



Dolly, Inc. | 901 5th AVE, Suite 600, Seattle, WA 98164 | 206.494.3198

February 22, 2018

VIA WEB PORTAL and U.S. MAIL

Mr. Steven V. King
Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P.O. Box 47250
Olympia, Washington 98504-7250

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State Of WASH.
UTIL. AND TRANSP.
COMMISSION


RE: *In the Matter of Determining the Proper Carrier Classification of and Complaint for Penalties against Dolly, Inc.*
Docket No. TV-171212

Dear Mr. King:

Enclosed for filing please find the original and one (1) copy of the following documents:

- 1) Answer and Affirmative Defenses, and
- 2) Certificate of Service.

If you have any questions, please contact the undersigned.

Sincerely,

Armikka R. Bryant
Attorney for Dolly, Inc.

AB/ck
Enclosures
cc: Parties w/enc.

**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

ANSWER AND AFFIRMATIVE
DEFENSES

INTRODUCTION

Dolly, Inc.'s ("Dolly ") representative for purposes of this proceeding is:

Armikka R. Bryant
Dolly, Inc.
901 Fifth Avenue, Suite 600
Seattle, Washington 98164-2086
Office: 206-413-5312
Mobile: 646-303-3533
Fax: 833-817-6581
E-mail: armikka@dolly.com

Dolly answers the Complaint Seeking to Impose Penalties by the Washington Utilities and Transportation Commission ("Commission") dated January 18, 2018 ("Complaint") as stated below.

ANSWER

1. Answering paragraph 1, paragraph 1 contains no legal or factual allegations; Dolly neither admits nor denies this paragraph.

I. PARTIES

2. Answering paragraph 2, Dolly admits the allegations.
3. Answering paragraph 3, Dolly admits the allegations.

COVER LETTER
ANSWER AND AFFIRMATIVE DEFENSES
CERTIFICATE OF SERVICE
DOCKET TV-171212

2 DOLLY, INC.
600 FIFTH AVENUE, SUITE 600
SEATTLE, WASHINGTON 98164-2086
(206) 413-5312

II. BACKGROUND

4. Answering paragraph 4, Dolly denies the allegations.
5. Answering paragraph 5, paragraph 5 consists of legal conclusions for which no answer is required. To the extent an answer is required, Dolly denies the allegations in paragraph 5.
6. Answering paragraph 6, paragraph 6 contains no legal or factual allegations; Dolly neither admits nor denies this paragraph.
7. Answering paragraph 7, Dolly denies the allegation.
8. Answering paragraph 8, Dolly admits the allegations upon information and belief.
9. Answering paragraph 9, Dolly has insufficient information to admit or deny the allegations and, on that basis, denies the allegations.
10. Answering paragraph 10, Dolly has insufficient information to admit or deny the allegations and, on that basis, denies the allegations.
11. Answering paragraph 11, Dolly has insufficient information to admit or deny the allegations and, on that basis, denies the allegations.
12. Answering paragraph 12, Dolly has insufficient information to admit or deny the allegations and, on that basis, denies the allegations.
13. Answering paragraph 13, Dolly has insufficient information to admit or deny the allegations and, on that basis, denies the allegations.
14. Answering paragraph 14, Dolly has insufficient information to admit or deny the allegations and, on that basis, denies the allegations.
15. Answering paragraph 15, Dolly has insufficient information to admit or deny the allegations and, on that basis, denies the allegations.
16. Answering paragraph 16, Dolly has insufficient information to admit or deny the allegations and, on that basis, denies the allegations.
17. Answering paragraph 17, Dolly has insufficient information to admit or deny the allegations and, on that basis, denies the allegations.
18. Answering paragraph 18, Dolly has insufficient information to admit or deny the allegations and, on that basis, denies the allegations.

19. Answering paragraph 19, Dolly has insufficient information to admit or deny the allegations and, on that basis, denies the allegations.

20. Answering paragraph 20, Dolly has insufficient information to admit or deny the allegations and, on that basis, denies the allegations.

21. Answering paragraph 21, Dolly has insufficient information to admit or deny the allegations and, on that basis, denies the allegations.

22. Answering paragraph 22, Dolly has insufficient information to admit or deny the allegations and, on that basis, denies the allegations.

23. Answering paragraph 23, Dolly has insufficient information to admit or deny the allegations and, on that basis, denies the allegations.

III. JURISDICTION

24. Answering paragraph 24, paragraph 24 consists of legal conclusions for which no answer is required. To the extent an answer is required; Dolly denies the allegations in paragraph 24.

