



WASHINGTON REFUSE & RECYCLING ASSOCIATION

November 15, 2018

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

Re: WRRA Comments on Digital App Based Micro-Mover Task Force Report

Dear Mr. Johnson:

The Washington Refuse and Recycling Association (WRRA) is disappointed to see that the final Digital-Application Based Micro-Mover Report (DAMM), does not include any substantial analysis of solid waste issues. The report largely ignores the Commission's own investigation, which found that Dolly, the most visible DAMM, is operating illegally as a solid waste collection company (Docket TV-171212, Order 02). WRRA understands that the discussion around DAMMs has rightly focused on Household Goods Movers (HHG), and thus offered comments and language to supplement the HHG analysis with relevant solid waste issues which are not included in this draft.

The record in Docket TV-171212 demonstrates that Dolly may apply for a solid waste certificate, as might other DAMMs in the future (See emails in Docket TV-171212, Response Opposing Commission Staff's Motion to Impose Penalties, on behalf of Dolly, Inc, Attachment B). The Commission should take this opportunity to address solid waste issues related to DAMMs now rather than later.

I. Use of a digital application to connect customers and service providers does not change the regulated nature of the service provided nor change the need for commission regulation of said services.

WRRA generally agrees with the regulatory principles set out by the Commission in the report. Given the lack of consensus among the task force, it is crucial for the Commission to articulate guiding principles and set the stage for future discussion on this emerging issue. However, the recommendations lack clarity and should clearly state that proper authority from the Commission is required to perform regulated services.

The fact that a vendor is found through a digital application, the phone book, or a television ad does not change the nature of the service provided, nor the need for Commission regulation and

oversight of said service. The recommendations need to clarify that while DAMMs may serve as a broker and not provide any regulated service directly, any “helpers” or contractors providing service through a DAMM must possess the appropriate authority from the Commission. Commission regulation of solid waste and HHG are necessary for consumer protection and safety. DAMMs should be required to ensure that all contractors or “helpers” possess the appropriate authority from the Commission.

WRRRA recommends the following changes to the recommendations/principles on page 10 of the report:

- The task force recommends that any consideration of changes to household goods movers’ statutes needs to consider consumer protection and safety as necessary components of any statutes or regulations.
- The task force recommends that anyone moving household goods or solid waste in the state of Washington should be regulated and that illegal movers or haulers should be investigated.
- The task force recommends DAMMs must ensure that all contractors who provide service through their app possess the appropriate permit or certificate issued by the Commission.
- The task force recommends that artificial barriers to entry for household goods carriers should be minimized.
- The task force recommends that DAMMs should maintain sufficient insurance policies as prescribed by law.

II. The “crosswalk” should include relevant solid waste analysis, which mirrors HHG analysis in several important cases.

The Commission’s regulation of solid waste shares significant similarities with its HHG regulation. The “Conflict Between Household Goods Legal Framework and the Digital App based Micro-Mover (DAMM) Model” crosswalk should also provide clarity on solid waste issues, which mirrors the HHG analysis in many cases. WRRRA offered similar language in our previous comments, which was not included in the final report draft.

Table A, Page 22, Column 7:

(New Paragraph #2) DAMMs may meet the definition of “solid waste collection company” if they advertise, solicit, offer, or enter into an agreement to provide for the transportation of solid waste in the state of Washington.

(Paragraph 3) 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 23, 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.”

III. Dolly investigation, DAMMs, and solid waste enforcement.

Solid waste enforcement issues at the Commission extend well beyond the scope of this report, but the Dolly investigation represents an important benchmark in solid waste enforcement that should not be ignored. In 2010, RCW 81.77.040 was amended to prohibit not just the illegal hauling of waste, but to prohibit advertising and solicitation, it reads: “Operating for the hauling of solid waste for compensation includes advertising, soliciting, offering, or entering into an agreement to provide that service.” Under RCW 81.77.090, “Each advertisement reproduced, broadcast, or displayed via a particular medium constitutes a separate violation under this chapter.”

To date, WRRRA is unaware of any occasion, outside the Dolly case, where the Commission has taken action for the illegal advertising of solid waste services. The Dolly case and this report are an important milestone for solid waste enforcement at the Commission. WRRRA requests that the report recognize this fact and include a more substantial discussion of solid waste issues in the final report.

IV. Conclusion.

Even more so than with HHG movers, 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. 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.

WRRRA requests that the Commission use this opportunity to address the solid waste and general issues discussed above. The Commission has already found Dolly, the most visible DAMM, to be illegally operating as a solid waste collection company based on advertising in the Docket TV-171212 investigation. Solid waste issues and DAMMs need to be addressed, and should be addressed now, not at a future date.

Thank you for the opportunity to comment on the final report. 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,



Brad Lovaas

Executive Director