

Docket No. TV-171212 - Vol. I

In the Matter of: Dolly, Inc.

March 13, 2018



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Determining the
Proper Carrier Classification)
of, and Complaint for Penalties) Docket No. TV-171212
Against:)

)
DOLLY, INC.)
)

BRIEF ADJUDICATIVE PROCEEDING, VOLUME I
Pages 1 - 100
ADMINISTRATIVE LAW JUDGE DENNIS MOSS

9:31 A.M.

March 13, 2018

Washington Utilities and Transportation Commission
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A P P E A R A N C E S

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BRIEF ADJUDICATIVE PROCEEDING
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(All proffered exhibits were stipulated into evidence.)

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1 OLYMPIA, WASHINGTON; MARCH 13, 2018

2 9:31 A.M.

3 P R O C E E D I N G S

4
5 JUDGE MOSS: Let's go on the record.

6 Good morning, everybody. My name is
7 Dennis Moss. I'm an administrative law judge with the
8 Washington Utilities and Transportation Commission.
9 We are convening this morning in the Matter of
10 Determining the Proper Carrier Classification of, and
11 Complaint for Penalties Against Dolly, Inc., Docket
12 No. TV-171212.

13 This matter comes forward on the basis of
14 an Order Instituting Special Proceeding and a
15 Complaint Seeking to Impose Penalties, dated
16 January 10, 2018. That order and complaint also
17 included a notice of this brief adjudicative
18 proceeding today.

19 I want to begin by defining the scope of
20 our proceeding, because it is a narrowly prescribed
21 proceeding defined largely by statute.

22 What we're asked to do here today is
23 answer five questions:

24 One, should Dolly be found to have
25 operated, by virtue of advertising or by other means,

5

1 as a household goods carrier, a common carrier and
2 motor carrier, or a hauler of solid waste, within the
3 meaning of these terms as defined in RCW Chapter
4 81.80?

5 The answer to this question turns on
6 whether the preponderance of the substantial competent
7 evidence adduced in this proceeding shows that Dolly,
8 during relevant time periods and within the state of
9 Washington, one, advertised, solicited, offered or
10 entered into an agreement to transport household goods
11 for compensation; two, advertised for the
12 transportation of property for compensation; or,
13 three, advertised, solicited, offered or entered into
14 an agreement to haul solid waste; or four, provided
15 any such services.

16 Number two, should Dolly be penalized
17 under RCW 81.80.075 for engaging in business as a
18 household goods carrier without first obtaining a
19 household goods carrier permit from the Commission?
20 Engaging in business includes advertising, soliciting,
21 offering, or entering into an agreement to transport
22 household goods.

23 The answer to this question turns on
24 whether there is substantial competent evidence
25 showing that Dolly violated RCW 81.80.075 a total of

6

1 11 times, as Staff alleges, by engaging in business as
2 a household goods carrier without first having
3 obtained a permit from the Commission. Specifically,
4 Staff alleges, Dolly engaged in business as a
5 household goods carrier 11 times by advertising to do
6 so on its company website, billboards, Facebook,
7 Instagram, Twitter, LinkedIn, iTunes, Craigslist,
8 YouTube, Pinterest, Yelp and newspaper articles.

9 Three, should Dolly be penalized under RCW
10 81.80.355 for advertising as a common carrier and
11 motor carrier for the transportation of property for
12 compensation in Washington without having first
13 obtained from the Commission a permit for such
14 operation?

15 The answer turns on whether there is
16 substantial competent evidence showing that Dolly
17 violated RCW 81.80.355 a total of 11 times, as Staff
18 alleges, by advertising for the transportation of
19 property within this state without first having
20 obtained from the Commission a common carrier permit.
21 Specifically, Dolly advertised for the transportation
22 of property for compensation on its company website,
23 billboards, Facebook, Instagram, Twitter, LinkedIn,
24 iTunes, Craigslist, YouTube, Pinterest, Yelp and
25 newspaper articles.

7

1 Fourth question. Operating for the
2 hauling of solid waste for compensation under RCW
3 81.77.040 includes advertising, soliciting, offering,
4 or entering into an agreement to provide such
5 services. Should Dolly be penalized under RCW
6 81.77.040 for hauling solid waste without first having
7 obtained from the Commission a certificate of public
8 convenience and necessity? Specifically, did Dolly
9 operate for the hauling of solid waste a total of
10 three times by advertising to do so on its website,
11 YouTube and Yelp?

12 Again, the answer turns on whether there
13 is substantial competent evidence that Dolly violated
14 RCW 81.77.040 a total of three times, as Staff
15 alleges, by advertising on its website, YouTube and
16 Yelp.

17 Fifth, to the extent Dolly is found to
18 have operated, by virtue of advertising or by other
19 means, as a household goods carrier, a common carrier
20 and motor carrier, or a hauler of solid waste, should
21 the Commission enter an order requiring Dolly to cease
22 and desist from any and all such activities unless,
23 and until, Dolly obtains permits or certificates
24 necessary to authorize such activity or activities?

25 Here the answer simply is yes, as required

1 by RCW 81.04.510, which says, in relevant part, that
2 in any special proceeding to determine whether a
3 person is engaging in business or operating without
4 approval or authority, quote, "In the event the
5 operations or acts are found to be subject to the
6 provisions of this title, the Commission is authorized
7 and directed to issue cease and desist orders to all
8 parties involved in the operation or acts." In other
9 words, we have no discretion there.

10 So that outlines the scope of the
11 proceeding, and I hope that it will help us to keep
12 things on course today. I believe that the way we are
13 accustomed to proceeding in these cases -- I haven't
14 done one in a while -- is that we try to first
15 stipulate in the exhibits that have been pre-submitted
16 by both sides.

17 Have you all discussed this and are there
18 any objections to any of the exhibits that have been
19 submitted in advance?

20 Mr. Roberson?

21 MR. ROBERSON: Staff is willing to
22 stipulate with the possible qualification that three
23 of the exhibits are permit applications, and I'm not
24 sure that they're relevant.

25 JUDGE MOSS: Okay. All right.

1 Well, we can take up the question of their
2 relevance at the time that they are referred to, if
3 they are referred to.

4 And Mr. Bryant?

5 MR. BRYANT: Yes, Dolly will stipulate to
6 the exhibits.

7 JUDGE MOSS: All right. Fine.

8 And which of the three -- why don't you
9 identify the three for me, Mr. Roberson, so I can just
10 put a checkmark.

11 MR. ROBERSON: I believe they are
12 cross-exhibits. It is --

13 JUDGE MOSS: 5X, 6X and 7X?

14 MR. ROBERSON: Absolutely.

15 JUDGE MOSS: Okay. Great. Thank you.
16 They are adequately described, so I can -- I can see
17 them right away. Thank you. All right.

18 Now, I also believe that the customary
19 approach in these cases is to have the Staff, as more
20 or less the prosecutor here, proceed and prove its
21 case if it can.

22 All right. Why don't you proceed,
23 Mr. Roberson.

24 MR. ROBERSON: Staff calls Susie Paul.

25 JUDGE MOSS: All right. Ms. Paul, let me

Direct Examination by Mr. Roberson / Paul 10

1 ask this, would it be more convenient for you to have
2 her remain over there where you can see her face? I
3 think that's not something we often do or can do, but
4 with a small gathering such as this, I think it helps
5 to be able to see her face.

6 So are you comfortable with that setup,
7 Mr. Roberson?

8 MR. ROBERSON: Absolutely, your Honor.

9 JUDGE MOSS: All right. Go ahead, then,
10 begin your -- I need to swear the witness.

11
12 SUSIE PAUL, witness herein, having been
13 first duly sworn on oath,
14 was examined and testified
15 as follows:

16
17 JUDGE MOSS: I often say, "please say I
18 do," but it sounds a little bit too much like a
19 wedding.

20 All right. Go ahead, Mr. Roberson.

21
22 DIRECT EXAMINATION

23 BY MR. ROBERSON:

24 Q. Good morning.

25 Could you please state your name and spell it

Direct Examination by Mr. Roberson / Paul 11

1 for the record, your last name -- spell your last name
2 for the record?

3 **A. Yes. My name is Susie Paul. My last name is**
4 **spelled P-A-U-L.**

5 Q. And what is your occupation?

6 **A. I'm a compliance investigator with the**
7 **Washington Utilities and Transportation Commission in**
8 **the Consumer Protection section.**

9 Q. And how long have you been a Commission
10 compliance investigator?

11 **A. I've been a compliance investigator at the**
12 **Commission for just short of five years. I started in**
13 **April of 2013.**

14 Q. And did you have any experience as a
15 compliance investigator before coming to the
16 Commission?

17 **A. Yes. I have approximately 14 years'**
18 **experience as an investigator. I've worked in the**
19 **regulatory industry for many, many years.**

20 Q. Would you describe your duties as a
21 compliance investigator?

22 **A. As an investigator, I investigate the business**
23 **practices of Commission-regulated utility and**
24 **transportation companies, and I also investigate**
25 **companies, including household goods carriers, who may**

Direct Examination by Mr. Roberson / Paul 12

1 be operating without the Commission-issued permit.

2 Q. Would you please describe any training that
3 you've had to enable you to carry out your duties as a
4 compliance investigator?

5 **A. I received my bachelor's degree in criminal**
6 **justice. I have been an investigator for many years.**
7 **I am a certified investigator with the state of**
8 **Washington. And I also attend or am a member of the**
9 **Pacific Northwest License, Tax and Fraud Association,**
10 **which provides continuing education for Washington**
11 **state investigators.**

12 Q. Are you generally familiar with the statutes
13 and Commission rules governing consumer protection for
14 household goods carriers, common carriers and solid
15 waste collection companies?

16 **A. Yes.**

17 Q. Are you familiar with a company called Dolly?

18 **A. Yes, I am.**

19 Q. And when did Staff learn of Dolly's
20 operations?

21 **A. Staff first learned of Dolly in March 2015, I**
22 **believe.**

23 Q. And how did Staff learn of Dolly's
24 operations?

25 **A. Staff started receiving complaints from**

Direct Examination by Mr. Roberson / Paul 13

1 companies in the industry about this company that may
2 be operating without the permit.

