

**BEFORE THE WASHINGTON  
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 TV-190593  
(Consolidated)

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 TV-190594  
(Consolidated)

ORDER OF CONSOLIDATION

NOTICE OF INTENT TO DENY  
APPLICATIONS FOR PERMANENT  
AUTHORITY

NOTICE OF INTENT TO DENY  
PETITIONS FOR EXEMPTION

NOTICE OF PREHEARING  
CONFERENCE (Set for November 12,  
2019, at 2 p.m.)

**BACKGROUND**

*1* **PROCEDURAL HISTORY.** On July 10, 2019, Dolly, Inc., d/b/a Dolly (Dolly or Company) filed an application for authority to operate as a household goods moving company (HHG Application) with the Washington Utilities and Transportation Commission (Commission) in Docket TV-190593, along with an accompanying Petition for Rule Exemption (First Petition) from the requirement that the Company file a United States Department of Transportation Federal Motor Carrier Safety Administration (FMCSA) number (USDOT Number) in Docket TV-190594.<sup>1</sup>

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<sup>1</sup> On July 16, 2019, the Commission's Licensing Services Section sent a Notice of Deficient Application concerning the HHG Application. The HHG Application was defective as filed because the Company failed to include the necessary insurance exemption requests, proof of insurance, and identification for individuals listed on the HHG Application. The Company submitted an insurance-

- 2 On July 22, 2019, Dolly filed a second Petition for Rule Exemption in Docket TV-190594 (Second Petition) requesting two additional exemptions, from Washington Administrative Code (WAC) 480-15-530 and WAC 480-15-550 in conjunction with the Company's HHG Application.
- 3 On August 13, 2019, Dolly filed a Motion for Leave to Amend Petition for Rule Exemption, along with an Amended Petition for Rule Exemption, in Docket TV-190594, seeking to amend and consolidate the First Petition and Second Petition, and to add requests for exemptions from: WAC 480-15-555; WAC 480-15-620; WAC 480-15-630; WAC 480-15-710; WAC 480-15-750; and WAC 480-15-490.<sup>2</sup> Commission staff (Staff) did not oppose the Company's request.
- 4 On August 21, 2019, the Commission received Dolly's Petition for Exemption from WAC 480-14-250(1)(e) (CC Exemption Petition) in conjunction with a concurrently filed application for a permit to operate as a common carrier of property (excluding household goods) filed in Docket TV-190594 (CC Application).<sup>3</sup>
- 5 On August 22, 2019, the Commission issued a Notice Permitting Amended Petition, adding the newly requested exemptions with those sought in the First Petition and Second Petition, and consolidating them under a single Amended Petition pertaining to the Company's HHG Application (Amended HHG Exemption Petition).
- 6 On September 9, 2019, Staff filed responses and recommendations concerning the Company's CC Exemption Petition.
- 7 On September 11, 2019, Staff filed responses and recommendations concerning the Company's Amended HHG Exemption Petition.
- 8 **APPLICABLE LAWS.** When considering applications for authority to operate as a carrier of household goods, RCW 81.80.075(3) requires the Commission to consider: (1) whether an applicant for a household goods carrier permit is fit to perform the services proposed and

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related exemption request on July 22, 2019, and further supplemented its HHG Application on July 26, 2019, and August 7, 2019.

<sup>2</sup> On August 13, 2019, Dolly also filed a Request for Permission to File an Individual Tariff and an accompanying draft Dolly, Inc., Individual Tariff in Docket TV-190594, which Commission staff rejected as incomplete and premature on August 20, 2019.

<sup>3</sup> On August 21, 2019, the Commission's Licensing Services Section sent a Notice of Deficient Application concerning the CC Application. The CC Application was defective as filed because the Company failed to include the necessary insurance exemption requests.

conform to applicable law and the requirements, rules, and regulations of the Commission; and, (2) whether the Applicant's operations are consistent with the public interest.

- 9 Similarly, when considering applications for authority to operate as a common carrier of property (excluding household goods), RCW 81.80.070(2) requires the Commission to consider: (1) whether an applicant is fit, willing, and able to perform the service and conform to applicable law and the requirements, rules, and regulations of the Commission; and, (2) whether the Applicant's operations are consistent with the public interest.
- 10 The Commission will grant or deny an application for permanent authority after it conducts a complete review of the application, including supporting statements, reports, or other information necessary to determine an applicant's fitness (including the ability to conform to applicable law and the requirements, rules, and regulations of the Commission). To establish fitness to obtain a permit, an applicant must demonstrate financial and regulatory fitness. Regulatory fitness concerns whether an applicant is likely to comply with the Commission's rules.<sup>4</sup> The Commission considers past operating history as one of the best indicators of a company's willingness and ability to comply with regulatory requirements.<sup>5</sup> The Commission, however, does not consider a past history of engaging in illegal conduct a per se bar to a finding of fitness; an applicant may overcome such a history with credible assurances of future compliance coupled with objective manifestations of intent to comply.<sup>6</sup>
- 11 The Commission may grant an exemption from its rules "when doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes."<sup>7</sup> The Commission uses a public interest standard when considering whether to grant an exemption.<sup>8</sup> Factors the Commission may consider "include whether the rule imposes an undue hardship on the requesting person of a degree or a kind different from hardships imposed on other similarly situated persons, and whether the effect of applying the rule to the requesting person would be contrary to the underlying purposes of the rule and the public interest."<sup>9</sup>
- 12 Applicants seeking an exemption from or modification of the Commission's rules and regulations bear the burden of providing "[f]acts that constitute the basis of the petition and

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<sup>4</sup> *In re Application of Redline Courier, Inc.*, App. No. P-77664, Order M.V.C. No. 148367, Hearing No. P-77664 (Dec. 13, 1994).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> WAC 480-15-035(1).

