

Exhibit No. MH-1T
Docket TV-180605
Witness: Michael Howell

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

In re Application of

DOLLY, INC.

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

Docket No: TV-180605

TESTIMONY OF

Michael Howell

**CHIEF EXECUTIVE OFFICER
DOLLY, INC.**

November 30, 2018

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I. LIST OF EXHIBITS

- Exhibit No. MH-2: Email from Jeffrey Roberson, dated May 29, 2018.
- Exhibit No. MH-3: Receipt for \$69,000, dated November 1, 2018.

1 **III. DOLLY'S OPERATIONS**

2 **Q. How many individuals work for Dolly on a fulltime basis?**

3 A. Dolly currently has 33 fulltime employees and one halftime employee.

4
5 **Q. Where are Dolly's 34 employees located and what are their job responsibilities?**

6 A. 31 employees work in at our Seattle headquarters and we have three remote employees
7 located in Chicago, IL, Austin, TX and Newark, NJ. Dolly's employees are software
8 engineers, customer service specialists, and marketing.

9
10 **Q. Why does Dolly have employees who rotate outside the state of Washington?**

11 A. Dolly is an Internet-based company, and as Rachel Lazar's and Kevin Shawver's
12 testimony explains, that means we are a company without borders.

13
14 **Q. In what states does Dolly operate?**

15 A. Dolly is available anywhere the Internet is available but for business purposes we
16 recognize our markets to be: California, Colorado, the District of Columbia, Illinois,
17 Massachusetts, Oregon, Pennsylvania, and Washington.

18
19 **Q. Please explain Dolly's business model.**

20 A. Dolly is an Internet and app-based software company that created a software platform.
21 The platform is a marketplace that connects independent contractors ("Helpers") and
22 customers who arrange to perform a "micro-move." A micro-move is the on-demand
23 transport of an item from one location to another location that fits in a consumer-sized

1 pick-up truck that generally happens within 24 hours of the customer's request, and cost
2 less than \$100.

3
4 **Q. Please describe the process for a Helper to use Dolly's platform.**

5 A. Before a person is approved to be on our platform, we use an independent third-party
6 company to conduct a thorough background check to scrutinize their criminal history and
7 driving history. Anyone charged or convicted of any serious criminal activity of any kind
8 is not allowed on the platform. We define serious criminal activity to be any activity
9 involving theft, burglary, assault, sexual misconduct, identity theft, fraud, false
10 statements, or the manufacture, sale, or distribution of a controlled substance.

11 We also screen the applicant's vehicle to ensure it is a newer model year and safe to
12 operate legally on the public right of way. This is done by verifying the vehicle has
13 current registration and reviewing photos of the vehicle. Last, we verify the applicant's
14 liability insurance and, for added protection and safety, we carry our own policy that
15 covers their customer's items while they are being transported. If the applicant makes it
16 through the application process, we approve them to use the platform.

17
18 **Q. Why does Dolly possess an insurance policy that covers items transported by**
19 **independent contractors?**

20 A. Due to the variability of state laws and insurance policies, we believe it is prudent to
21 proactively insure the users' items in the event the Helper's policy does not.

22
23 **Q. Please explain how Helpers and customers use Dolly's platform.**

1 A. Helpers get on the platform after successfully completing the process described above.
2 Customers must also register to use the platform. A registered customer posts
3 information about the scope of work they would like completed. This includes
4 information regarding the date, time, a description or picture of the specific item(s), and
5 the pick-up and delivery destinations.
6 Our proprietary software then provides a guaranteed price quote. If the customer is
7 happy with the price quote, the scope of work is then sent to Helpers. Helpers are free to
8 accept or refuse any micro-move they choose. Dolly does not assign micro-moves to
9 Helpers or direct or control how or when the micro-move is performed. The Helpers who
10 use Dolly's platform are under no obligation to perform any micro-moves at all.

11

12 **Q. Does Dolly enter into agreements with customers or Helpers to perform micro-**
13 **moves?**

14 A. No. Dolly does not create the Helper's scope of work, the customer does. The
15 agreement between the Helper and customer is dictated by the terms of the customer's
16 scope of work and the Helper determines how to complete that scope of work.
17 Accordingly, all services are completed under the terms and conditions and the discretion
18 and direction established by the Helper and the customer. Dolly is not a party to that
19 agreement nor does Dolly control the terms of that agreement.