3 Q. Did Staff open an investigation into Dolly
4 after receiving those tips?

5 **A. Yes.**

6 Q. Did Staff contact Dolly in the course of that
7 investigation?

8 **A. Yes.**

9 Q. And how did Staff do that?

10 **A. Staff sent a letter to the company.**

11 Q. Would you please turn to the exhibit marked
12 SP-1?

13 **A. I'm there.**

14 Q. Would you please identify that exhibit?

15 **A. Yes. This is the letter that was sent to
16 Dolly on March 20, 2015.**

17 Q. Is that a true and accurate copy of the
18 letter that Staff sent to Dolly?

19 **A. Yes.**

20 Q. And Staff sends letters like this to the
21 companies in the ordinary course of its
22 investigations?

23 **A. Yes.**

24 Q. What did the letter to Dolly say?

25 **A. This was a letter to inform the company that**

Direct Examination by Mr. Roberson / Paul 14

1 they -- that the Commission regulates the moving of
2 household goods items for compensation, and that they
3 should either get a permit or cease and desist
4 operations.

5 Q. Did Staff initiate further contact with Dolly
6 in 2015?

7 **A. Yes.**

8 Q. And how did it do that?

9 **A. Staff sent another letter.**

10 Q. Would you please turn to the exhibit marked
11 SP-2?

12 **A. Yes, I'm there.**

13 Q. Can you please identify that document?

14 **A. This is a letter to Dolly that was sent on**
15 **October 9th, 2015, reminding them that the moving of**
16 **household goods items was regulated by the Commission**
17 **and that it required a permit to transport household**
18 **goods items for compensation.**

19 Q. And is that a true and accurate copy of that
20 second letter to Dolly?

21 **A. Yes, it is.**

22 **JUDGE MOSS: Ms. Paul, let me interrupt.**
23 **That's about a six-month span between those two**
24 **letters. I'm wondering, is that sort of a standard**
25 **waiting period that Staff follows in these cases, or**

Direct Examination by Mr. Roberson / Paul 15

1 is it just this case that happens to be that way?

2 THE WITNESS: I'm really not sure. At the
3 time there was a different investigator on this. I
4 don't know what the time frame was on that.

5 JUDGE MOSS: All right. All right. I was
6 just curious about the lapse in time.

7 BY MR. ROBERSON:

8 Q. And -- I'm sorry.

9 Did you -- you just described what was in the
10 letter.

11 **A. Yes.**

12 Q. So did Dolly request a meeting with Staff
13 after receiving that second letter?

14 **A. Yes, they did.**

15 Q. And was there a meeting?

16 **A. Yes.**

17 Q. Did you attend that meeting?

18 **A. Yes, I was there.**

19 Q. And what did Dolly tell Staff about its
20 operations at that time?

21 **A. Dolly told Staff that they were contracting
22 drivers and carriers.**

23 Q. And so what was the nature of the
24 relationship between the consumer and the carrier
25 according to Dolly?

Direct Examination by Mr. Roberson / Paul 16

1 **A. I'm sorry. Can you repeat that again?**

2 Q. According to Dolly's description of its
3 business model at that meeting, what was the
4 relationship between the consumer and the entity
5 performing the move?

6 **A. Well, the contract was actually between the**
7 **drivers and the -- and the customers.**

8 Q. Would you please turn to the exhibit marked
9 SP-3?

10 **A. Yes.**

11 Q. Can you identify that document?

12 **A. Yes. This is my personal notes from the**
13 **meeting with Dolly on November 4th, 2015.**

14 Q. Is that a true and accurate copy of your
15 notes from that meeting?

16 **A. Yes.**

17 Q. And you made those notes -- did you make
18 those notes contemporaneously with the meeting?

19 **A. Yes, I did.**

20 Q. And do you make notes like this in the
21 ordinary course of business when you meet with
22 companies?

23 **A. Yes.**

24 Q. And is it important that those notes be
25 accurate?

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1 **A. Yes.**

2 Q. Fair enough.

3 And did the Commission around this time say
4 anything?

5 MR. BRYANT: Objection, your Honor.
6 Counsel is leading the witness.

7 JUDGE MOSS: Mr. Bryant, if you're
8 familiar with Commission proceedings, we allow counsel
9 to lead the witness in these types of proceedings. We
10 often do that. We always do that. We also allow
11 hearsay evidence. We don't follow strictly the rules
12 of evidence in these proceedings.

13 Please proceed.

14 BY MR. ROBERSON:

15 Q. Has the Commission said anything about its
16 jurisdiction over companies that simply connect
17 consumers with household goods carriers?

18 **A. Yes.**

19 Q. And do you know what docket it made that
20 statement in?

21 **A. Yes, I believe it is TV-150185.**

22 MR. ROBERSON: I'm not sure how you want
23 to handle this in the record given that the exhibits
24 were stipulated in, but I don't think this needs to be
25 an exhibit. I think you can just take judicial notice

Direct Examination by Mr. Roberson / Paul 18

1 of that docket.

2 JUDGE MOSS: What's the caption?

3 MR. ROBERSON: I do not have it written
4 down. I just have the docket number.

5 JUDGE MOSS: All right.

6 MR. ROBERSON: My apologies.

7 JUDGE MOSS: Let me clarify something
8 while we're paused here and I've interrupted your
9 questioning.

10 Ms. Paul, I understood you to say, and I'm
11 reading your notes here that say that the business
12 model that Dolly followed as of November 4, 2015,
13 apparently was that there was a contract between
14 customers and drivers.

15 THE WITNESS: Yes. They said that they
16 simply were connecting the drivers and the customers.

17 JUDGE MOSS: Okay.

18 And so the customers were entering into a
19 traditional contract for the household goods movement
20 with the -- whoever was actually conducting that move?

21 THE WITNESS: That was our understanding.

22 JUDGE MOSS: That's what they said?

23 THE WITNESS: Um-hmm, right.

24 JUDGE MOSS: That's what I'm trying to
25 understand here. Okay. All right. All right. Thank

Direct Examination by Mr. Roberson / Paul 19

1 you. I think I understand it now.

2 Go ahead, Mr. Roberson.

3 MR. ROBERSON: Thank you.

4 BY MR. ROBERSON:

5 Q. Did Staff meet with Dolly again in early
6 2016?

7 **A. Yes.**

8 Q. And could you turn to the exhibit marked
9 SP-4?

10 **A. Okay, I'm there.**

11 Q. Would you please identify that document?

12 **A. This is the agenda and, again, my personal
13 notes from that meeting on January 13th, 2016.**

14 Q. And are these true and accurate copies of the
15 agenda and your personal notes from that meeting?

16 **A. Yes.**

17 Q. And did you make those notes
18 contemporaneously with the meeting?

19 **A. Yes.**

20 Q. What was the purpose of the meeting?

21 **A. The purpose of the meeting was to discuss
22 issues related to the operation and regulation of
23 household goods moving companies and to explain UTC
24 requirements.**

25 Q. What did you learn about Dolly's business

Direct Examination by Mr. Roberson / Paul 20

1 model at that hearing?

2 **A. At that meeting, Dolly said that they used**
3 **1099 contractors from L&I, or that are licensed**
4 **through L&I. I'm not sure how that works. And the**
5 **contractors carry their own insurance, and Dolly said**
6 **that they would fill in any gaps, if needed, if there**
7 **were any problems with a move.**

8 Q. Did --

9 JUDGE MOSS: Maybe it's a question better
10 for the Dolly witness, I'm not sure, but when I hear
11 the word 1099, it brings to mind the IRS. Does it
12 have anything to do with the IRS Form 1099?

13 THE WITNESS: I don't know. I was unclear
14 at the time of the meeting what a 1099 contractor was,
15 and so I did a little bit of research later and just
16 found out that it was something that L&I permits
17 people to do.

18 JUDGE MOSS: Okay. And it may be
19 completely unrelated. I just -- the number was
20 familiar to me and I was curious if there was a
21 relationship.

22 And also while I've interrupted your -- I
23 neglected to jot down that docket number a minute ago.
24 Would you mind repeating it for me?

25 MR. ROBERSON: Docket TV-150185.

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1 JUDGE MOSS: It's somehow familiar. All
2 right.

3 Go ahead, please. I'm sorry for the
4 interruption.

5 MR. ROBERSON: Thank you, your Honor.

6 BY MR. ROBERSON:

7 Q. Did Staff follow up with Dolly after
8 receiving information about its operations at that
9 meeting?

10 **A. Yes.**

11 Q. And how did Staff contact Dolly?

12 **A. I contacted Dolly by telephone.**

13 Q. And who did you speak with at Dolly?

14 **A. I spoke with Mike Howell.**

15 Q. And when did you speak with Mr. Howell?

16 **A. I believe that was in September 2017.**

17 Q. And so, again, there was a bit of a time
18 lapse between the meeting and when you spoke with
19 Mr. Howell.

20 Do you know why that was?

21 **A. There was a gap -- we had a complete turnover**
22 **in the investigations unit and it was simply a**
23 **resource issue.**

24 Q. When you spoke with Mr. Howell, what did you
25 talk about with him?

Direct Examination by Mr. Roberson / Paul 22

1 **A. We talked about his business model, and as he**
2 **explained it, I told him that I thought that he should**
3 **probably be classified as a household goods carrier,**
4 **and I asked him if he had followed the Ghostruck**
5 **classification, and that the Commission had already**
6 **issued an opinion on that business model.**

7 Q. And did Dolly meet with Staff again after
8 that phone call?

9 **A. Yes.**

10 Q. And were you at that meeting?

11 **A. Yes.**

12 Q. And did Staff tell Dolly anything at the
13 conclusion of that meeting?

14 **A. Yes. Again, Dolly explained their business**
15 **model, and at the end, I notified them that I would**
16 **recommend that a classification hearing be held to**
17 **classify them as a household goods mover.**

18 Q. Did you hand Mr. Howell anything at the
19 conclusion of that meeting?

20 **A. Yes, I gave them Orders 04 and 05 from the**
21 **Ghostruck docket.**

22 **JUDGE MOSS: Let me interrupt again and**
23 **ask, Ms. Paul, do you recall the date of the meeting**
24 **you're discussing now?**

25 THE WITNESS: Yes. I believe it was in

Direct Examination by Mr. Roberson / Paul 23

1 September 2017, but I would have to look up my notes.

2 JUDGE MOSS: Okay. On or about?

3 THE WITNESS: Yes.

4 JUDGE MOSS: That's close enough.

5 THE WITNESS: Well, can I finish that? So
6 the phone call was actually September of 2017. The
7 meeting was later.

8 JUDGE MOSS: Right.

9 BY MR. ROBERSON:

10 Q. After Staff informed Dolly that it intended
11 to bring a classification complaint, what did Dolly
12 do?

13 **A. The very next day they filed a petition for a**
14 **rulemaking.**

15 Q. Do you know what docket the Commission
16 assigned to Dolly's rulemaking petition?

17 **A. I believe it's TV-170999.**

18 Q. And did the Commission grant Dolly's
19 rulemaking petition?

20 **A. No.**

21 Q. Did Dolly appeal that denial?

22 **A. Yes, they did.**

23 Q. And who did Dolly appeal that denial to?

24 **A. They appealed that denial to Governor Inslee.**

25 Q. And do you know what the governor did with

Direct Examination by Mr. Roberson / Paul 24

1 the appeal?