<sup>8</sup> WAC 480-07-110(2)(c).

<sup>9</sup> *Id.*

requested relief, including relevant dates.”<sup>10</sup> A party requesting a rule exemption or modification “must file with the commission a written petition identifying the rule for which the person seeks an exemption and providing a full explanation of the reason for requesting the exemption.”<sup>11</sup>

- 13 If it is necessary to resolve outstanding issues or concerns related to the Applicant’s fitness, whether the Applicant’s operations would be consistent with the public interest, or any other issue resulting from a complaint or public comment, the Commission may hold a hearing or brief adjudicative proceeding on any application for permanent authority.<sup>12</sup>
- 14 The Commission, in its discretion, may consolidate two or more proceedings in which the facts or principles of law are related.<sup>13</sup>
- 15 **STAFF RECOMMENDATION.** Staff evaluated the Company’s HHG Application, Amended HHG Exemption Petition, CC Application, and CC Exemption Petition, and recommends that they each be denied by the Commission. Staff contends that the Company failed to meet its burden of providing sufficient facts and evidence to support a recommendation from Staff that the Commission exempt the Company from the consumer protection requirements in WAC 480-15-555, -620, -630, -710, -750, -490, and the requirement that the Company obtain a USDOT Number. Furthermore, Staff argues that granting the Amended HHG Exemption Petition would create a gap in the application and enforcement of the Commission’s household goods carrier regulations, and encourage unlicensed and illegal household goods moves because the Company does not verify that its helpers have valid permits. As detailed herein, and in Staff’s September 9, 2019, response to the CC Exemption Petition and its September 11, 2019, response to the Amended HHG Exemption Petition, Staff believes the requested exemptions are not consistent with the public interest, the purposes underlying regulation, and applicable statutes. Furthermore, Staff argues that the Company fails to show regulatory fitness due to its admitted inability to comply with the public service laws and the statutory licensing requirement (*i.e.*, the requirement that all common carriers and household goods carriers possess valid operating authority from the Commission prior to engaging in jurisdictional operations).

### FACTUAL ALLEGATIONS

- 16 On September 25, 2017, Staff informed the Company that it would institute a proceeding to classify it as a jurisdictional carrier. On September 26, 2017, Dolly filed a petition for a

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<sup>10</sup> WAC 480-07-370(3)(b)(ii).

<sup>11</sup> WAC 480-15-035(2).

<sup>12</sup> WAC 480-15-350.

<sup>13</sup> WAC 480-07-320.

rulemaking. The Commission determined that the rulemaking sought by Dolly would impermissibly amend the public service laws, and denied the petition by order in October 2017.<sup>14</sup> Dolly appealed this decision to the office of Washington Governor Jay Inslee. The Governor affirmed the Commission's order on January 12, 2018:

I am affirming the UTC's decision here. State law expressly requires household goods carriers to obtain a permit in order to operate regardless of whether those carriers are traditional movers or 'micro-movers,' so legislative action is necessary to achieve your desired outcome.<sup>15</sup>

- 17 On January 10, 2018, the Commission issued Order 01 in Docket TV-171212. Order 01 alleged that Dolly was operating as a household goods carrier, a common carrier, and a solid waste hauler without first obtaining the required permit or certificate from the Commission.
- 18 On April 9, 2018, the Commission issued Corrected Order 02 in Docket TV-171212 classifying Dolly as a household goods carrier, a common carrier transporting property other than household goods in the state of Washington, and a solid waste company offering to pick up, transport, and dispose of solid waste in Washington. Corrected Order 02 ordered Dolly to cease and desist jurisdictional operations until first obtaining a permit from the Commission. Corrected Order 02 also imposed a penalty of \$69,000 against the Company, a portion of which was suspended on the condition of future compliance with Commission rules and orders.
- 19 On May 18, 2018, the Commission issued Order 04 in Docket TV-171212, denying the Company's petition for administrative review of Corrected Order 02, and affirming that order.
- 20 Order 04 also ordered Dolly to cease and desist from operating as a household goods carrier, common carrier, or a solid waste collection company until it first obtained authority from the Commission. Because a person engages in business as a household goods carrier by advertising to do so, the Commission ordered Dolly to make specific changes to its advertising to comply with the cease and desist order. Order 04 also affirmed the \$69,000 penalty, but suspended the entirety of the penalty for a period of two years, conditioned on Dolly's compliance with the terms of Order 04.
- 21 On May 29, 2018, Dolly moved to stay Order 04. In its motion, Dolly conceded it would need to cease operations in the event that Order 04 became effective.

