

**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-180605

COMMISSION STAFF'S
MOTION FOR LEAVE TO FILE A
REPLY IN SUPPORT OF ITS
MOTION FOR SUMMARY
DETERMINATION

I. INTRODUCTION

1 Staff of the Washington Utilities and Transportation Commission (Staff) filed a motion for summary determination based on a declaration by its investigator, which Staff contends showed that no material issue of fact remains for resolution at hearing in this matter. Dolly, Inc. (Dolly) in response, (1) makes a number of arguments claiming a right to a hearing regardless of whether or not it could produce evidence to create material issues of fact in response to Staff's motion, and (2) accuses Staff of misrepresenting legal standards, facts, and issues. Staff seeks leave to reply to these arguments, none of which directly contest the arguments made by Staff in its motion.

II. APPLICABLE LAW

2 Parties may request that the Commission take action in the context of an adjudication.¹ The rules governing summary determination provide for a response, but not a reply, as a matter of right.² Nevertheless, the Commission has the discretion to grant the party moving for summary judgment a reply.³

¹ WAC 480-07-375(1).

² WAC 480-07-380(2).

³ *E.g.*, *Wash. State Att'y Gen.'s Office v. PacifiCorp*, Docket UE-110070, Order 01, at 10-11 ¶¶ 25-26 (April 27, 2011); *Air Liquide Am. Corp. v. Puget Sound Energy*, Docket UE-981140, Second Supplemental Order, at 1 ¶ 1 (Jan. 19, 1999); *cf.* WAC 480-07-110(1).

III. RELIEF REQUESTED

3 Staff requests that the Commission grant it leave to address the arguments raised by
Dolly in response to Staff's motion for summary determination.

IV. ARGUMENT

4 The Commission should grant Staff leave to reply to Dolly's arguments because
good cause exists to allow it to do so. It will allow Staff to brief the legal arguments raised
by Dolly and also answer the multiple claims of misconduct the company makes. Staff's
briefing will adversarially test Dolly's arguments, much in the way that Dolly's response
should have tested Staff's, assisting the Commission in resolving the issues presented by
Staff's motion.

5 With regard to Dolly's legal arguments, it contends that it has a right to a hearing
despite failing to create a specific material issue of fact in response to Staff's motion. Staff
seeks to show why that claim fails as a matter of black letter law. Dolly also claims that
Commission precedent grants it the right to a hearing. Staff seeks to brief why those cases
are distinguishable and why Dolly has no such right given its failure to create a material
issue of fact.

6 With regard to Dolly's claims of misconduct, Staff seeks to defend its integrity.
Dolly, for example, accuses Staff of misrepresenting the standard for summary
determination. Staff seeks to brief why it did not. Dolly also contends that Staff
misrepresented the company's history with regard to payment of the penalty imposed in
Docket TV-171212. Staff seeks to explain why it contends that Dolly did not comply with
the Commission's orders to pay that penalty. Finally, Dolly contends that Staff

misrepresented the issues that its application requires the Commission to decide at hearing. Staff seeks to explain why fitness is the central factual issue presented for hearing.

V. CONCLUSION

7 The Commission should grant Staff leave to reply to the arguments Dolly raises in response to Staff's motion for summary determination.

Dated this 6th day of November 2018.

Respectfully submitted,

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Attorney General

/s/ Jeff Roberson _____

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