2 **A. The governor denied the appeal.**

3 Q. Would you please turn to the exhibit marked
4 SP-5?

5 **A. Okay. I'm there.**

6 Q. Would you identify that document?

7 **A. Yes, this is the denial letter from Governor
8 Inslee.**

9 Q. And was that a true and accurate copy of the
10 governor's letter?

11 **A. Yes.**

12 Q. Did Staff file its classification complaint
13 after Dolly filed its petition for rulemaking?

14 **A. Yes, but not immediately.**

15 Q. And could you explain that?

16 **A. Well, Staff thought it would be inappropriate
17 to continue on with the investigation until the appeal
18 process had run its course.**

19 Q. And why did Staff feel that that would be
20 appropriate?

21 **A. There had [sic] decisions to be made, and we
22 just put the investigation on hold until we knew the
23 outcome.**

24 Q. Okay.

25 When the Commission denied the rulemaking,

Direct Examination by Mr. Roberson / Paul 25

1 did Staff resume its investigation?

2 **A. Yes.**

3 Q. And did Staff meet with Dolly again after the
4 denial of the rulemaking petition?

5 **A. Yes.**

6 Q. When was that?

7 **A. I believe that was in January 2018.**

8 Q. And were you at that meeting?

9 **A. Yes.**

10 Q. And what was the purpose of that meeting?

11 **A. The purpose of that meeting was to provide**
12 **Dolly with technical assistance on writing legislation**
13 **for changes in the household goods rules.**

14 Q. Did Staff inform Dolly at that meeting that
15 it believed that Dolly was currently complying with
16 the public service laws and Commission rules?

17 **A. No.**

18 Q. Did Staff inform Dolly at that meeting that
19 the statutes and regulations in place do not apply to
20 it?

21 **A. No.**

22 Q. Did Dolly ever seek a declaratory order from
23 the Commission as to the Commission's jurisdiction or
24 lack thereof over the company?

25 **A. No.**

Direct Examination by Mr. Roberson / Paul 26

1 Q. And did Staff ever tell Dolly that it would
2 deny any household goods permit application filed by
3 the company?

4 **A. No, it didn't tell Dolly that we would deny**
5 **their application. But in the meeting with Dolly, we**
6 **provided technical assistance and gave them guidance**
7 **on what would be changes in their business model that**
8 **would help them get an application for household goods**
9 **permit.**

10 Q. Changing gears a little bit, I'd like to talk
11 about Dolly's operating authority.

12 Does Dolly have a household goods carrier
13 permit from the Commission?

14 **A. No.**

15 Q. Has Dolly ever held a household goods carrier
16 permit from the Commission?

17 **A. No.**

18 Q. Does Dolly have a common carrier permit from
19 the Commission?

20 **A. No.**

21 Q. Has Dolly ever held a common carrier permit
22 from the Commission?

23 **A. No.**

24 Q. Does Dolly have a certificate of convenience
25 and public necessity authorizing it to operate for the

Direct Examination by Mr. Roberson / Paul 27

1 hauling of solid waste?

2 **A. No.**

3 Q. Has Dolly ever had such a certificate?

4 **A. No.**

5 Q. Changing gears again, let's talk about how

6 Dolly works.

7 How does a consumer use Dolly's services?

8 **A. Well, a consumer downloads the Dolly app and**
9 **they enter information such as the origin of the move**
10 **to the destination. They put in how many items they**
11 **want moved, and then they get a quote on what the move**
12 **will cost.**

13 Q. Do they describe the items or provide any
14 other information, the consumers?

15 **A. I'm sorry?**

16 Q. When the consumers provide Dolly with
17 information, do they describe the type of goods that
18 they want moved?

19 **A. Yes. You mean -- such as a couch or table,**
20 **dressers, they name the items.**

21 Q. And who provides the price quote to the
22 consumer?

23 **A. Dolly.**

24 Q. And who does the consumer pay?

25 **A. The consumer pays Dolly.**

Direct Examination by Mr. Roberson / Paul 28

1 Q. Would you please turn to the exhibit marked
2 SP-6?

3 **A. Okay. I'm there.**

4 Q. Would you please identify that document?

5 **A. This is Dolly's Terms of Service.**

6 Q. And is that a true and accurate copy of
7 Dolly's Terms of Service?

8 **A. Yes.**

9 Q. And do those terms of service have any
10 provisions for how the consumer pays?

11 **A. It says -- I'm trying to find the place
12 exactly, but it does say that the consumer has to pay
13 Dolly for the services, that they cannot pay the
14 helper directly, and the helper is what they call
15 movers.**

16 Q. And turning briefly back to the rulemaking
17 docket, did Dolly describe its business practices in
18 its petition to the Commission?

19 **A. Yes.**

20 MR. ROBERSON: Your Honor, at this point,
21 this is another place where I'd like you to take
22 judicial notice, and it's paragraph 8 of Order 01 in
23 Docket TV-1 -- or TV-171212. And if you'd like a copy
24 of the order, it's the very last exhibit in Staff's
25 exhibits.

Direct Examination by Mr. Roberson / Paul 29

1 JUDGE MOSS: All right.

2 MR. ROBERSON: And I'm specifically asking
3 you to take judicial notice of the Commission's
4 statement that, given Dolly's description of its
5 business model, it is a household goods carrier.

6 JUDGE MOSS: Okay. And let's go back for
7 a moment. This is the source of my earlier confusion.

8 Based on what you testified, Ms. Paul,
9 apparently when you first were in communication with
10 Dolly, they were representing to you that the company
11 did not enter into the contract or relationship with
12 the consumer, but rather the consumer entered a
13 contractual relationship with the driver or person who
14 was actually conducting a move.

15 THE WITNESS: Yes. Well, they didn't say
16 exactly that they didn't enter into a contract, but
17 they said the contract was between the consumer and
18 the driver, which led us to believe that they did not
19 have a contract.

20 JUDGE MOSS: Okay.

21 And now this business model that we're
22 just talking about here is one in which Dolly is
23 entering into a contractual relationship with the
24 consumer?

25 THE WITNESS: That's right.

Direct Examination by Mr. Roberson / Paul 30

1 JUDGE MOSS: Okay. All right. Just to be
2 clear. Thank you very much.

3 Go ahead, Mr. Roberson.

4 BY MR. ROBERSON:

5 Q. Changing gears again, I'd like to talk about
6 Dolly's website.

7 Have you visited Dolly's website?

8 **A. Yes.**

9 Q. Did you take a screen capture of that website
10 when you visited it?

11 **A. Yes, I did.**

12 Q. Would you please turn to the exhibit marked
13 SP-7?

14 **A. Okay. I'm there.**

15 Q. Would you please identify that document?

16 **A. Yes, this is the screen capture I took of
17 Dolly's website.**

18 Q. And is that a true and accurate copy of the
19 screen capture you took of the website?

20 **A. Yes.**

21 Q. Does Dolly's website identify where it
22 operates?

23 **A. Yes, it does.**

24 Q. And when you took that screen capture, where
25 did it operate?

Direct Examination by Mr. Roberson / Paul 31

1 **A. It was operating in Seattle, Chicago, Denver**
2 **and San Diego, I believe.**

3 Q. And for the record, what state is the city of
4 Seattle in?

5 **A. That's in Washington state.**

6 Q. Thank you.

7 Does Dolly's website mention that it insures
8 movers arranged through the website?

9 **A. Yes.**

10 Q. And does the website contain any statements
11 about the transportation of household goods?

12 **A. Yes. On, actually, the first page of Dolly's**
13 **website, they advertise apartment moves, and for**
14 **do-it-yourself moves that need -- moving large items**
15 **like beds, dressers, tables and more, couches and**
16 **more.**

17 Q. Are there other such statements on the
18 website?

19 **A. Yes. They also talk about storage moves, and**
20 **where they offer to load and unload a storage unit in**
21 **one -- in just one trip.**

22 Q. Okay.

23 And does the website contain any statements
24 about the transportation of property other than
25 household goods?

Direct Examination by Mr. Roberson / Paul 32

1 **A. It does. It advertises Craigslist [sic] and**
2 **OfferUp pickup and delivery, and says [as read],**
3 **"Don't let the public transit or a small car keep you**
4 **from sweet Craigslist [sic] deals."**

5 Q. And does the website contain any statements
6 about garbage or refuse collection?

7 **A. It does. It talks about junk removal and it**
8 **says that "Dolly helpers will remove and haul away**
9 **your junk. Includes trash removal and responsible**
10 **disposal."**

11 Q. Thank you.

12 When you visited the website, did you see any
13 pictures displayed?

14 **A. I did.**

15 Q. And could you describe those?

16 **A. The pictures normally had at least two men in**
17 **T-shirts that have the Dolly logo on it, identifying**
18 **them as Dolly, either putting things in a pickup or**
19 **standing near a pickup with household goods items in**
20 **the pickup. These pictures are a little dark, a**
21 **little bit difficult to see, but --**

22 Q. Okay.

23 Changing gears again, did Staff ever discover
24 evidence that Dolly had placed a physical
25 advertisement for its services in the state of

Direct Examination by Mr. Roberson / Paul 33

1 Washington?

2 **A. Yes.**

3 Q. And what did Staff find?

4 **A. Staff found a news article that explained a**
5 **billboard that was placed in King County.**

6 Q. And would you please turn to the exhibit
7 marked SP-8?

8 **A. Okay.**

9 Q. Would you please identify that document?

10 **A. This is the news article that tells what the**
11 **meaning of the billboard in Seattle is, where the**
12 **billboard is located and what it means.**

13 Q. And is that a true and accurate copy of the
14 article?

15 **A. Yes.**

16 Q. And where was the billboard located?

17 **A. The billboard was located in Seattle, in King**
18 **County.**

19 Q. And what did the billboard say?

20 **A. The billboard says, "MuckFoving.com."**

21 Q. And did you go to the website listed on the
22 billboard?

23 **A. Yes, I did.**

24 Q. And what did you see on that website?

25 **A. There was a link to a video on that website,**

Direct Examination by Mr. Roberson / Paul 34

1 and there was also running -- I'm not sure what you
2 call it, but a running screen, running captions on
3 that.

