

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Determining the Proper  
Carrier Classification of, and Complaint for  
Penalties Against:

DOLLY, INC.

DOCKET TV-171212

STAFF'S ANSWER TO DOLLY'S  
PETITION FOR RECONSIDERATION  
OF ORDER 08

**I. INTRODUCTION**

1 Dolly, Inc. (Dolly) petitions for reconsideration of Order 08 in this docket, alleging errors of law and fact in the Commission's denial of its application to mitigate a penalty that the Commission ultimately imposed after initially suspending. The Commission should deny the petition because it properly determined that: (1) nothing authorized mitigation of the penalty imposed here, and (2) nothing justified mitigation given Dolly's violations of the Commission's cease and desist order.

**II. BACKGROUND**

2 The Commission issued Order 01 in this docket to complain through its Staff against Dolly for alleged violations of provisions in the public service laws requiring Commission-issued authority to engage in business or operate as a household goods carrier, motor freight common carrier, or solid waste hauler.<sup>1</sup> The complaint specifically identified the applicable public service laws and Commission regulations;<sup>2</sup> among these were the provisions under which the Commission could impose penalties if it determined that Dolly committed the

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<sup>1</sup> See generally *In re Determining the Proper Carrier Classification of, and Complaint for Penalties Against Dolly*, Docket TV-171212, Order 01 (Jan. 10, 2018) (hereinafter Order 01).

<sup>2</sup> *Id.* at 4 ("IV. Applicable Laws and Regulations").

alleged violations: RCW 81.80.075(4) for the household goods violations, and RCW 81.04.380 for the motor freight common carrier and solid waste hauler violations.<sup>3</sup>

3           The Commission held a hearing on the complaint in March 2018. Both Staff and Dolly presented testimony and offered exhibits showing the company's advertising.<sup>4</sup> During an exchange with Dolly's counsel, the presiding ALJ made clear that Staff had not alleged any continuing violations, although it could have.<sup>5</sup>

4           After the hearing, the ALJ entered an order classifying Dolly as a household goods carrier, a motor freight common carrier, and a solid waste collection company.<sup>6</sup> The ALJ ordered Dolly to cease and desist from its unlawful operations and imposed a penalty on the company, half of which the ALJ suspended and provided for waiver of, conditioned on Dolly's compliance with the terms of the initial order.<sup>7</sup>

5           The Commission affirmed the ALJ's classification and cease and desist orders on appeal.<sup>8</sup> However, the Commission changed the terms of the penalty's suspension, suspending the penalty in its entirety for a year and providing for a partial waiver thereof after that conditioned on Dolly's compliance with the terms of the Commission's final

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<sup>3</sup> *Id.* at 5 ¶¶ 30, 36, 6 ¶ 43.

<sup>4</sup> *See generally In re Determining the Proper Carrier Classification of, and Complaint for Penalties Against Dolly*, Docket TV-171212, Transcript (March 13, 2018).

<sup>5</sup> *Id.* at 64:7-23.

<sup>6</sup> *In re Determining the Proper Carrier Classification of, and Complaint for Penalties Against Dolly*, Docket TV-171212, Corrected Order 02, at 16 ¶ 53 (Apr. 9, 2018) (hereinafter Corrected Order 02).

<sup>7</sup> *Id.* at 16-17 ¶¶ 54-56.