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<sup>14</sup> *In re Petition of Dolly, Inc. to Amend Motor Carrier Rules or in the Alternative to Initiate Rulemaking*, Docket TV-170999, Order 01 ¶¶ 7-13 (Oct. 31, 2017).

<sup>15</sup> *In re Determining the Proper Carrier Classification of, and Complaint for Penalties Against Dolly, Inc.*, Docket TV-171212, Paul Exh. SP-5 (admitted Mar. 13, 2018).

- 22 On June 8, 2018, The Commission denied Dolly's motion to stay Order 04.
- 23 Dolly petitioned for review of Order 04 in June 2018, and moved to stay the effectiveness of the Commission's final order. Dolly's motion for stay again acknowledged that it would have to shut down operations if Order 04 became effective. The Thurston County Superior Court denied the motion for stay on June 29, 2018, and affirmed the Commission's order on its merits on March 8, 2019, in Cause No. 18-2-03006-34. Dolly appealed the Superior Court's order to the Washington State Court of Appeals, Division II, where it is presently docketed as No. 53388-0-II. Currently, on appeal, the parties have completed briefing the issues and are waiting for the Court to set the matter for consideration.
- 24 On July 6, 2018, Dolly filed a household goods permit application with the Commission in Docket TV-180605.
- 25 On July 12, 2018, Staff requested that the Commission impose the suspended penalty, originally imposed in Order 04, based on Staff investigations conducted on June 15, 2018, and July 10, 2018. In those investigations, Staff determined that Dolly continued to advertise for and/or provide regulated services in violation of the Commission's cease and desist order.
- 26 On August 3, 2018, the Commission granted Staff's motion and imposed the suspended penalty in Order 06 in Docket TV-171212, finding that Dolly admitted it continued to operate in violation of cease and desist orders.
- 27 Between August and October of 2018, Staff investigated Dolly's compliance with Order 04 and other Commission rules and orders. Staff discovered that Dolly continued to illegally advertise for regulated services on its website and social media pages. Dolly continued to offer to transport household goods or other property between two points in Washington State for compensation on its website. For example, on September 20, 2018, Staff used Dolly's website and obtained a quote for an illegal household goods "apartment move" between two points in Thurston County, Washington.
- 28 On September 21, 2018, the Commission issued a Notice of Intent to Deny Application for Permanent Authority and Notice of Opportunity for Hearing. The Commission based its notice on Staff's allegation that Dolly continued to operate as a household goods carrier in violation of applicable law and the Commission's orders in Docket TV-171212.
- 29 On October 5, 2018, Dolly submitted a Request for Adjudicative Proceeding in order to contest the Commission's intent to deny its 2018 Permit Application. The Commission, accordingly, set the matter for hearing on December 19, 2018.
- 30 At the December 19, 2018 hearing, Staff and the Company each presented testimony and oral argument. Staff testified about its investigation and conclusion that "Dolly has shown

itself to be unwilling and/or unable to comply with the public service laws and the Commission's rules and orders, and therefore unfit to hold a permit." During the same hearing, Michael Howell, Dolly's Chief Executive Officer, testified that the Company does not verify or know whether its helpers possess valid operating authority from the Commission:

Q. . . . Earlier *[Staff]* asked you about whether Dolly checks for applicable permits by -- that its helpers may or may not hold. Can you explain your answer there?

A. *The fact that we don't check for permits?*

Q. Right.

A. *Yeah, so the reason we don't -- it might make sense for me to explain a little bit more about how the business works.* But quickly, consumers give us addresses, sets of information, basically descriptions of what it is that they are trying to achieve. *We price that and then once that gets broadcast, it goes out to our fleet of helpers.* So it's not something where we are assigning helpers to jobs.

And so the -- *part of the reason we don't verify is, we don't know ahead of time what helpers are going to take what jobs.* And we do everything from labor-only help to charity donations to store deliveries to home-to-home moves and home-to-home moving help. And so when a helper applies, I don't have any discretion over which jobs they will or will not volunteer themselves for and that's why we don't -- we don't know what to verify for them.<sup>16</sup>

31 On February 14, 2019, the Commission entered Order 01 in Docket TV-180605, denying Dolly's July 6, 2018, permit application without prejudice. The order noted that "Dolly has yet to comply with [Order 04]" and that "[t]he record in this docket is replete with evidence that Dolly is still advertising, soliciting, offering, and entering into agreements to transport household goods in Washington in violation of Commission orders and applicable statutes

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<sup>16</sup> Testimony of Michael Howell, Docket TV-180605, Vol. I, at 54:5-55:8 (Dec. 19, 2018) (emphasis added).

and rules.”<sup>17</sup> The Commission warned that Dolly needed to fully cease and desist jurisdictional operations prior to filing another application for authority.<sup>18</sup>