4 Q. Okay.

5 Let's talk about the video. What did the
6 video show?

7 **A. The video talked about Dolly and how to use**
8 **its service.**

9 Q. And what did the scrolling line of text show?

10 **A. Well, I have that in my investigation report,**
11 **but I believe that it says, "Muck renting a truck,**
12 **Muck borrowing a friend." And then it has the Dolly**
13 **logo and it says, "Dolly, your move anything app."**

14 Q. Let's talk about other advertisements and
15 electronic media.

16 Have you ever visited Dolly's Facebook page?

17 **A. Yes.**

18 Q. Did you make a screen capture of that page
19 when you visited it?

20 **A. Yes, I did.**

21 Q. Would you please turn to the exhibit marked
22 SP-9?

23 **A. Okay.**

24 Q. Would you please identify that exhibit?

25 **A. Yes, this is the screen capture I took of**

Direct Examination by Mr. Roberson / Paul 35

1 Dolly's Facebook page.

2 Q. Is that a true and accurate copy of the
3 Facebook page?

4 **A. Yes.**

5 Q. And what did you see when you went to the
6 Facebook page?

7 **A. I saw advertisements for Dolly and, again, the**
8 **two men with the Dolly T-shirts, the truck loaded with**
9 **what appears to be household goods items, and text**
10 **about different ways to use Dolly, and also that**
11 **they -- Dolly claims that they are backed by a**
12 **multimillion dollar insurance policy to make sure that**
13 **you're in good hands.**

14 Q. Did you ever visit Dolly's Twitter page?

15 **A. Yes, I did.**

16 Q. And did you make a screen capture of that
17 page?

18 **A. Yes.**

19 Q. Would you please turn to the exhibit marked
20 SP-10?

21 **A. Okay.**

22 Q. Could you please identify that exhibit?

23 **A. Yes, this is the screen capture I took of**
24 **Dolly's Twitter page.**

25 Q. And what did you see when you went to that

Direct Examination by Mr. Roberson / Paul 36

1 Twitter page?

2 **A. I saw basically the same advertisement, men in**
3 **Dolly T-shirts, a truck, household goods items, and**
4 **then Dolly logo and "Dolly truck or muscle, any time**
5 **you need it."**

6 Q. Now, have you ever visited Dolly's LinkedIn
7 page?

8 **A. Yes.**

9 Q. Could you please turn to the exhibit marked
10 SP-11?

11 **A. Okay. There.**

12 Q. Would you please identify that exhibit?

13 **A. Yes. This is the screen capture I took of**
14 **Dolly's LinkedIn page.**

15 Q. And is that a true and accurate copy of the
16 LinkedIn page?

17 **A. Yes.**

18 Q. And what did you see when you went to that
19 page?

20 **A. Well, I saw another advertisement with Dolly**
21 **movers. They're actually loading looks like a large**
22 **chair into the back of a pickup truck, and then again**
23 **the ways to use Dolly, text advertising.**

24 Q. Did you ever visit the page for Dolly's app
25 at the iTunes Store?

Direct Examination by Mr. Roberson / Paul 37

1 **A. Yes.**

2 Q. Did you make a screen capture of that page
3 when you visited it?

4 **A. Yes, I did.**

5 Q. And could you please turn to the exhibit
6 marked SP-12?

7 **A. Okay. I'm there.**

8 Q. Would you please identify that exhibit?

9 **A. Yes. This is the screen capture I took of**
10 **Dolly's iTunes page.**

11 Q. And is that a true and accurate copy of the
12 page?

13 **A. Yes.**

14 Q. Now, when you went to the iTunes page for
15 their app, what did you see?

16 **A. I saw Dolly's logo and then they had**
17 **screenshots on that page that talk about how to use**
18 **Dolly. And it says, Dolly's -- "Dolly makes moving**
19 **stuff fast, easy and affordable."**

20 Q. Did you ever go to the website Craigslist in
21 the course of your investigation?

22 **A. Yes, I did.**

23 Q. And did you search for Dolly on that page?

24 **A. Yes, I searched for Dolly Movers, I believe,**
25 **or Moving.**

Direct Examination by Mr. Roberson / Paul 38

1 Q. And did that search turn up any hits?

2 **A. Yes.**

3 Q. Would you please turn to the exhibit marked
4 SP-13?

5 **A. Okay.**

6 Q. As an introductory question, did you make a
7 screen capture of the results of your Craigslist
8 search?

9 **A. Yes, I did.**

10 Q. And would you please identify the exhibit
11 marked SP-13?

12 **A. This is the screen capture I took of my search
13 for Dolly on Craigslist.**

14 Q. Is that a true and accurate copy of the page
15 created by your Craigslist search?

16 **A. Yes.**

17 Q. And what did your search turn up? What did
18 it disclose?

19 **A. Well, there were probably six -- I think the
20 first six postings on this page are advertisements
21 offering moves by Dolly, and then they actually have a
22 visual picture with their app and with the text that
23 says, "Dolly provides the truck and, in fact, the
24 labor to promptly and efficiently move your stuff when
25 you need it."**

Direct Examination by Mr. Roberson / Paul 39

1 Q. Did you visit the website YouTube in the
2 course of your investigation?

3 **A. Yes, I did.**

4 Q. And what did you find there?

5 **A. I found videos made by Dolly on YouTube.**

6 Q. Did you take screen captures of some of the
7 videos that you saw --

8 **A. Yes.**

9 Q. -- some frames from some of those videos?

10 **A. Yes, I did.**

11 Q. Would you please turn to the exhibit marked
12 SP-14?

13 **A. Okay.**

14 Q. Could you identify that exhibit?

15 **A. Yes. This is the screen capture I took of
16 Dolly's YouTube videos.**

17 Q. And is that a true and accurate copy of the
18 screen captures that you took of those videos?

19 **A. Yes.**

20 Q. And so what did you see when you went to
21 YouTube?

22 **A. I saw videos made by Dolly, and the screen
23 capture is the video that just explains how Dolly is
24 used, what is Dolly and how to use it.**

25 **I also took a screen capture of a short video**

Direct Examination by Mr. Roberson / Paul 40

1 with a woman going through the app and showing how
2 easy it is to use their service.

3 Q. And how many videos did you see made by Dolly
4 on YouTube?

5 **A. I don't know how many videos, but there were**
6 **numerous videos.**

7 Q. Did you ever visit Dolly's Pinterest page?

8 **A. Yes.**

9 Q. And did you make a screen capture when you
10 visited that page?

11 **A. Yes.**

12 Q. Would you please turn to the exhibit marked
13 SP-15?

14 **A. Yes, I'm there.**

15 Q. Could you please identify that video or that
16 picture, that exhibit?

17 **A. Yes, that is the screen capture I took of**
18 **Dolly's Pinterest page.**

19 Q. And is that a true and accurate copy of the
20 page as you saw it?

21 **A. Yes.**

22 Q. And what did you see on Dolly's Pinterest
23 page?

24 **A. This had a lot of Dolly logos and captures of**
25 **their app. It also had, like, Dolly office parties.**

Direct Examination by Mr. Roberson / Paul 41

1 And in particular, it had, "The Moves we Made, Dolly's
2 2017 Year in Review."

3 Q. Did you ever visit Dolly Instagram page?

4 **A. Yes, I did.**

5 Q. Would you please turn to the exhibit -- oh,
6 did you make a screen capture of that page when you
7 visited it?

8 **A. Yes, I did.**

9 Q. And could you please turn to the exhibit
10 marked SP-16?

11 **A. Yes.**

12 Q. Would you please identify that exhibit?

13 **A. This is the screen capture I took of Dolly's
14 Instagram page.**

15 Q. Is that a true and accurate copy of the
16 Instagram page as you saw it?

17 **A. Yes.**

18 Q. And what did you see on Dolly's Instagram
19 page?

20 **A. I saw, like, a news article that talks about
21 Dolly, and it states that it's a Seattle-based online
22 moving and delivery platform.**

23 Q. Did you ever visit Dolly's Seattle Yelp page?

24 **A. Yes.**

25 Q. Did you make a screen capture of that page?

Direct Examination by Mr. Roberson / Paul 42

1 **A. Yes, I did.**

2 Q. Would you please turn to the exhibit marked
3 SP-17?

4 **A. Okay.**

5 Q. Could you please identify that exhibit?

6 **A. Yes. This is the screen capture I took of**
7 **Dolly's Seattle Yelp page.**

8 Q. Is that a true and accurate copy of that Yelp
9 page?

10 **A. Yes.**

11 Q. And what did you find on Dolly's Yelp page?

12 **A. I found photos again of men in Dolly T-shirts**
13 **loading equipment into vehicles. And also the Dolly**
14 **Yelp advertisement is claimed, which means that the**
15 **company has acknowledged that this is their company,**
16 **and there are also reviews by -- for Dolly for moving**
17 **services.**

18 Q. Now, when you viewed Dolly's website and each
19 of the other websites that we just discussed, where
20 were you?

21 **A. I was in my office.**

22 Q. And for the record, where is your office
23 located?

24 **A. My office is located in Olympia.**

25 Q. And Olympia is in what state?

Direct Examination by Mr. Roberson / Paul 43

1 **A. Washington state.**

2 MR. ROBERSON: Thank you. I have no
3 further questions.

4 JUDGE MOSS: All right. And SP-18 and
5 -19, we have six pages from Docket TV-150185, and 19
6 is five pages from Docket TV-17099 [sic], and those
7 are provided for the convenience of the tribunal --

8 MR. ROBERSON: Yes, your Honor.

9 JUDGE MOSS: -- in that they are
10 Commission orders which we've been asked to take
11 notice of. I believe those are the two dockets,
12 perhaps.