<sup>8</sup> *In re Determining the Proper Carrier Classification of, and Complaint for Penalties Against Dolly*, Docket TV-171212, Order 04, at 4 ¶ 11, 19 ¶¶ 74-75 (May 18, 2018) (hereinafter Order 04).

order.<sup>9</sup> The Commission made clear that this included complying with its cease and desist order.<sup>10</sup>

6 Dolly disregarded the Commission’s cease and desist order, and Staff moved to impose the suspended penalty after an investigation discovered the company’s noncompliance.<sup>11</sup> Staff submitted with its motion a declaration from the investigator, Ms. Paul, summarizing her investigation and including evidence of Dolly’s violations of the cease and desist order.<sup>12</sup> Dolly did not contest Staff’s evidence,<sup>13</sup> and a Commission ALJ imposed the suspended penalty by order.<sup>14</sup>

7 Dolly did not petition for administrative review of that order. Instead, it applied for mitigation of the penalty.<sup>15</sup> A Commission ALJ denied the application based on the lack of a procedural mechanism to mitigate the penalty and also because Dolly failed to produce new evidence or otherwise show that mitigation was warranted.<sup>16</sup> When Dolly petitioned for

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<sup>9</sup> *Id.* at 16 ¶ 51, 19 ¶¶ 77-78.

<sup>10</sup> *Id.* at 16 ¶ 51, 19 ¶ 77.

<sup>11</sup> See generally *In re Determining the Proper Carrier Classification of, and Complaint for Penalties Against Dolly*, Docket TV-171212, Commission Staff’s Motion for Imposition of Suspended Penalty for Violation of Commission Order (July 12, 2018).

<sup>12</sup> See generally *In re Determining the Proper Carrier Classification of, and Complaint for Penalties Against Dolly*, Docket TV-171212, Decl. of Susie Paul (July 12, 2018) (hereinafter Paul Decl.).

<sup>13</sup> *In re Determining the Proper Carrier Classification of, and Complaint for Penalties Against Dolly*, Docket TV-171212, Order 06, at 5 ¶ 11 (Aug. 3, 2018) (citing *In re Determining the Proper Carrier Classification of, and Complaint for Penalties Against Dolly*, Docket TV-171212, Dolly, Inc.’s Response Opposing Commission Staff’s Motion for Imposition of Penalties for Violation of Commission Order, at 1:19-2:1 (July 19, 2018)) (hereinafter Order 06).

<sup>14</sup> *Id.* at 5-6 ¶¶ 11-14.

<sup>15</sup> See generally *In re Determining the Proper Carrier Classification of, and Complaint for Penalties Against Dolly*, Docket TV-171212, Application of Mitigation of Penalties – TV-171212 (Aug. 20, 2018).

<sup>16</sup> *In re Determining the Proper Carrier Classification of, and Complaint for Penalties Against Dolly*, Docket TV-171212, Order 07, at 2-4 ¶¶ 8-13 (Aug. 31, 2018) (hereinafter Order 07).

administrative review of the ALJ's order, the Commission adopted the ALJ's order as its own and rejected each of Dolly's arguments.<sup>17</sup>

8 Dolly now petitions for reconsideration of the final order denying its application, and the Commission authorized this response by notice.

### III. ARGUMENT

9 Dolly claims that the Commission erred by: (1) concluding that no procedural mechanism authorized mitigation of the penalty, and (2) determining that Dolly was not entitled to mitigation of the penalty due to its violations of the Commission's cease and desist order.<sup>18</sup> Dolly's first argument rests on a misreading of the basis on which the Commission imposed penalties. Dolly's second argument rests on both a misreading of the Commission's cease and desist order and arguments the Commission has already rejected. The Commission should deny the petition.

#### A. The Commission Should Deny Reconsideration because RCW 81.04.405 does not Authorize Mitigation of the Penalty Imposed on Dolly

10 Dolly first contends that the Commission should reconsider its order because a procedural mechanism exists for mitigation, an argument it makes in two parts. Dolly first observes that the ALJ's initial classification order, which the Commission's order adopted, set out the law applicable to the Commission's complaint by noting that violations of the public service laws are "subject to the penalty provisions in RCW 81.04.380-.405."<sup>19</sup>

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<sup>17</sup> *In re Determining the Proper Carrier Classification of, and Complaint for Penalties Against Dolly*, Docket TV-171212, Order 08, at 3-4 ¶¶ 11-17 (Oct. 5, 2018) (hereinafter Order 08).