20

21 **Q. If Dolly does not control the Helper's scope of work, how does Dolly provide an**
22 **appropriate price quote to the customer?**

23 A. The price quote is for finding the Helper, it is not for the actual scope of work.

24

1 **Q. Is that why the Term of Service on Dolly’s website state that any disputes arising**
2 **from the performance of the work is between the customer and Helper?**

3 A. Yes. The Terms of Service on the website govern customer’s use of the platform and the
4 relationship between Dolly and the customer. They do not address, and are not meant to
5 address, the relationship between the customer and Helper.

6
7 **Q. Does Dolly have Terms of Service that govern the relationship between Dolly and**
8 **the Helper?**

9 A. Yes. The ‘Helper Terms of Service’ are only available to Helper applicants; all
10 applicants must review and accept them during the application process. Those Terms of
11 Service establish and govern the independent contractor relationship between Dolly and
12 the Helper.

13
14 **Q. Has the WUTC ever received a customer complaint about Dolly?**

15 A. To my knowledge, there has only been one such complaint in the four years we’ve been
16 operating. And the WUTC Staff solicited that complaint after they began their
17 investigation from a customer they found on the Internet-based review website, Yelp who
18 posted a negative review about us. Other than that, the only complaints at the WUTC
19 that I am aware of came from one person at the Washington Movers Conference, a
20 lobbying organization supporting the traditional moving industry who we’ve since
21 partnered with on common issues.

22
23 **Q. Please describe the complaint from the Yelp reviewer and how it was resolved.**

1 A. The customer's item fell and caused damage to the item and surrounding walls. We
2 immediately reimbursed the customer for the damaged item but he customer filed a
3 property owner's claim for a rented apartment. Because a renter does not own an
4 apartment building, this caused a delay in reimbursing him for the repairs to the
5 walls. But, we used WAC 480-15-800 through 890, the WUTC's Complaint and Claim
6 Procedures, to work with WUTC Staff to resolve it to the customer's satisfaction; it just
7 took longer than the customer expected.

8

9 **IV. THE MICRO-MOVING INDUSTRY AND STATE REGULATION**

10 **Q. Is micro-moving regulated in the states that Dolly recognizes as markets?**

11 A. Micro-moving is a fairly new, but fast-growing industry, so federal, state, and local
12 legislation has not quite caught up to it yet. So, currently no state specifically regulates
13 micro-moves. However, the states that recognize household goods carrier brokers have
14 determined that micro-movers fit into that category.

15

16 **Q. How does the state of Washington compare generally with respect to other states?**

17 A. Washington is one of a small number of states that do not recognize household goods
18 carrier brokers.

19

20 **Q. Have any other states that do not recognize household goods carrier brokers
21 initiated any administrative proceedings against Dolly?**

22 A. No. Only Washington.

23

24 **Q. Is Dolly registered in the states that do recognize household goods carrier brokers?**

1 A. California initially decided that their regulations do not apply to our business model but
2 they later reorganized the agency that administers their household goods carrier
3 regulations and determined that we are a household good carrier broker. We have since
4 applied for a household goods carrier broker license. The same is true in Pennsylvania,
5 meaning we have applied for a household goods carrier broker license. We spoke with
6 regulators in Oregon, Colorado, Illinois, and Massachusetts and even though they
7 recognize brokers, they said our business model was not within their authority.

8

9 **Q. Have there been any other issues with Dolly's operating authority in any**
10 **jurisdictions that recognize household goods carrier brokers?**

11 A. No, not against Dolly. But over the past few years the City of Chicago has issued two
12 tickets to two different Helpers for operating without authority.

13

14 **Q. What does that mean?**

15 A. Because the City of Chicago cited the Helpers, rather than Dolly the company, it means
16 the City of Chicago, like the state of Illinois, recognizes that the Helper is the entity
17 conducting moving and labor operations, not Dolly.

