation of solid waste in Washington for decades, and should not be changed.

3. During the meeting, a household goods broker was brought up as an option. In your opinion, does a household goods broker address the concerns detailed in the crosswalk by the digital app-based micro-movers?

For solid waste, operating as a broker would not address WRRRA's concerns or the concerns detailed in the crosswalk. Third party waste brokers, defined in WAC 480-70, are problematic under Washington's regulated solid waste system for a number of reasons. First and foremost is that in almost all cases, only one company may provide solid waste collection services for any given geographic territory, either by certificate authority under RCW 81.77 or pursuant to a municipal contract under RCW 35.21. In nearly all cases, the only entity (able to legally provide service) for the application-based service to refer their users to is the regulated solid waste collection company or municipal contractor.

Other concerns involving third party waste brokers include ensuring collection of Solid Waste Collection Tax under RCW 82.18, illegal advertising of solid waste collection services without Commission authority in violation of RCW 81.77.040, and consumer protection. Customers can

often overpay when using the services of a waste broker. For example, Waste brokers charge a fee for their services, generally a percentage of the charge for collection and hauling. In many cases, the solid waste company is unaware its working with a broker. The customer pays for the haul and the waste broker's fee. The certificated company, of course, may only charge the customer the tariff rate, and rightly so. Thus, the customer pays the tariff rate plus a percentage to the broker, without the knowledge of the solid waste company. This results, obviously, in the customer paying a rate higher than the published, and approved, tariff and undermines the consumer protection inherent in Commission regulation.

Several exemptions to Commission regulation of solid waste exist, including municipal contracts and municipal departments, recyclables from commercial locations, and junk removal services per WAC 480-70-011. However, previous experience with waste brokers in Washington has not had the effect of increasing compliance with these exemptions, but rather increasing violations of them. Digital application-based companies operating as waste brokers have the potential to enable illegal hauling of solid waste, sham recycling, and undermine well established commission regulation on a large scale.

4. What are your primary concerns that you want to ensure the task force considers when making a recommendation?

WRRRA's primary concern is that the task force should also consider solid waste issues alongside the household good mover's discussion. The potential for "micro-movers" to engage in the illegal transportation of solid waste is high, based on the Commission determination in Docket TV-171212, Order 02.

5. What comments, concerns, issues or edits do you have for the crosswalk that was distributed?

WRRRA requests that the Commission update some analysis of solid waste issues in Table A of the "Conflict Between Household Goods Legal Framework and the Digital App-based Micro Mover (DAMM) Model" crosswalk and include cited statutory references where appropriate.

Table A, Page 1, Column 7:

DAMM's typically meet the statutory definition of "household goods carrier" and/or "solid waste collection company" because they advertise, solicits, and offers to transport for compensation, by motor carrier, household goods or solid waste in the state of Washington.

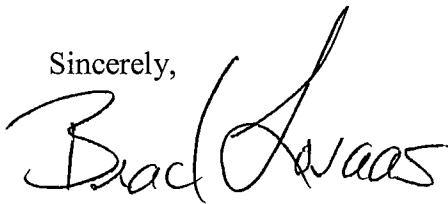
No motor freight common carrier or solid waste collection company may operate for the transportation of property for compensation in Washington without first obtaining a permit from the Commission.

Table A, Page 2, Column 7:

Consistent with RCW 81.80.010(5), a person need not physically transport household goods to be classified as a household goods carrier. Consistent with RCW 81.77.040, a person need not physically transport solid waste to be classified as a solid waste collection company, "Operating for the hauling of solid waste for compensation includes advertising, soliciting, offering, or entering into an agreement to provide that service."

Thank you for the opportunity to comment on this evolving issue. While the focus of the taskforce has been on household goods movers, issues pertaining to solid waste remain highly relevant. If you have any specific questions about WRRRA's comments, please contact Rod Whittaker, WRRRA associate counsel, at 360-943-8859 or rod@wrra.org.

Sincerely,

A handwritten signature in black ink that reads "Brad Lovaas". The signature is written in a cursive, flowing style with a large initial "B".

Brad Lovaas
Executive Director