<sup>18</sup> *See generally In re Determining the Proper Carrier Classification of, and Complaint for Penalties Against Dolly*, Docket TV-171212, Dolly Inc.'s Petition for Reconsideration of Order 08 and Petition to Stay the Effective Date of Order 08 (October 15, 2018) (hereinafter Petition for Reconsideration). Dolly groups its arguments about reconsideration into four subheadings. The first and fourth concern its argument that provisions in law authorize mitigation of the penalty. The second and third concern its compliance with the cease and desist order.

<sup>19</sup> *Id.* at 2 ¶¶ 3-4 (quoting *In re Determining the Proper Carrier Classification of, and Complaint for Penalties*

Dolly then notes that RCW 81.04.405 authorizes mitigation.<sup>20</sup> Dolly's major premise, that the Commission somehow imposed penalties under RCW 81.04.405, is simply incorrect, as shown by Staff's complaint, the amount of the penalty, and the process used by the Commission to impose penalties.<sup>21</sup>

11           Staff did not request that the Commission impose penalties under RCW 81.04.405 at any point in its complaint. When summarizing the relevant law, the complaint cited RCW 81.80.075 as the basis for penalizing Dolly for its household goods violations,<sup>22</sup> RCW 81.80.355 and RCW 81.04.380 as the basis for penalizing Dolly for its motor freight common carrier violations,<sup>23</sup> and RCW 81.77.040 and RCW 81.04.380 as the basis for penalizing Dolly for its solid waste hauler violations.<sup>24</sup> In its request for relief, Staff again cited those statutes, not RCW 81.04.405, as the statutes under which the Commission should impose any penalty.<sup>25</sup> The ALJ granted Staff the relief it sought, meaning that the initial order did not impose penalties under RCW 81.04.405.<sup>26</sup>

12           Further, the dollar value involved indicates that the ALJ did not impose penalties under RCW 81.04.405. That provision authorizes a penalty of \$100 per violation. The ALJ imposed a \$5,000 penalty for each of the household goods violations (the amount authorized by RCW 81.80.075, the provision cited in the complaint) and a \$1,000 penalty for each of the common carrier and solid waste hauler violations (again, the amount authorized by RCW

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*Against Dolly*, Docket TV-171212, Corrected Order 02, at 6 ¶¶10-11).

<sup>20</sup> *Id.* at 2 ¶ 5 (citing RCW 81.04.405).

<sup>21</sup> Even if the Commission agrees with Dolly's argument, and it should not, the ALJ did not mention RCW 81.04.405 when discussing the law relevant to the household goods violations. Dolly cannot seek mitigation of the \$55,000 imposed for those violations based on the argument that it makes here.

<sup>22</sup> Order 01 at 5 ¶ 30.

<sup>23</sup> *Id.* at 5 ¶¶ 35-36.

<sup>24</sup> *Id.* at 6 ¶¶ 42-43.

<sup>25</sup> *Id.* at 7 ¶¶ 49-51.

<sup>26</sup> *Compare* Corrected Order 02 at 10 ¶ 23 (penalty sought by Staff) *with id.* at 13 ¶ 42 (penalty imposed by the ALJ).

81.04.380, the provision cited in the complaint). The resulting \$69,000 penalty exceeded the penalty authorized by RCW 81.04.405 by \$66,500, and the ALJ made clear that he did not make up that difference by penalizing Dolly on a continuing violation basis.<sup>27,28</sup>

13           Finally, RCW 81.04.405 authorizes applications for mitigation where the penalty is imposed through a process set out in that statute. RCW 81.04.405 allows the Commission to impose a penalty that “shall become due and payable when the person incurring the same receives notice in writing from the commission describing such violation with reasonable particularity and advising such person that the penalty is due.”<sup>29</sup> The provision then allows for remission or mitigation of the penalty imposed through that procedure on application by the penalized person because he or she could not otherwise contest the penalty.<sup>30</sup>