- 32 On May 6, 2019, Dolly filed another household goods permit application with the Commission. The May 6, 2019, application was substantially the same as the July 6, 2018, application, and provided no credible assurances or guarantees of future compliance with statutes and Commission rules and orders, despite the Company’s extensive history of flouting those rules and orders.<sup>19</sup>
- 33 On May 15, 2019, Staff conducted an investigation into Dolly’s compliance with Order 04. During this review, Staff attempted but was unable to obtain a quote for a residential household goods carrier move. Instead, Dolly’s website displayed a pop-up message stating that “[a]t this time, Dolly Helpers aren’t allowed to move goods between two residences in Washington State. We apologize for this inconvenience.” However, Staff was able to obtain quotes for a common carrier delivery and a related solid waste move. The Commission was clear in Order 04 that Dolly was required to immediately cease and desist all jurisdictional operations, not only as a household goods carrier but also as a common carrier and/or a solid waste collection company.
- 34 On May 30, 2019, Staff again investigated Dolly’s compliance. Staff determined that Dolly continued to illegally advertise on its website and other platforms for regulated services in Seattle, Washington.
- 35 On June 3, 2019, the Commission issued a Notice of Intent to Deny Dolly’s May 6, 2019, application:

Based on the information Staff presented, the Commission agrees with Staff’s recommendation and intends to deny the 2019 Permit Application. The information Staff has discovered renders Dolly unfit to operate as a household goods moving company. Dolly has an extended history of unlawful operations that is presently ongoing. Dolly has, since Order 04’s

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<sup>17</sup> *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 TV-180605, Order 01 ¶ 17 (Feb. 14, 2019).

<sup>18</sup> *Id.* ¶ 25.

<sup>19</sup> The application also contained material misrepresentations and/or omissions. For example, the application omitted citations against the Company by the Illinois Commerce Commission for unlawfully brokering household goods, unlawfully identifying itself in its advertising, and for operating without the required household goods license. Applicants for operating authority must submit properly completed permit applications free from “any indication of fraud, misrepresentation, or erroneous information.” WAC 480-15-302(1)-(2); WAC 480-15-305(1)(a) (requiring that an applicant “has met all of the criteria required for a provisional permit as described in WAC 480-15-302” before granting permanent authority).



service date, knowingly and willingly operated in violation of a Commission order, offering only belated, incomplete, isolated, and scarce attempts at complying with the Commission's rules and orders. Selective, incremental, or incomplete compliance is not compliance. Furthermore, Dolly withheld material information about business-related legal proceedings against it in Illinois, which is itself an independent basis for denial of the Application. All objective evidence suggests that Dolly either cannot or will not fully comply with the Commission's rules, and Dolly has offered no credible assurances of future compliance to overcome those objective demonstrations of its unfitness.

36 On June 4, 2019, the Company contacted Staff and inquired about Staff's willingness to assist the Company with achieving compliance. Staff replied that it was willing to review a written proposal from the Company setting forth a detailed plan for the Company to come into full compliance with applicable laws, rules, and orders.

37 On June 13, 2019, Dolly voluntarily withdrew its May 6, 2019, application.

38 On June 14, 2019, Dolly submitted a "Proposed Compliance Plan for Final Order 04, TV-171212." Upon receipt of the Company's plan, Staff conducted a detailed review of the Company's compliance representations in order to establish whether, in fact, the Company had indeed come into compliance with the law. Between June 14, 2019, and July 25, 2019, Staff and the Company engaged in communications about the Company's compliance efforts. In a June 24, 2019, status update letter, Staff noted to the Company that:

Dolly's coming into basic compliance with previously issued and presently binding Commission orders and rules (e.g., ceasing to operate in continued violation of Order 04) is not itself sufficient for Dolly to be granted operating authority as a carrier of household goods. Staff continues to have significant concerns regarding a number of safety and consumer protection issues including, for example, ensuring that all of Dolly's helpers are permitted.

39 On July 10, 2019, Dolly filed its HHG Application in Docket TV-190593, along with its First Petition in Docket TV-190594.

40 On July 22, 2019, Dolly filed its Second Petition in Docket TV-190594.

41 On July 25, 2019, Staff sent a letter to counsel for the Company stating that "Staff noted areas of concern or instances of incomplete compliance since June 14, but believes the Company complied with most of the terms of Order 04 during that time."<sup>20</sup>

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<sup>20</sup> Staff reserves the right to amend its recommendation should additional information become

- 42 On August 13, 2019, Dolly filed its Amended HHG Exemption Petition.
- 43 On August 21, 2019, Dolly filed its CC Application and CC Exemption Petition.
- 44 On August 22, 2019, The Commission issued a Notice Permitting Amended Petition in Docket TV-190594, adding the newly requested exemptions with those sought in the First Petition and Second Petition, and consolidating them under the Amended HHG Exemption Petition.
- 45 On September 9, 2019, Staff filed responses and recommendations concerning the Company's CC Exemption Petition. It is Staff's position that, in addition to an exemption from WAC 480-14-250(1)(e), the Company's CC Application required an exemption from WAC 480-14-250(1) so that the Company's broker could maintain commercial general liability and auto liability policies with two surplus lines insurance carriers who are not admitted with the Office of the Insurance Commissioner.<sup>21</sup> In its analysis, Staff noted:

Surplus lines insurance is used when licensed insurers in the standard market will not provide coverage because the risk is too high, too unique, too unfamiliar, or does not otherwise meet the insurer's guidelines . . . The Federal Motor Carrier Safety Administration accepts surplus lines insurance (see CFR Title 49 Part 387.315) for interstate motor carriers. The purpose of the insurance rule is to protect the public from loss or damage caused by the Company while providing service. Surplus lines insurance responds to that need and is a viable option for high-risk or unique lines of business where risk is less certain.