13 I also am mindful, Mr. Bryant, you had
14 also identified these documents in your exhibit list,
15 and so I don't want them in the record twice. To the
16 extent you need to refer to them during your
17 cross-examination or during your direct examination of
18 your witness, you can just refer to these SP-18 and
19 -19 exhibits, and we'll have them available for the
20 convenience of the tribunal.

21 MR. BRYANT: Okay. Thank you.

22 JUDGE MOSS: All right. Thank you very
23 much. All right.

24 I'm sorry. Did you say you had completed
25 your questions?

1 MR. ROBERSON: I have, your Honor.

2 JUDGE MOSS: I was taking notes there
3 busily. All right.

4 Then I believe your witness is available
5 for cross-examination.

6 MR. ROBERSON: Yes.

7 JUDGE MOSS: Does anybody need a break?

8 MR. BRYANT: I could use a break,
9 your Honor.

10 JUDGE MOSS: All right. Then we'll take a
11 break.

12 MR. BRYANT: Thank you.

13 JUDGE MOSS: Let's take -- how much do you
14 need? Five minutes? Ten minutes?

15 MR. BRYANT: Five minutes.

16 JUDGE MOSS: Five minutes. Okay. We'll
17 come back in five minutes, please, about 20 after.

18 (A break was taken from
19 10:16 a.m. to 10:21 a.m.)

20 JUDGE MOSS: All right. Proceed,
21 Mr. Bryant?

22

23 CROSS-EXAMINATION

24 BY MR. BRYANT:

25 Q. Good morning, Ms. Paul.

1 **A. Good morning.**

2 **JUDGE MOSS: And Mr. Bryant, because**
3 **you're going to be facing Ms. Paul, you might want to**
4 **move your mic around so that it picks up clearly for**
5 **the benefit of those who are a little further away**
6 **from you.**

7 MR. BRYANT: Okay.

8 BY MR. BRYANT:

9 Q. So I'm going to ask you a few questions
10 related to your investigation report and the complaint
11 and your testimony this morning.

12 **A. Okay.**

13 Q. Would you agree that the Commission speaks
14 through its orders?

15 **A. Yes.**

16 Q. Okay.

17 Would you please turn to Exhibit SP-19?

18 **A. I'm at SP-19.**

19 Q. Would you please turn to page 4 --

20 **A. Okay.**

21 Q. -- paragraph 11 --

22 **A. Yes.**

23 Q. -- and the second sentence?

24 **A. Okay.**

25 Q. So do you agree that the Commission has

1 acknowledged that Dolly does not employ any drivers or
2 own any vehicles?

3 **A. Do I agree with that Dolly does not employ**
4 **any -- is that what you asked me?**

5 Q. Yes.

6 Do you agree that the Commission has
7 acknowledged through its order that Dolly does not
8 employ any drivers or own any vehicles?

9 **A. It says, "Dolly may not employ any drivers or**
10 **own any vehicles," but Dolly's helpers do, and they**
11 **are precisely the persons to whom the Commission's**
12 **equipment and driver safety rules are designed to**
13 **apply.**

14 Q. Thank you.

15 **A. You're welcome.**

16 Q. So the investigation and the complaint do not
17 allege that Dolly actually transports any household
18 goods, collects solid waste or any other goods; is
19 that correct?

20 **A. The investigation covered advertising, which**
21 **is a -- requires a permit. They advertised for**
22 **household goods moves, common carrier moves and the**
23 **hauling of solid waste.**

24 Q. Allegedly advertised.

25 So the underlying allegation for your belief

1 that the Commission should regulate Dolly as a
2 household goods carrier, solid waste collector or
3 common carrier is that they advertise, not that they
4 actually perform any of those activities; is that
5 correct?

6 **A. Yes. According to the laws, they are -- Staff**
7 **believes that they are acting as a household goods**
8 **carrier.**

9 Q. Okay.

10 So let's --

11 JUDGE MOSS: Mr. Bryant, let me interrupt
12 you there for half a second. Because of the way you
13 framed your question, I'm going to ask you whether
14 your client is contesting that the exhibits that we
15 have just gone through with Ms. Paul are, in fact,
16 Dolly's.

17 MR. BRYANT: We're contesting what they
18 purport to advertise. And that's actually my very
19 next question.

20 JUDGE MOSS: All right.

21 MR. BRYANT: Thank you.

22 BY MR. BRYANT:

23 Q. So "household goods" is a Commission-defined
24 term; is that correct?

25 **A. I believe so, yes.**

1 Q. So then you're familiar with WAC 480-15-020?

2 **A. I do not know it by heart.**

3 Q. But you're familiar with it --

4 **A. Yes.**

5 Q. -- and that it defines household goods?

6 **A. Okay.**

7 **JUDGE MOSS: What was that statutory**
8 **reference again?**

9 MR. BRYANT: WAC 480.

10 JUDGE MOSS: Oh, WAC.

11 MR. BRYANT: Sorry.

12 JUDGE MOSS: I'm sorry. I was thinking
13 statute, so --

14 MR. BRYANT: Sure.

15 JUDGE MOSS: All right.

16 BY MR. BRYANT:

17 Q. The statutes don't actually define --

18 JUDGE MOSS: I think it's the same
19 definition.

20 BY MR. BRYANT:

21 Q. So would you agree that a household -- that
22 household goods is defined as, to paraphrase here,
23 property that's transported or arranged to be
24 transported between two residences or between a
25 residence and a storage facility?

1 **A. If you're reading a WAC, I would like to look**
2 **at it to refer to it.**

3 **JUDGE MOSS: Since I'm pulling down the**
4 **books, Mr. Bryant, why don't you give me the number**
5 **again. 480-15- --**

6 MR. BRYANT: -020.

7 JUDGE MOSS: -- -020. Okay. There we
8 are.

9 THE WITNESS: Okay. I want to look at it
10 before I agree to it.

11 BY MR. BRYANT:

12 Q. Absolutely.

13 **A. So I'm at 480-15-020 in definitions under**
14 **Household Goods.**

15 Q. Great.

16 **A. Okay. And your question again?**

17 Q. Sure.

18 And I'm just paraphrasing here --

19 **A. Okay.**

20 Q. -- because it's a pretty long definition, I
21 don't want to read the whole thing, but it generally
22 says that property -- household goods is defined as
23 property to be used in a residence when transported or
24 arranged to be transported between two residences, or
25 between residences, or between a residence and a

1 storage facility.

2 **A. Yes.**

3 Q. Okay.

4 So you claim that Dolly has advertised to be
5 a household goods carrier; is that correct?

6 **A. I, in my investigation report, covered that in
7 detail, that they are advertising as and offering
8 moves as a household goods company, yes.**

9 **JUDGE MOSS: To be clear, Mr. Bryant, your
10 question concerned carrier of household goods, but the
11 definition that you focused on is the definition of
12 "household goods" itself.**

13 MR. BRYANT: Right.

14 JUDGE MOSS: Carrier of -- a household
15 goods carrier is a person who transports for
16 compensation by motor vehicle within this state, or
17 who advertises, solicits or offers or enters into an
18 agreement to transport household goods, as later
19 defined.

20 So let's be clear what we're focusing on
21 here, whether it's the definition of household goods
22 or the definition of carrier or household goods
23 carrier --

24 MR. BRYANT: Well --

25 JUDGE MOSS: -- because the allegation is

1 that they've advertised as a household goods carrier.

2 MR. BRYANT: And one can only be a
3 household goods carrier by transporting household
4 goods, correct?

5 JUDGE MOSS: Or by advertising to do so --

6 MR. BRYANT: Right.

7 JUDGE MOSS: -- or soliciting or offering
8 or entering into an agreement to do so. Any of those
9 things. That's the point.

10 MR. BRYANT: And I understand. Thank you.

11 JUDGE MOSS: Thank you.

12 BY MR. BRYANT:

13 Q. Okay.

14 So will you please identify in the exhibits
15 you identified earlier where Dolly advertised to
16 transport property between two residences or between a
17 residence and a storage facility?

18 **A. Well, I went through each one of the exhibits
19 and discussed the advertising in each one.**

20 Q. Right.

21 So the question is, will you please identify
22 in which exhibits Dolly advertises to transport
23 household goods between two residences or between a
24 residence and a storage facility?

25 **A. I don't know that it has any advertising**

1 **between two residences. It does say apartment moves,**
2 **it does discuss different types of moves, and the**
3 **advertising was based on that, advertising a move.**

4 Q. Okay.

5 So then the -- so then the move, the
6 transportation could be of a non-household goods item,
7 or not between two residences and a residence and a
8 storage facility; is that correct?

9 **A. Well, anytime it's advertised for a household**
10 **goods move or personal property for compensation in**
11 **the state of Washington, it is classified as a**
12 **household goods mover or a solid waste mover,**
13 **depending on what is being moved, or common carrier.**

14 Q. Okay. Thank you.

15 And you state that Dolly has advertised 11 --
16 on 11 different occasions to transport household
17 goods; is that correct?

18 **A. Yes.**

19 Q. Okay.

20 So will you please turn to Exhibit SP-8?

21 **A. Okay. I'm there.**

22 Q. This is the newspaper article that you
23 referenced earlier --

24 **A. Yes.**

25 Q. -- in your testimony.

1 What is your understanding of what an
2 advertisement is?

3 **A. Well, I would -- if you're asking me if this**
4 **is an advertisement, I would say yes.**

5 Q. And why would you say that this is an
6 advertisement?

7 **A. Because when I went to MuckFoving.com, it**
8 **immediately took me to advertisements for Dolly.**

9 Q. Have you been to the location where this
10 billboard is purported to be?

11 **A. No, I have not.**

12 Q. Are you aware that the billboard is no longer
13 there?

14 **A. No.**

15 Q. Okay.

16 The complaint also alleges that the newspaper
17 article is an advertisement in itself, correct?

18 **A. Yes. Well, the billboard is part of the**
19 **newspaper article, and it does give a description**
20 **about what Dolly is, yes.**

21 Q. I see.

22 So you're saying that the billboard, not the
23 newspaper article --

24 **A. I would say both are an advertisement, but**
25 **it's encompassed into one in my investigation.**

1 Q. Okay.

2 Are you aware that Dolly did not -- does not
3 advertise in that newspaper and has -- and never has
4 advertised in the newspaper?