14           The Commission did not employ the penalty procedure set out in RCW 81.04.405 with regard to its penalization of Dolly, meaning that Dolly cannot avail itself of the mitigation procedure set out in that statute. The Commission imposed the penalty by order after a brief adjudication initiated by a complaint made by and through its staff, not through a written notice telling Dolly that the penalty was due and payable. Dolly had the opportunity to contest the penalty at hearing and on post-hearing review by the Commission; the ALJ and the Commission simply rejected its arguments. RCW 81.04.405 does not contemplate an application for mitigation under that procedure. In fact, authorizing such an application after the imposition of a penalty under the procedure used by the Commission

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<sup>27</sup> *In re Determining the Proper Carrier Classification of, and Complaint for Penalties Against Dolly*, Docket TV-171212, Transcript (March 13, 2018), at 64:7-23.

<sup>28</sup> As discussed above, the ALJ only referenced RCW 81.04.405 with regard to the motor freight common carrier and solid waste collection violations. Given the \$100 per violation penalty under RCW 81.04.405, even if the Commission accepts Dolly’s argument about the applicability of RCW 81.04.405, the company would be entitled to mitigation of, at most, \$1,400 for the 14 collective common carrier and solid waste hauler violations.

<sup>29</sup> RCW 81.04.405.

<sup>30</sup> *See* RCW 81.04.405.

here would undermine administrative efficiency and principles of finality: it would offer companies like Dolly multiples chances at mitigation: first through the hearing and administrative review and then through a post-review application.<sup>31</sup>

**B. The Commission should Deny Reconsideration because Dolly did not Comply with the Commission’s Cease and Desist Order**

15 Dolly also claims that the Commission erroneously determined that it had not complied with the terms of the cease and desist order because (1) Order 04 did not require Dolly to “shut down its operations,”<sup>32</sup> and (2) Dolly has altered its advertisements to comply with the Commission’s cease and desist orders.<sup>33</sup> Neither of Dolly’s arguments is persuasive.

**1. Dolly failed to cease and desist as required by the Commission’s final order.**

16 Dolly first claims that the Commission in Order 08 misrepresented the provisions of Order 04 because, as Dolly’s claims, “[n]owhere in Order 04 does it state Dolly must ‘shut down its operations’ until its operating permit application is approved.”<sup>34</sup> Order 04 says exactly that.

17 The legislature directs the Commission to order a person to cease and desist if it finds after a special proceeding that the person has engaged in conduct regulated under Title 81 without the necessary authority.<sup>35</sup> In this docket, the Commission instituted a special proceeding<sup>36</sup> and an ALJ found that Dolly had engaged in jurisdictional conduct.<sup>37</sup> The

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<sup>31</sup> Cf. *Christensen v. Grant County Hosp. Dist. No. 1*, 152 Wn.2d 299, 306-07, 96 P.3d 957 (2004).

<sup>32</sup> Petition for Reconsideration at 2-3 ¶¶ 6-7.

<sup>33</sup> *Id.* at 4 ¶¶ 9-10.

<sup>34</sup> *Id.* at 2-3 ¶ 6.

<sup>35</sup> RCW 81.04.510.

<sup>36</sup> See generally Order 01.

<sup>37</sup> Corrected Order 02 at 15-16 ¶¶ 48-54, 16 ¶ 53.

Commission adopted that finding on administrative review.<sup>38</sup> The Commission ordered Dolly to cease and desist as required by RCW 81.04.510.<sup>39</sup> A cease and desist order is “[a] court’s or agency’s order prohibiting a person from continuing a particular course of conduct.”<sup>40</sup> In other words, Dolly’s argument is meritless because the provision of Order 04 requiring Dolly to cease operating as a jurisdictional carrier *is* an order to shut down its unlawful operations.