Staff concluded that "the CC Exemption Petition may be consistent with the public interest, the purposes underlying regulation, and applicable statutes," subject necessarily to the Company's affirmative acceptance of the following two conditions: (1) that the Company obtain insurance from a "highly-rated non-admitted company authorized by the OIC to issue surplus lines insurance (A.M. Best A- or above rating)"; and (2) that the Company "allows only persons or entities whose common carrier permit(s) Dolly has verified to transport

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available whereby it is determined that the Company did not, in fact, come into actual compliance with laws, rules, and orders following the Company's submission of its compliance plan on June 14, 2019.

<sup>21</sup> WAC 480-14-250(1) requires each common carrier and each applicant for common carrier authority to file with the Commission evidence of currently effective liability and property damage insurance, written by a company authorized to write such insurance in the state of Washington. WAC 480-14-250(1)(e) requires carriers to submit evidence of insurance by submitting a Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance within 60 days.

property pursuant to a bid generated by Dolly.”<sup>22</sup>

46 On September 11, 2019, Staff filed responses and recommendations concerning the Company’s Amended HHG Exemption Petition. Staff provided both general responses to the Amended HHG Exemption Petition, and individual responses to each exemption sought. In its first general response, Staff noted that parties seeking exemption from the Commission’s rules bear the burden of: (1) providing the facts constituting the basis of the petition and the requested relief;<sup>23</sup> and (2) providing a written petition that provides the petitioner’s full explanation of the reason for requesting the exemption.<sup>24</sup> Staff concluded that the Company failed to carry its burden in the Amended HHG Exemption Petition.<sup>25</sup> Staff, therefore, recommended that the Commission deny the Company’s Amended HHG Exemption Petition (with the exception of the requested exemptions from WAC 480-15-530 and WAC 480-15-550) due to the Company’s failure to meet its burden.

47 In its second general response to the Company’s Amended HHG Exemption Petition, Staff stated that:

Dolly’s business model involves effectively subcontracting or delegating its duties to its ‘helpers’ through Dolly’s technology. However, Staff’s understanding is that Dolly does not verify that its helpers possess a valid household goods carrier permit from the Commission, and the Commission has no way of knowing who Dolly is arranging to physically perform household goods moves. Granting the Company exemptions from WAC 480-15-555, -620, -630, -710, -750, -490, and the requirement that Dolly obtain a USDOT Number will therefore create a gap in the application and enforcement of the Commission’s household goods carrier regulations (regulations the Commission deems necessary to protect consumers). The Company, through its exemption requests, essentially asks the Commission to create an entirely different regulatory scheme for it based on its use of technology. The Commission has clearly stated that it will not sacrifice consumer safety and protection in order to accommodate purported conveniences achieved by technology . . .

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<sup>22</sup> RCW 81.80.070(1) provides that any “common carrier, contract carrier, or temporary carrier shall not operate for the transportation of property for compensation in this state without first obtaining from the commission a permit for such operation.”

<sup>23</sup> WAC 480-07-370(3)(b)(ii).

<sup>24</sup> WAC 480-15-035(2).

<sup>25</sup> *Staff Response to Company Petitions for Exemptions Relating to Application for Authority to Operate as a Household Goods Moving Company*, Docket TV-190594, pp. 2-3 (Sept. 11, 2019).

48 Staff therefore recommended that the Commission deny the Amended HHG Exemption Petition (again, with the exception of the requested exemptions from WAC 480-15-530 and WAC 480-15-550) to avoid creating a gap between the Commission’s important consumer safety and protection standards and the use of helpers who do not possess valid legal operating authority as required by Washington law.

49 With respect to the Company’s individual exemption requests in the Amended HHG Exemption Petition, Staff’s responses and recommendations were as follows:

- **WAC 480-15-530** (Public Liability and Property Damage Insurance) and **WAC 480-15-550** (Cargo Insurance) – Staff’s position here is substantially the same as its response to the CC Exemption Petition.<sup>26</sup> Staff highlighted the policy reasons behind permitting the use of surplus lines insurance carriers, and stated it would recommend that the Commission grant the Company these exemptions, subject necessarily to the Company’s prior acceptance of the following conditions: (1) that the Company obtain insurance from a highly-rated non-admitted company authorized by the OIC to issue surplus lines insurance; and, (2) that the Company allow only persons or entities possessing a verified household goods carrier permit to transport property pursuant to a bid generated by Dolly.
- **WAC 480-15-555** (Criminal Background Checks for Prospective Employees) – Staff recommends the Commission deny the Company’s petition for exemption from WAC 480-15-555. Staff argues, in part: “To the best of Staff’s knowledge, no other household goods carrier has requested that corporate or office staff be exempted from this rule simply because they do not enter consumers’ homes. Allowing a certain group of employees to not have background checks puts the consumer’s personal and financial property at risk by creating a gap in the rule’s coverage for a loosely defined group of ‘corporate employees.’