18

19 **Q. How important is compliance with state laws and regulations to Dolly?**

20 A. Extremely important. Making sure Dolly is on the right side of state laws and regulations
21 is very important to me and to our business. We operate in a very heavily regulated space
22 and regulatory compliance has become more of a focus for us as our business has grown.
23 Beginning in March 2015, I personally worked closely with Staff at the WUTC to ensure
24 there was no confusion regarding Dolly's operations. Dolly adjusted its consumer facing

1 information in response to Staff's recommendations, and for years it was understood at
2 the WUTC and at Dolly that Dolly's operations were as a non-regulated household goods
3 broker.

4 In 2017, I continued Dolly's commitment to ensure regulatory compliance by hiring a
5 Director of Legal and Government Affairs to manage this side of the business. I
6 specifically wanted the person in that role to have extensive experience in government
7 policy, audits, and compliance. And, even though we are in seven different jurisdictions,
8 I was particularly focused on that person having existing relationships with Washington
9 state because as a native Washingtonian, I know that Washington is usually a national
10 leader when it comes to legislative and regulatory innovation and governing.

11
12 **Q. Is there anything about Dolly's business model that is at odds with the**
13 **Commission's role of ensuring public safety?**

14 A. No, nothing at all. Dolly customers receive accurate estimates and actual charges reflect
15 that amount. Customers have recourse for complaints and issues related to charges for
16 service. Dolly requires minimum driver fitness and vehicle safety standards that meet or
17 exceed state and federal laws, and Dolly maintains sufficient property liability insurance.

18
19 **V. DOLLY'S HISTORY WITH THE WUTC**

20 **Q. Earlier in your testimony you described working with the WUTC to ensure**
21 **regulatory compliance. Please explain those efforts in more detail.**

22 A. The WUTC first contacted us in March 2015. We met with them multiple times to
23 discuss their concerns. After explaining our business model, it appeared the WUTC was
24 not exactly sure what to do with us because Sharon Wallace eventually determined we

1 were a “household goods broker” and not subject to WUTC regulations. The first
2 meeting was productive and educational for us as a new company and we welcomed their
3 point-of-view.
4

5 **Q. Did Dolly ever received formal guidance from the WUTC confirming Ms. Wallace’s**
6 **opinion that Dolly is a household goods broker who the WUTC does not regulate?**

7 A. No. We never received guidance in a letter ruling or Commission Order, but Ms.
8 Wallace was unequivocal that it was Staff’s position that Dolly is a household goods
9 carrier broker, and as such, is not regulated by the Commission. However, that does not
10 mean it was, or is, incorrect. Nevertheless, after Ms. Wallace left the WUTC, our
11 relationship with the WUTC has taken a turn for the worse for some reason.
12

13 **Q. Has anyone else from the WUTC other than Ms. Wallace ever acknowledged that**
14 **Dolly’s business model does not exactly fit the WUTC’s regulatory scheme?**

15 A. Yes. WUTC Staff Investigator Susie Paul personally told me, and our Chief of
16 Operations, Kristin Smith, that she, “would never approve our permit application because
17 independent contractors perform the carrier services.” To me, this was either: A) an
18 acknowledgement that Dolly does not fit squarely in the WUTC’s regulatory scheme, or
19 B) a personal declaration that she would make sure we never got an operating permit.
20 Also, WUTC Assistant Attorney General Jeff Roberson recommended to our Director of
21 Legal and Government Affairs that Dolly request exemptions from multiple rules.¹
22

¹ Exhibit MH-2.

1 **Q. What did your Director of Legal and Government Affairs find out about the**
2 **Commission's position on independent contractors performing household goods**
3 **carrier services?**

4 A. Basically, there are no Commission rules preventing household goods carriers from using
5 independent contractors. There was a passenger transportation company case where the
6 Commission ruled passenger transportation companies could not use independent
7 contractors to perform passenger transportation services. But, that case was based on
8 passenger transportation rules that do not apply to household goods carriers. And, those
9 passenger transportation rules have since been rejected and repealed.
10 So, with respect to household goods carriers, there are no WUTC rules prohibiting the
11 use of independent contractors like there once were with passenger transportation
12 companies. I assume Ms. Paul was aware of all this when she told us that independent
13 contractors would prevent us from getting a permit.

14

15 **VI. DOLLY'S HOUSEHOLD GOODS CARRIER PERMIT APPLICATION**

16 **Q. What is your understanding of the WUTC household goods carrier permit**
17 **application process?**

18 A. Based on all relevant WUTC authority and precedent our Director of Legal and
19 Government Affairs reviewed, it appears an applicant for a household goods carrier
20 permit receives a provisional permit and is then on a six-month probationary period. At
21 the end of the six-month period, the WUTC decides whether to grant a permanent permit.