18           If Dolly found the cease and desist order ambiguous (and Dolly did not<sup>41</sup> because the order is clear), it could have interpreted the provision in light of numerous Commission statements about its meaning. The Commission explained that Dolly needed to cease jurisdictional activities until it obtained operating authority in various parts of Order 04,<sup>42</sup> Order 05,<sup>43</sup> Order 06,<sup>44</sup> Order 07,<sup>45</sup> and Order 08<sup>46</sup> (not to mention in Corrected Order 02).<sup>47</sup>

19           Despite the cease and desist order and the Commission’s repeated statements about what it meant, Dolly continued to carry out business as usual. Investigator Paul’s declaration described Dolly’s ongoing operations.<sup>48</sup> Dolly does not claim that it did not continue to operate.<sup>49</sup> In fact, it argues that it did not have to.<sup>50</sup> Accordingly, even if the Commission

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<sup>38</sup> Order 04 at 4 ¶ 11, 17-18 ¶¶ 55-61.

<sup>39</sup> Order 04 at 19 ¶ 75 (requiring Dolly to “immediately cease operating as a household goods carrier, common carrier, and solid waste collection company unless it obtains authority from the Commission”).

<sup>40</sup> BLACK’S LAW DICTIONARY at 215 (7th ed. 1999).

<sup>41</sup> *In re Determining the Proper Carrier Classification of, and Complaint for Penalties Against Dolly*, Docket TV-171212, Dolly Motion to Stay Effectiveness of Final Order 04, at 3 ¶ 5 (May 29, 2018) (Dolly’s acknowledgement that “the cease and desist provisions require[] Dolly to permanently refrain from making its services known to consumers and refrain from providing those services.”).

<sup>42</sup> Order 04 at 8-9 ¶¶ 26-27, 13 ¶ 41, 16 ¶ 51, 18 ¶ 59, 18-19 ¶ 60, 19 ¶ 61, 19 ¶ 75-76.

<sup>43</sup> Order 05 at 2-3 ¶ 6, 3 ¶ 8.

<sup>44</sup> Order 06 at 5-6 ¶¶ 11-13.

<sup>45</sup> Order 07 at 3 ¶ 10.

<sup>46</sup> Order 08 at 3 ¶ 13, 4 ¶¶ 15-16.

<sup>47</sup> Corrected Order 02 at 13-14 ¶ 43.

<sup>48</sup> *See generally* Paul Decl. at 2-4 ¶¶ 7-9.

<sup>49</sup> *See generally* Petition for Reconsideration (arguing that Dolly modified its advertisements and did not have to shut down its operations).

<sup>50</sup> *Id.* at 2-3 ¶¶ 6-7.



agrees that Dolly complied with the provisions of the cease and desist order that concern advertising (and it should not, as discussed below), the Commission correctly determined that Dolly violated the cease and desist order by continuing to operate. The Commission should deny reconsideration.

**2. Dolly has not altered its advertising to comply with the Commission’s final order.**

20 Dolly next contends that it complied with the Commission’s orders by modifying its advertising. The Commission should decline to reconsider its order based on this argument because it is neither timely nor a proper request for reconsideration. Even if the Commission does address the claim on its merits, it fails.

21 Initially, Dolly does not timely ask the Commission to reconsider its determination that Dolly violated its cease and desist order. The Commission made that determination in Order 06,<sup>51</sup> which the Commission entered on August 3, 2018, not in Order 08, the subject of Dolly’s petition. Order 06 became final on August 23, 2018.<sup>52</sup> Dolly should have petitioned for reconsideration of Order 06 by September 4, 2018.<sup>53</sup> It did not, and it cannot now ask the Commission to reconsider a determination made there through this petition.<sup>54</sup>

22 Further, Dolly does not properly petition for reconsideration. Where a party seeks reconsideration on factual grounds, it must do so on the basis of “facts not reasonably available to the petitioner at the time of entry of an order.”<sup>55</sup> As a corollary, “[a] petition that

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<sup>51</sup> Order 06 at 5-6 ¶¶ 11-14.