Dolly already conducts thorough background checks scrutinizing potential helpers’ criminal and driving history dating back seven years. Therefore, adding the remaining employees should not impose an undue hardship to the Company.”<sup>27</sup>

- **WAC 480-15-620** (Information Household Goods Carriers Must Provide to Customers) – Staff recommends that the Commission deny the Company’s petition for exemption from WAC 480-15-62. In its response, Staff stated, in part: “. . . Staff finds no basis to recommend approval of this exemption request.

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<sup>26</sup> *Id.* at pp. 4-7.

<sup>27</sup> *Id.* at pp. 7-8.

The Commission provides a print-ready version of the consumer guide on the Commission's website . . . Rather than provide the *Consumer Guide to Moving in Washington State* through electronic means, such as email, Dolly would rather be exempted from the requirement that the Company inform customers of their rights.

Staff believes that the public interest and the purposes underlying regulation are served when consumers are informed of their rights prior to entering into a contract with a household goods carrier. The customer will learn how to evaluate and choose a mover, how to compare moving charges and estimates, and how to avoid and reduce loss or damage to their property.”<sup>28</sup>

- **WAC 480-15-630** (Estimates) – Staff recommends that the Commission deny the Company's petition for exemption from WAC 480-15-630. In its response, Staff stated, in part: “The estimate provides customers with the probable cost of their move, and should clearly and accurately describe all charges. It is important and in the public interest that the customer be fully informed about the cost of their move, what services the charges cover, and that the customer have an opportunity to select their level of loss or damage protection.

Dolly believes requiring signatures on the estimate detracts from the ease of use that users prefer and expect. Staff, like the Commission, values consumers being fully informed over ease. Signing the estimate demonstrates the customer was provided and accepts the proposed charges listed on the estimate, whether the estimate is binding or non-binding, date and locations of the move, and the loss or damage protection option the customer selected. Email approval and acceptance by the customer suffices as a customer signature.”<sup>29</sup>

- **WAC 480-15-710** (Bill of Lading) – Staff recommends that the Commission deny the Company's petition for exemption from WAC 480-15-710. In its response, Staff stated, in part: “In Staff's view, it is in the public interest for customers to receive and understand the bill of lading because it represents the contract between the customer and the carrier. It states the carrier's responsibilities—e.g., the services to be performed, when and how the carrier will charge for the move, and what liability the carrier will assume. If a customer ultimately needs to file a claim for damages arising from the move, the bill of lading is the record that will be used by the customer to demonstrate the loss or damage protection level selected by the customer. In reviewing and signing the

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<sup>28</sup> *Id.* at pp. 8-9 (citations omitted).

<sup>29</sup> *Id.* at p. 9.

bill of lading prior to the move, the customer is able to review and agree to all terms prior to releasing their household goods to the carrier, and seek clarification where needed. Signing the bill of lading upon the delivery of goods confirms their receipt.”<sup>30</sup>

- **WAC 480-15-750 (Weight)** – Staff recommends that the Commission deny the Company’s petition for exemption from WAC 480-15-750. In its response, Staff stated, in part: “The Company states that neither the Company nor its helpers ‘have the ability to weigh the items being transported.’ The tariff provides remedies to assist carriers in meeting this tariff. When there is no certified scale available, carriers may use constructive weight as defined in Tariff 15-C. Staff does not believe, and Dolly has not shown, that applying a constructive weight poses an undue hardship on the Company.”<sup>31</sup>
- **Requirement that the Company obtain a USDOT Number** – Staff recommends that the Commission deny the Company’s petition for exemption from the requirement that it obtain a USDOT Number. In its response, Staff stated, in part: “Staff disagrees with the Company’s assertion that it does not qualify for a USDOT Number. Staff independently confirmed with the FMCSA that a company is not required to own vehicles in order to obtain a USDOT Number. The fact that the Company owns no vehicles is, therefore, not a basis for asserting undue hardship or an inability to obtain a USDOT Number. Furthermore, neither the Company’s First Petition nor Amended Petition addressed RCW 46.32.080, which mandates that all household goods carriers, regardless of whether or not they transport items in interstate commerce, apply for a USDOT Number. Staff further disagrees with the Company that exempting it from the requirement to obtain a USDOT Number is consistent with the public interest and/or the purposes underlying regulation. The USDOT Number is an important tool used to effectively track safety data, identify companies for reporting unsafe operations or travelling with faulty or dangerous equipment, and establishing a safety rating for the Company which can be placed out of service, if appropriate.”<sup>32</sup>
- **WAC 480-15-490 (Tariff and Rates, General)** – Staff recommends that the Commission deny the Company’s petition for exemption from WAC 480-15-490. In its response, Staff stated, in part: “The Company’s request is unusual and outside Commission precedent; in the past, some companies have been granted

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<sup>30</sup> *Id.* at pp. 9-10.