5 **A. No, I'm not aware of that.**

6 Q. Okay.

7 But this is an article about Dolly?

8 **A. Yes.**

9 Q. Okay. Thank you.

10 **A. I would like to add to that if that's allowed.**

11 **JUDGE MOSS: Sure. Go ahead.**

12 **A. In the article, it does say, "According to**
13 **co-founder Chad Whitman, it all started when I was in**
14 **the midst of a move." So I would say that Dolly was**
15 **aware of this article. They're quoted in the article.**

16 BY MR. BRYANT:

17 Q. Right.

18 But it's a newspaper article, not a
19 traditional advertisement that would be taken out in a
20 newspaper. Would you agree to that?

21 **A. Okay.**

22 Q. Okay. Thank you.

23 Would you please turn to your Exhibit SP-10?

24 **A. I'm there.**

25 Q. Will you please identify -- and this is --

1 sorry if I'm getting repetitive -- on this Twitter --
2 on Dolly's Twitter page where they advertise that they
3 will move household goods, collect solid waste or any
4 other kinds of goods in the state of Washington?

5 **A. Okay. Well, this is, I believe, a clear**
6 **advertisement for Dolly, certainly for a household**
7 **goods move. They are wearing Dolly T-shirts, which**
8 **would automatically imply that they are Dolly**
9 **employees, and they are standing next to a truck that**
10 **appears to have household goods items in it, a bin.**
11 **And it is, in my opinion, an advertisement for moving**
12 **services.**

13 Q. Could this also be an advertisement for Dolly
14 T-shirts?

15 **A. Well, I don't see anything on there that tells**
16 **you to click and buy a T-shirt, no.**

17 Q. Do you see anything on the web page that
18 says, click here to move your household goods and
19 Dolly will do that?

20 **A. They do provide their address, their website**
21 **address.**

22 Q. But no other information other than that?

23 **A. Not on this -- what's included in this**
24 **exhibit, no.**

25 Q. Okay. Thank you.

1 JUDGE MOSS: Well -- and I'm just going to
2 pause there in terms of -- in terms of all of these
3 exhibits, the exhibits are what they are, they show
4 what they show. I can read the exhibit and, you know,
5 frankly, I'm not sure Ms. Paul's answer's entirely
6 accurate because the exhibit says, "Use our app to
7 load, haul and deliver," so it does say something
8 about what they do in terms of their business. Now --
9 but, again, that's just what I'm reading here on the
10 plain page. And that will be true with respect to all
11 of the exhibits.

12 I will let you know that, when I review
13 the record and when I'm determining the outcome of
14 this case, I will be relying on these documentary
15 exhibits as opposed to anybody's reading of them.

16 MR. BRYANT: And I anticipated that,
17 your Honor. Thank you for that.

18 JUDGE MOSS: All right.

19 BY MR. BRYANT:

20 Q. So I'd like to turn your attention back to
21 your Exhibit SP-1.

22 **A. Okay. I'm there.**

23 Q. Okay.

24 So you testified earlier that this is a cease
25 and desist letter telling Dolly to obtain a permit; is

1 that correct?

2 **A. To either obtain a permit or stop operations,**
3 **yes.**

4 Q. Will you please point to the -- on where
5 [sic] the exhibit it tells Dolly to stop operating or
6 to cease and desist?

7 **A. Well, it does explain that Dolly -- or**
8 **"Commission Staff would like to inform you that moving**
9 **of household goods items is regulated by the**
10 **Commission, and only permitted household goods**
11 **carriers are able to move these items for**
12 **compensation."**

13 **And it states that "if a person is found to be**
14 **operating as a household goods carrier without the**
15 **required permit, they are subject to a penalty."**

16 Q. So it alerts Dolly that there are penalties
17 for operating, but not that they should cease and
18 desist; is that correct?

19 **A. Well, I'm scanning through it, I don't see the**
20 **exact words "cease and desist." This is what we call**
21 **a letter when we first notify the industry of UTC**
22 **regulations.**

23 Q. So Commission phraseology calls it a cease
24 and desist, but in actuality, it's not a cease and
25 desist; is that correct?

1 **A. It is a letter that notifies a company that**
2 **they may be operating outside of the law.**

3 Q. Thank you.

4 **A. Yes.**

5 Q. And is that also the same for Exhibit SP-2?

6 **A. SP-2 is a little bit different, and this**
7 **letter was sent as a reminder because they were still**
8 **operating. And this is under the inception [sic], I**
9 **believe, that they were -- it was still where the**
10 **contract was between the driver and the customer.**

11 **And we were letting Dolly know that anyone**
12 **that moves household goods items is required to have a**
13 **permit. So the helpers would be required to have a**
14 **permit to go into people's homes and transport**
15 **property.**

16 Q. Okay.

17 But, again, it's not actually a -- the point
18 I'm getting at here is that this is not a cease and
19 desist?

20 **A. No, but it is a letter that says, please**
21 **respond to the Commission and it had a time frame so**
22 **that it could be discussed.**

23 Q. Okay. Thank you.

24 JUDGE MOSS: And just to be clear, only
25 the Commission can order the company to cease and

1 desist. The Staff is advising the company that it
2 appears to be operating contrary to the law, which
3 if -- ought to put a diligent person on notice that
4 they are at risk, in this case, of penalties.

5 But of course, if you also are familiar
6 with our statutes, you know that if we do conduct a
7 proceeding and find you to be a household goods mover,
8 then we have no discretion but to order you to cease
9 and desist, after which time those penalties double.

10 All right?

11 MR. BRYANT: All right.

12 JUDGE MOSS: Just to be clear. I mean,
13 there's a distinction there.

14 MR. BRYANT: All right. Thank you.

15 JUDGE MOSS: Okay. Thank you.

16 BY MR. BRYANT:

17 Q. So I'd like to turn your attention back to
18 Dolly's internet presence.

19 **A. I'm sorry. To what?**

20 Q. Dolly's internet presence, your exhibits
21 here.

22 JUDGE MOSS: You mean their web page or do
23 you mean all of these exhibits?

24 MR. BRYANT: All of the exhibits, just
25 refocusing --

1 JUDGE MOSS: All right.

2 MR. BRYANT: -- the cross-examination.

3 BY MR. BRYANT:

4 Q. So I'm looking at Exhibit SP-11.

5 **A. Okay.**

6 MR. BRYANT: And, your Honor, this is a
7 bit repetitive, but it's a little bit of a different
8 point that I'm making here.

9 JUDGE MOSS: I have no problem with you
10 sounding repetitive, Mr. Bryant. Please proceed.

11 BY MR. BRYANT:

12 Q. So this is the LinkedIn page that you
13 identified earlier; is that correct?

14 **A. Oh, I'm on the iTunes. Which one are --**

15 Q. No, SP-11.

16 **A. Oh, I'm sorry. I was on the wrong one. So,
17 yes, this is the LinkedIn page.**

18 Q. Okay.

19 So, again, here do you see where Dolly has
20 advertised that they will move solid waste or carry
21 household goods in the state of Washington?

22 **A. They say that "A truck and muscle anytime you
23 need it. Have moving or delivery needs? Don't waste
24 your time or money. Use Dolly to find help on your
25 schedule at an affordable price."**

1 **It does talk about pickup items purchased on**
2 **Craigslist, at a garage sale or at IKEA, Lowe's,**
3 **Crate & Barrel or other retailers.**

4 Q. Okay. Thank you.

5 So will you please turn to Exhibit SP-17?

6 That is the Yelp page.

7 **A. Okay.**

8 Q. Are you familiar with how Yelp pages are
9 created?

10 **A. Somewhat, yes.**

11 Q. Can you please explain that?

12 **A. Yes. It's not created by the company. And**
13 **when a company -- a company has a right to claim it or**
14 **deny it. And if you look at the top of this page, it**
15 **says Dolly with a checkmark "Claimed."**

16 Q. Um-hmm.

17 **A. And that means that Dolly has acknowledged**
18 **that, yes, they are the owner of this company.**

19 Q. Okay.

20 But so your understanding is that Dolly has
21 just acknowledged that, yes, this is Dolly --

22 **A. Yes.**

23 Q. -- not that this -- that Dolly has created
24 this advertisement or this web page?

25 **A. Yeah, I think that's understood in the -- you**

1 **know, in the Yelp world, that the companies are**
2 **created and the companies then claim it, and then they**
3 **can respond to reviews about the company.**

4 Q. Okay. Thank you.

5 **A. You're welcome.**

6 Q. So is it your understanding -- and I'm going
7 to switch gears again -- that advertising violations
8 are cumulative in that -- and I'll explain -- in that,
9 if there are, such as you allege here, 11 advertising
10 violations, then the Commission's authority is to
11 impose 11 penalties; is that correct?

12 **A. I found many, many advertisements, and I just**
13 **went with one for each different media, like the**
14 **website or LinkedIn or Yelp or news article, I only**
15 **counted it as one. It could have been many, because**
16 **the -- it's for -- each advertisement could be a**
17 **violation.**

18 Q. Right.

19 And you used the word medium [sic] there. So
20 the statute says that a violation is for every medium;
21 is that correct?

22 **A. I would have to look at it. I don't know that**
23 **it says "medium," but each and every advertisement.**

24 Q. Okay.

25 Would you agree that the internet is one

1 medium compared to other mediums, as opposed to
2 newspapers, billboards, yellow pages?

3 **A. It might be a different medium, but it is --**
4 **it is an advertisement in each one of those areas,**
5 **whether -- the internet's a pretty big scope, so,**
6 **yeah, it's a -- I would consider that a separate**
7 **violation for each type of advertisement, meaning**
8 **LinkedIn, Instagram, Twitter.**

9 Q. Okay.

10 So you're pretty familiar with the
11 regulations, it sounds like. How do you differentiate
12 between an advertisement and a solicitation, for
13 example, which is also in the statute and the rules?

14 **A. Well, this was clearly advertising. And**
15 **solicitation could consider that, but Dolly didn't**
16 **come to my door and ask me if I wanted the move.**

17 **However, I believe that they do do some of**
18 **that on Craigslist. I have found that they will place**
19 **advertisements on people's Craigslist advertisements**
20 **and say, Dolly will move it for you. I would say**
21 **that's a solicitation.**

22 Q. Okay.

23 So -- I mean, that's a bit to unpackage [sic]
24 there. So are you testifying that every web page is
25 an advertisement and definitely not a solicitation, or

1 could you say that an advertisement could be a
2 solicitation?