22

23 **Q. Has Dolly properly completed the household goods moving company permit**
24 **application?**

1 A. Yes. There were some issues initially with our application but we worked with WUTC
2 Licensing Services Manager Mike Dotson to correct those issues.

3

4 **VII. ASSESSING THE WUTC STAFF RECOMMENDATION**

5 **Q. Do you know why the WUTC Staff is recommending the Commission ignore its**
6 **normal practice of granting a provisional permit and deny Dolly's permit**
7 **application?**

8 A. As I understand their position, the WUTC Staff believes Dolly will fail to comply with
9 the Commission's regulatory authority.

10

11 **Q. What is your opinion of the WUTC Staff's concerns?**

12 A. Honestly, I find their position a bit confusing and frustrating because I believe Dolly has
13 complied with everything the WUTC has asked us to do; we changed the content of our
14 Internet marketing,² we applied for an operating permit,³ and we paid the penalty.⁴ I
15 understand that we do not have authority to operate as a household goods carrier but it
16 seems to me that if we do get that authority, there is nothing else we could be accused of
17 doing wrong. So, I am not sure what they think we will do to do run afoul of the
18 Commission's authority.

19

20 **Q. Do you know why the WUTC Staff have filed documents in this docket and Docket**
21 **TV-171212 characterizing Dolly's interactions with the WUTC as uncooperative?**

² See Testimony of Kevin Shawver (KS-1T).

³ *In re Application of Dolly, Inc.*, Docket TV-180605, Dolly Apple, Inc. Application for Household Goods Moving Authority (July 17, 2018).

⁴ Exhibit MH-3.

1 A. Again, that is also puzzling. My only guess is someone does not agree with Sharon
2 Wallace's opinion that the WUTC's authority does not extend to our business model and
3 because appealed one (1) of the nine (9) Commission Orders ruling that it does that we
4 are being uncooperative. But, other than that, we have always worked towards the
5 WUTC's interest of regulating us. For example, we have:

- 6 • Petitioned the WUTC to adopt rules to regulate us;⁵
- 7 • Hired a lobbying firm to attempt to pass legislation giving the WUTC legal
8 authority to regulate us;
- 9 • Hired a Director of Legal and Government Affairs with the specific goal of
10 establishing a working relationship with the WUTC;
- 11 • Actively participated in a Legislative taskforce held under the supervision of the
12 WUTC;
- 13 • Responded to and answered every legal pleading WUTC Staff has filed; and
- 14 • Made formal recommendations to the Legislature to pass legislation giving the
15 WUTC statutory authority to regulate us.

16 In my opinion, all we have done is try to get WUTC regulations that actually fit our
17 business model, I fail to understand how that can be characterized as uncooperative.

18

19 **VIII. DOLLY'S FUTURE COMPLIANCE WITH WUTC REGULATIONS**

20 **Q. What objective evidence can you offer to assure Dolly's future compliance with the**
21 **Commission's rules?**

⁵ See Docket No. TV-170999.

1 A. We changed our Internet marketing, applied for a permit, requested and received
2 assistance with our permit application, paid the full penalty, and are continuing to work
3 cooperatively with WUTC Policy Staff on legislative issues. We have done everything
4 the Commission has asked and gone above and beyond to work cooperatively with the
5 WUTC. And, I can guarantee that we will continue to do that.

6

7

IX. RECOMMENDATION AND CONCLUSION

8 **Q. Do you have a final recommendation for the Commissioners?**

9 A. Yes, I do. I recommend the Commission grant Dolly's permit application. After we have
10 operating authority, if there are any issues with our business practices, we will work
11 proactively with the Safety & Consumer Protection and/or Regulatory Services Divisions
12 to address them. Our Director of Legal and Government Affairs has preexisting working
13 relationships with Pat Hazzard, Bridgit Feeser, Mark Vasconi, and Danny Kermode and I
14 am absolutely certain that if any issues arise, he will work to resolve them in a timely and
15 cooperative manner.

16

17 **Q. Does this conclude your testimony?**

18 A. Yes, it does.