<sup>31</sup> *Id.* at pp. 10-11 (citations omitted).

<sup>32</sup> *Id.* at pp. 11-12.

the ability to file individual tariffs if the Commission finds it is impractical to include certain *commodities* or *services* in Tariff 15-C. Currently, the only individual tariffs in effect are for the transportation of pianos and organs . . . [I]n order to be exempted from WAC 480-15-490 the Company must successfully argue that there is a significant difference in the services offered or the commodities being moved. Staff does not believe that the Company's commodities or services are significantly different than other household goods carriers . . . Indeed, if the Commission were to grant this exemption, the only difference in the actual carrier services Dolly provides would be the rate itself.

Additionally, the Company's Amended Petition does not address the fact that WAC 480-15-490 sets both maximum and minimum rates that carriers may charge. Setting minimum rates serves the public interest by discouraging cost-cutting by carriers at the expense of important business and consumer protection expenses like insurance, minimum wages, vehicle maintenance, office administration and recordkeeping, scheduling, regulatory filings and compliance, and more. The Company's sole argument as to why this exemption is in the public interest—that its platform purportedly charges lower rates than Tariff 15-C—ignores the public interest in maintaining minimum rate standards to avoid a race-to-the-bottom among carriers at the expense of consumer safety and protection.”<sup>33</sup>

50 On September 17, 2019, the Company sent a letter to Staff regarding Staff's September 9, 2019 and September 11, 2019 responses to the CC Exemption Petition and the Amended HHG Exemption Petition. In the letter, the Company admitted that it could not operate if it were required to only use helpers who possessed a valid common carrier or household goods permit from the Commission:

I am writing in response to Staff's letters filed in Docket TV-190594 on September 9 and September 11. The Company has concerns regarding the condition that it only use Helpers who hold a common carrier or household goods carrier permit. ***Requiring the Company to use only Helpers who already possess permits effectively puts the Company out of business in the state.***<sup>34</sup>

51 Based on the facts set forth above, Staff recommends that the Commission deny: (1) the Amended HHG Exemption Petition; (2) the HHG Application; (3) the CC Exemption Petition; and (4) the CC Application. Staff contends that the Company failed to meet its burden of providing sufficient facts and evidence to support a recommendation from Staff

<sup>33</sup> *Id.* at pp. 12-13 (citations omitted) (emphasis in original).

<sup>34</sup> Letter from A. Bryant to D. Teimouri (Sept. 17, 2019) (emphasis added).

that the Commission exempt the Company from the important consumer protection requirements of WAC 480-15-555, -620, -630, -710, -750, -490, and the requirement that the Company obtain a USDOT Number. Furthermore, Staff argues that granting the Amended HHG Exemption Petition would create a gap in the application and enforcement of the Commission's household goods carrier regulations, and encourage unlicensed and illegal household goods moves because the Company does not verify that its helpers have valid permits. Accordingly, and as outlined above and in Staff's detailed responses to the CC Exemption Petition (dated September 9, 2019) and the Amended HHG Exemption Petition (dated Sept. 11, 2019), Staff determined that the requested exemptions, which are necessary for the Company to operate legally, are not consistent with the public interest, the purposes underlying regulation, and applicable statutes.<sup>35</sup> Furthermore, Staff argues the Company fails to show regulatory fitness due to its admitted inability to comply with the public service laws and the statutory licensing requirement (*i.e.*, the requirement that all common carriers and household goods carriers possess valid operating authority from the Commission prior to engaging in jurisdictional operations). Staff reasons that the Company stated, clearly and on more than one occasion, that it does not know or verify whether its helpers possess valid operating authority.

### **DISCUSSION**

- 52 Based on the information Staff presented, the Commission agrees with Staff's recommendation and intends to deny: (1) the Amended HHG Exemption Petition; (2) the HHG Application; (3) the CC Exemption Petition; and (4) the CC Application. We agree with Staff's analysis, as provided above and in Staff's letters dated September 9, 2019, and September 11, 2019, that Dolly is unfit to operate as a common carrier and/or a household goods moving company.

### **ORDER OF CONSOLIDATION**

- 53 Pursuant to WAC 480-07-320, the Commission determines that the facts and principles of law are related, and consolidation would promote judicial economy and administrative efficiency. For example, the exemptions sought in the Amended HHG Exemption Petition (filed in Docket TV-190594) are directly related to the Company's HHG Application (filed in Docket TV-190593). Accordingly, Dockets TV-190593 and TV-190594 are consolidated for hearing and determination.

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<sup>35</sup> Staff advised that the Company's petitions for exemption from WAC 480-14-250(1)(e), WAC 480-15-530, and WAC 480-15-550 could potentially be in the public interest, depending on the Company's acceptance of certain conditions. The Company has effectively rejected and/or stated that it cannot comply with those conditions.