IV. APPLICABLE LAWS AND REGULATIONS

25. Answering paragraph 25, paragraph 25 consists of legal conclusions for which no answer is required.

26. Answering paragraph 26, Dolly admits the allegations.

27. Answering paragraph 27, Dolly admits the allegations.

28. Answering paragraph 28, Dolly admits the allegations.

29. Answering paragraph 29, paragraph 29 contains legal conclusions to which no answer is required.

30. Answering paragraph 30, paragraph 30 consists of legal conclusions for which no answer is required.

31. Answering paragraph 31, paragraph 31 consists of legal conclusions for which no answer is required.

32. Answering paragraph 32, paragraph 32 consists of legal conclusions for which no answer is required.

33. Answering paragraph 33, paragraph 33 consists of legal conclusions for which no answer is required.
34. Answering paragraph 34, paragraph 34 consists of legal conclusions for which no answer is required.
35. Answering paragraph 35, paragraph 35 consists of legal conclusions for which no answer is required.
36. Answering paragraph 36, paragraph 36 consists of legal conclusions for which no answer is required.
37. Answering paragraph 37, paragraph 37 consists of legal conclusions for which no answer is required.
38. Answering paragraph 38, paragraph 38 consists of legal conclusions for which no answer is required.
39. Answering paragraph 39, paragraph 39 consists of legal conclusions for which no answer is required.
40. Answering paragraph 40, paragraph 40 consists of legal conclusions for which no answer is required.
41. Answering paragraph 41, paragraph 41 consists of legal conclusions for which no answer is required.
42. Answering paragraph 42, paragraph 42 consists of legal conclusions for which no answer is required.
43. Answering paragraph 43, paragraph 43 consists of legal conclusions for which no answer is required.
44. Answering paragraph 44, paragraph 44 consists of legal conclusions for which no answer is required.

V. COMPLAINT

45. Answering paragraph 45, Dolly denies the allegations.
46. Answering paragraph 46, Dolly denies the allegations.
47. Answering paragraph 47 and 48, Dolly denies the allegations.

VI. REQUEST FOR RELIEF

48. Dolly incorporates by reference its answers to paragraphs 2 – 48 of the Complaint, as set forth above.

49. Answering paragraph 49, paragraph 49 contains no legal or factual allegations, but Dolly denies that any penalty is proper in this proceeding.

50. Answering paragraph 50, paragraph 50 contains no legal or factual allegations, but Dolly denies that any penalty is proper in this proceeding.

51. Answering paragraph 51, paragraph 51 contains no legal or factual allegations, but Dolly denies that any penalty is proper in this proceeding.

52. Answering paragraph 52, paragraph 52 contains no legal or factual allegations, but Dolly denies that any order to cease and desist is proper in this proceeding.

53. Answering paragraph 53, paragraph 53 contains no legal or factual allegations, but Dolly denies that any relief requested by Staff is proper in this proceeding.

VII. PROBABLE CAUSE

54. Answering paragraph 54, paragraph 54 and the remainder of the Complaint contain no legal or factual allegations. Thus, Dolly neither admits nor denies paragraph 54 or the remainder of the Complaint.

AFFIRMATIVE DEFENSES

1. Commission staff's Complaint fails to state a claim upon which relief can be granted.
2. Dolly's acts and/or practices have fully complied with Washington law.
3. Dolly denies the allegations that it violated any Commission statute or rule.
4. Commission staff's application of Commission statutes and rules is overbroad.
5. Commission staff's investigation report contains extensive factual errors and its recommendations appear to be based solely on an unsupported belief that Dolly advertises in this State.
6. Commission staff, after a thorough review of Dolly operations, informed Dolly that it would not approve its application for a household goods carrier permit.

7. Dolly relied on Commission staff's position that it would deny its household goods carrier permit application to its detriment.

8. On multiple occasions Commission staff thoroughly reviewed all aspects of Dolly's operations, including its advertising, web site and concluded that Dolly is a broker of household goods and, as such, complies with the Commission rules and Washington statutes. Prior to and since that time, Dolly has operated in the same manner, as a household goods broker, not a household goods carrier.

9. As recently as January 2018, Dolly met with members of the Commission's Safety & Consumer Protection Division, Legislation & Policy Division, and Communications Division to ensure that all aspects of Dolly's operations comply with Commission rules and Washington statutes and to share information on best practices for shaping the changing regulatory environment. Dolly and Commission staff agreed that current statutes and regulations do not apply to household goods brokers.

10. The doctrines of waiver, estoppel and/or laches preclude the WUTC, through its staff, from asserting claims against Dolly.

PRAYER FOR RELIEF

WHEREFORE, Dolly prays for the following relief:

- A. That Commission staff's Complaint be dismissed with prejudice.
- B. For such other relief as the Commission deems just and appropriate.

DATED: February 22, 2018

DOLLY, INC.

By: 

Armikka R. Bryant, WSBA No. 35765
Director, Legal and Government Affairs
Attorney for Respondent Dolly, Inc.

CERTIFICATE OF SERVICE

DOCKET NO. TV-171212

Determining the Proper Carrier Classification and Complaint for Penalties

I, Casey Klaus, do hereby certify that, pursuant to WAC 480-07-150(6), I have this day served a true and correct copy of *Answer and Affirmative Defenses on behalf of Dolly, Inc.* to all parties of record listed and by the manner indicated below:

SERVICE LIST

**HC = Receive Highly Confidential; C = Receive Confidential;
NC=Receive Non-Confidential**

<p>COMMISSION STAFF:</p> <p>Jeffrey Roberson Office of the Attorney General Utilities & Transportation Commission 1400 S. Evergreen Park Dr. S.W. P.O. Box 40128 Olympia, Washington 98504-0128 Phone: (360) 664-1188 Fax: (360) 586-5522 Email: jeff.roberson@utc.wa.gov</p> <p><input type="checkbox"/> via ABC Legal Messenger <input type="checkbox"/> via FedEx Overnight Delivery <input checked="" type="checkbox"/> via U.S. First-Class Mail <input type="checkbox"/> via Hand-Delivery <input checked="" type="checkbox"/> via E-Mail</p>	
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Dated at Seattle, Washington, this 22nd day of February, 2018.



Casey Klaus
Office Manager & Administrative Assistant