3 **A. I'm not saying that at all.**

4 MR. ROBERSON: I'm going to object at this
5 point. I'm not sure this is relevant to the
6 complaint. The complaint is for advertising.

7 JUDGE MOSS: I'm not sure where this line
8 of questioning is going either. The distinction
9 between an advertisement and a solicitation for
10 purposes of this complaint seems to me to be
11 meaningless.

12 The complaint is that the company
13 advertised on each of these 11 sites. They're
14 separate sites on the internet, and so they're treated
15 by the staff as 11 separate advertisements. And if
16 Staff chose to do so, it could treat it as a 11
17 different advertisements for every day that it
18 occurred, because a continuing violation is just that.

19 So by picking 11 pages and you treating
20 only 1 as a violation for each, in a sense, is to your
21 benefit, because they certainly could have alleged
22 many, many more violations. So I'm not quite sure
23 where you're going with this.

24 MR. BRYANT: Okay. Thank you.

25 JUDGE MOSS: I mean, if you're going to

1 the idea of mitigation -- is that where you're trying
2 to direct this line of questioning? You think some of
3 these should be -- there should be some mitigation of
4 the penalties that have been asked for because, in
5 your view, these are all one advertisement or
6 something? I'm not sure where you're going. I'm
7 trying to figure that out.

8 MR. BRYANT: Well, the statute says that
9 each advertisement is a violation per medium. I'm
10 saying that the internet is one medium through which
11 one can advertise.

12 JUDGE MOSS: Where does it say that,
13 "medium"? Show me the word "medium" in the statute,
14 please.

15 MR. BRYANT: Absolutely.

16 MR. ROBERSON: If I may, I believe it's in
17 RCW 81.80.075.

18 JUDGE MOSS: 81.80.075.

19 MR. BRYANT: Thank you, Counsel.

20 MR. ROBERSON: I'm not sure. That's
21 just --

22 MR. BRYANT: I think you're correct.

23 JUDGE MOSS: Okay. Okay.

24 Each advertisement -- it says -- this is
25 4-A you're looking at, I guess?

1 MR. BRYANT: Yes.

2 JUDGE MOSS: All right.

3 If the basis for the violation is
4 advertising, each advertisement reproduced, broadcast
5 or displayed via a particular medium constitutes a
6 separate violation.

7 So are you suggesting that -- let's
8 try this -- that because the screen captures are all
9 screen captures of the internet, these are all one
10 advertisement as opposed to being separate
11 advertisements, even though they are sponsored or
12 displayed or put up on the internet or whatever the
13 right terminology is by separate entities?

14 MR. BRYANT: Right. Unfortunately, that's
15 what the -- that's how I interpret the statute.

16 JUDGE MOSS: Why is it any different than
17 the situation whereby a company puts an advertisement
18 in the New York Times, the Washington Post, the Miami
19 Herald and the Seattle PI; is that all one
20 advertisement even though it's all in the same medium,
21 newspaper?

22 MR. BRYANT: Well, I'm not quite sure --
23 you could correct me if I'm wrong -- but I think that
24 the Commission would only have jurisdiction over the
25 one in the Seattle Times.

1 JUDGE MOSS: All right. The Olympia paper
2 and the Seattle paper, then. My question is the same.
3 Don't split hairs with me, Mr. Bryant.

4 Are you contending that because it's a
5 newspaper, each of those is a newspaper, that's only
6 one advertisement?

7 MR. BRYANT: Yes, and that's what the
8 statute says, your Honor.

9 JUDGE MOSS: That's what you say the
10 statute says, right?

11 MR. BRYANT: Yes.

12 JUDGE MOSS: That's your interpretation of
13 what the statute says?

14 MR. BRYANT: (Nods head.)

15 JUDGE MOSS: Is that right?

16 MR. BRYANT: Yes.

17 JUDGE MOSS: Okay.

18 If you're going to brief that point,
19 you're going to have to cite me some authority that
20 substantiates it. All right?

21 MR. BRYANT: Okay.

22 JUDGE MOSS: Just so you know.

23 MR. BRYANT: Okay.

24 BY MR. BRYANT:

25 Q. And could you please turn to SP-13?

1 **A. Okay. I'm there.**

2 Q. This is a screen capture of the Craigslist
3 [sic], correct?

4 **A. Yes.**

5 Q. And this was taken when?

6 **A. On September 14, 2017.**

7 Q. Are you aware that Dolly no longer advertises
8 through this particular medium?

9 **A. No, I'm not aware of that.**

10 Q. Okay. Thank you.

11 So you testified that you believe the
12 Commission should regulate Dolly as a household goods
13 carrier, solid waste collector or common carrier; is
14 that correct?

15 **A. Yes.**

16 Q. Will you please turn to Exhibit SP-19?

17 **A. Okay.**

18 Q. I'm on page 5 at paragraph 13.

19 **A. Okay.**

20 Q. Do you agree that at page 5, paragraph 13 of
21 Commission Order 01, that the Commission states that
22 Dolly is engaged as a household goods broker?

23 **A. I believe it says "that warrants further
24 Commission exploration of business model and
25 operations of companies like Dolly that wish to engage**

1 **only in household goods brokerage services or**
2 **arrangements of so-called micro moves."**

3 Q. Okay. Thank you.

4 Do you also agree that it states that the --
5 the last sentence -- that "the Commission intends to
6 schedule a forum to discuss Dolly's business model"?

7 **A. I read that, yes. This is out of the scope of**
8 **my investigation.**

9 Q. Okay. Thank you.

10 So would you please now turn to Exhibit
11 SP-3X?

12 **A. Would that be the same as SP-3? I don't have**
13 **a 3X.**

14 **JUDGE MOSS: Washington State House Bill**
15 **2604.**

16 **A. Gotcha. Okay. I've got it now. Thank you.**

17 BY MR. BRYANT:

18 Q. So I am at page 1, line 17.

19 **A. Okay.**

20 Q. Do you agree that at page 1, line 17 through
21 line 21, the legislature of the state of Washington
22 acknowledged that the Commission's current rules
23 should be updated to apply to companies --

24 MR. ROBERSON: Objection.

25 Q. -- such as micro movers?

1 JUDGE MOSS: Wait a minute. Before you
2 object, I need to find out where we are here. I was
3 looking on one place and I don't see that. So where
4 are we again?

5 MR. BRYANT: SP-3X.

6 JUDGE MOSS: I have the exhibit -- oh, 3X.
7 I'm sorry. I didn't have the exhibit. I had 2X.
8 There we go. All right. Now, what line?

9 MR. BRYANT: 17 through 21.

10 JUDGE MOSS: 17 through 21. Beginning
11 with "The legislature..."?

12 MR. BRYANT: Yes.

13 JUDGE MOSS: All right. All right.

14 And now we have an objection as to --

15 MR. ROBERSON: Relevance. This bill died,
16 and it doesn't change the fact that the bill would
17 operate prospectively. The Commission -- the conduct
18 at issue here occurred before this bill was even
19 introduced.

20 JUDGE MOSS: What's the relevance?

21 MR. BRYANT: That it speaks to the
22 Commission's intent through Order -- Docket TV-170999,
23 Order 01, page 5, paragraph 13, that the Commission
24 intends to update its -- or to have a forum to discuss
25 companies like Dolly.

1 JUDGE MOSS: That may be, but I don't see
2 how that has any relevance to the complaint. So the
3 exhibits were stipulated in, were they not?

4 MR. ROBERSON: They were. It's in the
5 record, but --

6 JUDGE MOSS: Right. Okay. You don't mind
7 it being part of the record, but your objection is to
8 its relevance, and I'll sustain the objection on that
9 basis. I don't see the relevance to this complaint.
10 It's nice to know, but it has nothing to do with the
11 complaint --

12 MR. BRYANT: Okay.

13 JUDGE MOSS: -- which concerns events that
14 happened already, not events that may happen in the
15 future.

16 MR. BRYANT: Okay.

17 BY MR. BRYANT:

18 Q. Will you please turn to Exhibit SP-4X?

19 **A. Okay.**

20 Q. Page 67 of the --

21 MR. ROBERSON: Objection. Relevance.

22 JUDGE MOSS: Well, before we get to the
23 objection, I want to ask about the exhibit list.

24 Mr. Bryant, this refers to pages 56
25 through 57 of Senate Bill 6032.

1 MR. BRYANT: Right. That was a clerical
2 error, your Honor.

3 JUDGE MOSS: Okay. It should be what
4 pages?

5 MR. BRYANT: 65 through 67.

6 JUDGE MOSS: 65 through 67. Okay. All
7 right. And that's consistent with what I have in my
8 notebook.

9 MR. BRYANT: Okay.

10 JUDGE MOSS: Now, we have again an
11 objection as to relevance.

12 And do you have any more to say about your
13 objection or just as stated?

14 MR. ROBERSON: It's the same thing,
15 your Honor.

16 JUDGE MOSS: Okay.

17 MR. ROBERSON: This is a budget proviso
18 that's forward-looking.

19 JUDGE MOSS: All right.

20 Mr. Bryant, what is the relevance of this?

21 MR. BRYANT: I understand that it's
22 forward-looking, but it shows the expression by the
23 legislature to enforce the intent of the Commission to
24 Dolly's business model in light of the fact that the
25 Commission was familiar with Dolly's business model

1 going back -- for these past periods.

2 JUDGE MOSS: Before what?

3 MR. BRYANT: For these past periods -- for
4 the past periods. So the legislature is carrying out
5 what the Commission said it would do.

6 MR. ROBERSON: And if I may, your Honor.
7 A budget proviso only modifies the enacting clause.
8 The enacting clause here is the budget. It doesn't
9 say anything about the legislature's intent to modify
10 or amend the public service laws. It just --

11 JUDGE MOSS: I agree. And it's also
12 acknowledging the concept, at least, of the long-term
13 study, forward-looking study by the Commission about
14 the availability of these things, which if it implies
15 anything at all, it implies they are not currently
16 available. Otherwise, there would be no need to do a
17 long-term study.

18 I just want to pause here to say, you
19 know, this is not the first proceeding of this type
20 that's been before the Commission during recent
21 periods, the most notable of which recently, I
22 believe, was the Ghostruck proceeding, which I also
23 presided.