<sup>52</sup> WAC 480-07-825(1)(a), (2)(a).

<sup>53</sup> WAC 480-07-850(1).

<sup>54</sup> See *Pac-W. Telecomm, Inc. v. Qwest Corp.*, Dockets UT-053036 & UT-053039, Order 15 & Order 15, at 7 ¶ 17, 9 ¶ 24 (June 22, 2012) (attempts to overturn a decision made in a previous order through a petition for reconsideration of a later order are untimely).

<sup>55</sup> *In re Application of Avista Corp., In re Application of PacifiCorp, In re Application of Puget Sound Energy*, Docket Nos. UE-991255 & 991262, Fourth Supplemental Order, at 9 ¶ 40 (April 21 2000).

cites no evidence that the Commission has not considered . . . states no basis for relief.”<sup>56</sup>

Dolly’s argument rests on factual evidence available to it at the time the Commission entered Order 06, Order 07, and Order 08: Dolly possessed its own advertisements and could have submitted copies of them to the Commission before entry of each of those orders. In fact, Dolly’s does not now attempt to submit such copies; its petition rests on its spin on evidence that the Commission has already considered, namely the attachments to Ms. Paul’s exhibit.<sup>57</sup> Dolly’s petition must fail.<sup>58</sup>

23           If the Commission does address Dolly’s claims of compliance with the cease and desist provisions concerning advertising on their merits, it should reject them because it has already rejected them.

24           Dolly first contends that its “advertisements have never stated it performs regulated services in Washington state.”<sup>59</sup> The Commission explicitly rejected that argument in Order 04 and found that Dolly advertised to provide jurisdictional services.<sup>60</sup> The Commission also implicitly rejected it when it imposed penalties in Order 06 based in part on Dolly’s advertisements.<sup>61</sup> Reconsideration is therefore inappropriate because Dolly seeks to relitigate issues that the Commission has repeatedly decided against it.<sup>62</sup>

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<sup>56</sup> *Id.*

<sup>57</sup> Petition for Reconsideration at 4-5 ¶¶ 9-10 & n.14, Attachment A.

<sup>58</sup> *In re Application of Avista Corp., In re Application of PacifiCorp, In re Application of Puget Sound Energy*, Docket Nos. UE-991255 & 991262, Fourth Supplemental Order, at 9 ¶ 40.

<sup>59</sup> *In re Determining the Proper Carrier Classification of, and Complaint for Penalties Against Dolly*, Docket TV-171212, Dolly, Inc. Petition for Reconsideration of Order 08 and Petition to Stay the Effective Date of Order 08, at 4 ¶ 9.

<sup>60</sup> Order 04 at 7-8 ¶¶ 24-25.

<sup>61</sup> Order 06 at 5-6 ¶¶ 11-13; *see In re Determining the Proper Carrier Classification of, and Complaint for Penalties Against Dolly*, Docket TV-171212, Commission Staff’s Motion for Imposition of Suspended Penalty for Violation of Commission Order, at 2 ¶ 6; Paul Decl. at ¶¶ 5-6, 3-4 ¶¶ 10-12.

<sup>62</sup> *In re Application of Avista Corp., In re Application of PacifiCorp, In re Application of Puget Sound Energy*, Docket Nos. UE-991255 & 991262, Fourth Supplemental Order, at 9 ¶ 40.