**NOTICE**

- 54 The Commission hereby provides notice of its intention to deny: (1) the Amended HHG Exemption Petition; (2) the HHG Application; (3) the CC Exemption Petition; and (4) the CC Permit Application for permanent authority for failure to meet the application requirements in RCW 81.80 and WAC 480-15.
- 55 **STATUTORY AUTHORITY.** The Commission has jurisdiction over the subject matter of this complaint under RCW 80.01.040, RCW 80.01.060, RCW 81.01.010, RCW 81.04.020, RCW 81.04.110, RCW 81.04.160, RCW 81.04.460, RCW 81.04.510, chapter 81.77 RCW, chapter 81.80 RCW, and chapter 34.05 RCW.
- 56 The Commission will hear this matter under the Administrative Procedure Act (APA), particularly Part IV of Chapter 34.05 RCW relating to adjudications. The provisions of the APA that relate to this proceeding include, but are not limited to RCW 34.05.413, RCW 34.05.422, RCW 34.05.431, RCW 34.05.440, RCW 34.05.449, and RCW 34.05.452. The Commission will also follow its procedural rules in WAC 480-07 in this proceeding.
- 57 **NOTICE OF PREHEARING CONFERENCE.** The Commission assumes that Dolly will request a hearing to contest the factual allegations set out in this notice. To avoid unnecessary delay, the Commission determines that it is appropriate to schedule a prehearing conference in this matter.
- 58 **THE COMMISSION GIVES NOTICE That it will hold a prehearing conference in this matter at 2 p.m. on November 12, 2019, in the Commission's Richard Hemstad Hearing Room, 621 Woodland Square Loop S.E., Lacey, Washington.**
- 59 The purpose of the prehearing conference is to consider requests for intervention, to resolve scheduling matters including establishing deadlines for distributing evidence, to identify issues in the proceeding, and to determine other matters to assist the Commission in resolving the matter, as listed in WAC 480-07-430. The Commission will set the time and place for the evidentiary hearings at the prehearing conference or by later written notice.
- 60 Parties seeking to intervene in this proceeding must file written petitions to intervene at least three business days before the date of the prehearing conference. *See* WAC 480-07-355(a).
- 61 Party representatives must file notices of appearance with the Commission, as required by WAC 480-07-345(2), no later than the day before the conference. If any party needs an interpreter or other assistance, they should fill out the form attached to this notice and return it to the Commission.
- 62 **THE COMMISSION GIVES NOTICE that any party who fails to attend or participate in the prehearing conference set by this Notice, or any other stage of this proceeding, may be held in default under RCW 34.05.440 and WAC 480-07-450.**

63 The names and mailing addresses of all known parties and their known representatives are as follows:

Applicant: Dolly, Inc.  
901 5<sup>th</sup> Ave.  
Suite 600  
Seattle, WA 98164

Representative: Armikka Bryant  
901 5<sup>th</sup> Ave.  
Suite 600  
Seattle, WA 98164  
(206) 413-5312  
[armikka@dolly.com](mailto:armikka@dolly.com)

Commission: Washington Utilities and  
Transportation Commission  
P.O. Box 47250  
Olympia, WA 98504-7250

Representative: Sally Brown  
Senior Assistant Attorney General  
Daniel Teimouri  
Assistant Attorney General  
Office of the Attorney General  
Utilities and Transportation Division  
P.O. Box 40128  
Olympia, WA 98504-0128  
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(360) 664-1189  
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[pccseaf@atg.wa.gov](mailto:pccseaf@atg.wa.gov)

64 Administrative Law Judge Gregory J. Kopta will preside with the Commissioners during this proceeding.<sup>36</sup>

65 The Commission will give parties notice of any other procedural phase of the proceeding in writing or on the record, as appropriate during this proceeding.

DATED at Lacey, Washington, and effective October 23, 2019.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON  
Executive Director and Secretary

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<sup>36</sup> Judge Kopta may be reached at (360)664-1355 or [gregory.kopta@utc.wa.gov](mailto:gregory.kopta@utc.wa.gov).

**NOTICE**

Hearing facilities are accessible to persons with disabilities. Smoking is prohibited. If limited English-speaking, hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

If you need an interpreter, or have other special needs, please fill out this form and return it to Washington State Utilities and Transportation Commission, Attention: Mark L. Johnson, 1300 S. Evergreen Park Drive SW, P. O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket: \_\_\_\_\_

Case Name: \_\_\_\_\_

Hearing Date: \_\_\_\_\_ Hearing Location: \_\_\_\_\_

Primary Language: \_\_\_\_\_

Hearing Impaired: (Yes) \_\_\_\_\_ (No) \_\_\_\_\_

Do you need a certified sign language interpreter:

Visual \_\_\_\_\_ Tactile \_\_\_\_\_

Other type of assistance needed: \_\_\_\_\_

English-speaking person who can be contacted if there are questions:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone No.: (\_\_\_\_) \_\_\_\_\_