25 Dolly next argues that it has complied with the cease and desist order by “alter[ing] its Internet presence and advertisements to further clarify that it does not perform regulated services in Washington.”<sup>63</sup> Staff invites the Commission to compare Dolly’s advertisements as presented at hearing<sup>64</sup> with the advertisements as shown in the attachments to Ms. Paul’s declaration, which Staff filed in support of its motion to impose suspended penalties.<sup>65</sup> There are no meaningful distinctions between them; whatever Dolly did, if anything, to alter its advertisements, it did not alter them in a way that complies with the Commission’s cease and desist order. Dolly essentially asks the Commission to look at evidence that it has already considered and reach a different conclusion. Again, neither RCW 34.05.470 nor WAC 480-07-850 permit parties to relitigate issues in that way.<sup>66</sup>

26 Finally, in a slightly related argument, Dolly contends that it satisfied the Commission’s cease and desist order by including in its advertisements language stating that it employs “independent contractors” or “connects users to Helpers.” The Commission should reject this argument as a basis for reconsideration for two reasons.

27 First, a number of Dolly’s advertisements lack the language that Dolly claims renders them non-jurisdictional.<sup>67</sup> Accordingly, even if the Commission agrees with Dolly’s

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<sup>63</sup> *In re Determining the Proper Carrier Classification of, and Complaint for Penalties Against Dolly*, Docket TV-171212, Dolly, Inc. Petition for Reconsideration of Order 08 and Petition to Stay the Effective Date of Order 08, at 4 ¶ 9.

<sup>64</sup> Paul, Exh. SP-7; Paul, Exh. SP-9; Paul, Exh. SP-10; Paul, Exh. SP-11; Paul, Exh. SP-15; Paul Exh. SP-16.

<sup>65</sup> Paul Decl., Attachment A, Attachment B, Attachment F, Attachment G, Attachment H, Attachment I, Attachment J.

<sup>66</sup> *In re Application of Avista Corp., In re Application of PacifiCorp, In re Application of Puget Sound Energy*, Docket Nos. UE-991255 & 991262, Fourth Supplemental Order, at 9 ¶ 40.

<sup>67</sup> Paul Decl. at Attachment F (the first advertisement photographed contains none of the language cited by Dolly), Attachment G (Dolly’s Facebook page, which shows two men wearing Dolly shirts standing in front of a truck containing a couch, and which describes Dolly as an “Internet Company, Moving and Storage Service, [and] Transportation Service”), Attachment I (Dolly’s Facebook page posting containing pictures of two people in Dolly shirts standing in front of a truck covered with the Dolly logo and the phrase “Truck and Muscle Anytime You Need It.”), Attachment J (Dolly’s Instagram page showing the exact same picture as Attachment I).

argument (and it should not, as discussed next), Dolly’s continued display of the advertisements lacking the relevant language violates the cease and desist order. The Commission should deny reconsideration because those violations make mitigation unwarranted.

28           Second, the Commission has already determined that the language Dolly cites is insufficient to make its advertisements non-jurisdictional given other statements on Dolly’s advertisements that indicate that it performs jurisdictional services. Dolly did not add the language referencing independent contractors or connecting customers with movers after the Commission entered its cease and desist order; that language was present at the time of Staff’s initial investigation into the company’s practices.<sup>68</sup> The Commission explicitly considered the language when adopting the ALJ’s order and determined that Dolly was advertising jurisdictional services.<sup>69</sup> Again, Dolly seeks to relitigate what the Commission has already decided against it. The Commission should deny reconsideration.<sup>70</sup>

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<sup>68</sup> *In re Determining the Proper Carrier Classification of, and Complaint for Penalties Against Dolly*, Docket TV-171212, Staff Investigation Report (Dec. 2017).

<sup>69</sup> Order 04 at 8 ¶ 25 (“We find that these statements amount to advertising to transport household goods, other property, and solid waste despite the existence of other statements describing Dolly’s Helpers as ‘independent contractors.’”).

<sup>70</sup> *In re Application of Avista Corp., In re Application of PacifiCorp, In re Application of Puget Sound Energy*, Docket Nos. UE-991255 & 991262, Fourth Supplemental Order, at 9 ¶ 40.

#### IV. CONCLUSION

29 Dolly offers no meritorious grounds for reconsideration. The Commission should deny its petition.

DATED this 22nd day of October 2018.

Respectfully submitted,

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