24 And I -- I don't really recall, but
25 I believe I said in my initial order in that case, and

1 certainly believe it to be true, that the Commission
2 does not discourage innovation, the Commission does
3 not discourage the idea of new business models based
4 on developments in technology and so forth. But we
5 are bound by our statutes. We must follow the law as
6 it is written today. And unless and until the
7 legislature changes that law, then we have to enforce
8 those statutes as written.

9 So I don't -- this is all interesting, and
10 I'm glad the legislature is looking at this, and I
11 think the Commission will be looking at this, and
12 that's a worthwhile thing to be sure.

13 But what we're concerned about, as I said
14 at the outset, is what those statutes provide today,
15 and the facts of whether Dolly undertook actions that
16 violate those statutes as written, or that show
17 violations of those statutes as written. That's all
18 we're really concerned about here.

19 So the bigger philosophical question,
20 another forum, another day.

21 MR. BRYANT: Understood.

22 JUDGE MOSS: I'll probably be retired,
23 thankfully. All right. Sorry for that digression.
24 All right.

25 So please proceed. The relevance

1 objection is sustained.

2 MR. BRYANT: Okay.

3 BY MR. BRYANT:

4 Q. Would you please move to Exhibit SP-5X?

5 **A. I'm there.**

6 Q. Okay.

7 Would you please turn to page 5?

8 **A. Okay.**

9 Q. Okay.

10 So I'm at the top. Do you see -- do you
11 agree that the page 5 of this Household Goods Moving
12 Company Application requires a USDOT number at the top
13 right?

14 **A. A USDOT number -- oh, yes. It says, "If you
15 currently do not have a USDOT number, go online."**

16 **Okay.**

17 Q. Um-hmm.

18 **A. Yes, I agree.**

19 Q. Okay.

20 And are you aware that Dolly does not perform
21 any moves or own any trucks?

22 **A. Well, I'm not an application expert and our
23 applications are submitted through our licensing
24 section. I don't know the intent of their questions
25 or their requirements.**

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1 Q. Okay. Understood.

2 MR. BRYANT: And, your Honor, I had the
3 similar questions for Exhibits -- and I believe
4 Mr. Roberson expressed concerns earlier about Exhibits
5 SP-5X through SP-7X, so -- since the witness can't
6 testify or doesn't have the knowledge to testify to
7 the necessity of a USDOT number.

8 JUDGE MOSS: Okay. So Ms. Paul has
9 testified, I believe, that this is not in her
10 bailiwick.

11 MR. BRYANT: Right.

12 JUDGE MOSS: So she would not be qualified
13 to testify about the Commission's licensing
14 requirements; is that right?

15 THE WITNESS: Right. We have a licensing
16 section that handles the applications for household
17 goods, common carriers, solid waste.

18 JUDGE MOSS: Okay.

19 MR. BRYANT: So I'd just like to have you
20 take judicial notice of the USDOT number that's
21 required for these three applications, which Dolly
22 cannot get because they don't own any vehicles.

23 JUDGE MOSS: Well, you're asking me to
24 take notice of a little too much. I can take notice
25 of the form of application, and that's all I can do.

1 I can't take notice of Dolly's relationship to the
2 application, or how Dolly might be treated vis-à-vis
3 the application, because that's just not something I
4 can do. You'd have to file -- you'd have to -- if you
5 wanted to seek a permit, this would be the
6 application.

7 MR. BRYANT: Right.

8 JUDGE MOSS: And if you found it
9 impossible to do so, what that would mean is you
10 couldn't get a permit.

11 And that would mean that, if you continued
12 to advertise yourself as a mover, if that's proven
13 today, then you would still be in violation of the
14 law. Whether or not you actually move anything
15 physically, if you advertise, solicit, so on and so
16 forth -- I forget all the magic words -- but it
17 doesn't actually require that Dolly pick up something
18 and move it with its own employees. It doesn't
19 require that.

20 So I don't know whether you could get a
21 permit or not, honestly. I probably know less about
22 this licensing of household goods carriers than
23 Ms. Paul. In fact, I feel pretty confident that's the
24 case.

25 But she's not qualified to answer your

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1 questions about this form, and I don't think we have
2 anybody else here who can do that. But all this --
3 all that would stand for is the idea that, if you
4 applied for an application and you could not meet the
5 requirements as stated in the application, then you
6 could not get a permit, which means anything you did
7 that -- if that was within the definition of household
8 goods moving, would be a violation of the law.

9 MR. BRYANT: Understood.

10 JUDGE MOSS: Okay. All right. Just so
11 we're clear.

12 MR. BRYANT: So I have no further
13 questions.

14 JUDGE MOSS: And that would seem to be
15 true of the common carrier application and the solid
16 waste --

17 MR. BRYANT: Understood.

18 JUDGE MOSS: -- application.

19 All right. No further questions, you say?

20 MR. BRYANT: Yes.

21 JUDGE MOSS: All right.

22 Ms. Paul -- I guess I should ask if
23 there's any redirect, Mr. Roberson.

24 MR. ROBERSON: I don't believe I have any.

25 JUDGE MOSS: Thank you.

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1 With that, then we can have your witness,
2 Mr. Bryant. Mr. Shawver; is that correct? Would you
3 please rise?

4
5 KEVIN SHAWVER, witness herein, having been
6 first duly sworn on oath,
7 was examined and testified
8 as follows:

9
10 JUDGE MOSS: You have to kind of swallow
11 these mics a little bit, just to warn you.

12 THE WITNESS: This is new territory for me
13 here, so --

14 JUDGE MOSS: I hear you.

15 THE WITNESS: All right.

16
17 DIRECT EXAMINATION

18 BY MR. BRYANT:

19 Q. Will you please state your name and
20 occupation?

21 **A. Yes. My name is Kevin Shawver, and I'm the**
22 **senior director of marketing for Dolly.**

23 Q. And can you spell your last name?

24 **A. Yes. S-H-A-W-V, as in Victor, E-R.**

25 Q. And you said your occupation?

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1 **A. Yep. Senior director of marketing.**

2 Q. And how long have you been a senior director
3 of marketing?

4 **A. A year and nine months or so, July of 2016.**

5 Q. Okay.

6 For Dolly?

7 **A. For Dolly.**

8 Q. Will you please explain your familiarity with
9 Dolly's internet presence?

10 **A. Yeah. So Dolly has a website and a number of**
11 **social channels that were mentioned here earlier today**
12 **where we talk about how to use Dolly, where you can**
13 **use Dolly, as well as how to contact Dolly.**

14 Q. Okay.

15 So I'd like to point your attention to the
16 exhibits. Will you please open your folder to KS-1?

17 **A. Okay.**

18 Q. And will you identify that for the record,
19 please?

20 **A. Yes. So this is a screenshot of the**
21 **Dolly.com/Services page.**

22 Q. And when was that screenshot taken?

23 **A. Last -- the end of last week, I believe,**
24 **March 7th or 8th.**

25 Q. Okay.

Direct Examination by Mr. Bryant / Shawver 81

1 So why does Dolly have a website?

2 **A. Dolly has a website to communicate the types**
3 **of services or the types of service that we offer, to**
4 **let people know where we offer that service, how you**
5 **can sign up to become an independent contractor on the**
6 **Dolly platform, as well as how to contact us in cases**
7 **where -- to contact Dolly in cases where you would**
8 **need help either with a current Dolly or need to get a**
9 **question asked or answered, and then we also allow**
10 **somebody to book a Dolly online.**

11 Q. Okay.

12 So I'm going to probe some of your
13 familiarity with the independent contractor that
14 you -- that you mentioned. Is that what 1099 is? Can
15 you explain that?

16 **A. Not in a lot of great detail, but, yes, to my**
17 **knowledge, an independent contractor for tax purposes**
18 **receives a 1099 form.**

19 Q. Okay. So -- okay.

20 **A. Meaning that they're not a full-time employee**
21 **with the -- with the company.**

22 Q. Understood.

23 So what kind of information is on Dolly's
24 website?

25 **A. Like I said earlier, we've got information on**

Direct Examination by Mr. Bryant / Shawver 82

1 how to use Dolly, what to expect when you use Dolly,
2 how to work with us as a retail partner, how to become
3 an independent contractor, and how to actually book a
4 Dolly to get it done.

5 And I'll say that I've been very, very
6 thoughtful over the past year and nine months since
7 I've been at Dolly to make it as clear as possible to
8 potential customers or existing customers that the
9 actual moving is going to be done by somebody else, an
10 independent contractor in our case, but not
11 specifically Dolly.

12 So that's where you'll see in some of the
13 language where it says, "Dolly connects" or "Find
14 moving help," things like that, to try to make it as
15 clear as possible.

16 JUDGE MOSS: Will you point me to some
17 specific language that meets that --

18 THE WITNESS: Sure. In this exhibit?

19 JUDGE MOSS: -- goal? Yes.

20 THE WITNESS: We're on -- which one is
21 this? K-1? KS-1? The sub line there underneath
22 where it says, "Moving and delivery help when you need
23 it," that -- the sub line that says, "Dolly connects
24 with you local truck owners who are ready to help with
25 your moving, delivery and hauling needs."

Direct Examination by Mr. Bryant / Shawver 83

1 JUDGE MOSS: Okay. And has that changed
2 over time?

3 THE WITNESS: It hasn't necessarily
4 changed over time. There's just -- there's been --
5 since I've been there, and I'm guessing it's largely
6 from the conversations that have come up with the UTC
7 staff, where we've been -- we've tried to be very,
8 very clear over the last -- and I can only speak to
9 the year and nine months that I've been there.

10 JUDGE MOSS: Okay.

11 BY MR. BRYANT:

12 Q. So how would you describe what Dolly does?

13 **A. I think an easy analogy is kind of like eBay.**
14 **So eBay connects sellers and buyers for goods; we do**
15 **it for services. So Dolly connects people who have**
16 **big and bulky items that need to go from point A to**
17 **point B to a local truck owner who will help with the**
18 **moving and hauling.**

19 Q. Okay.

20 And how many states does Dolly currently
21 conduct business?

22 **A. We -- Dolly is in seven states.**

23 Q. Okay.

24 And who can access Dolly's website in those
25 states?

Direct Examination by Mr. Bryant / Shawver 84

1 **A. As far as I can tell, anybody with an internet**
2 **connection.**

3 Q. And anywhere else in the world as well?

4 **A. Yes, Dolly -- Dolly is -- Dolly.com, our**
5 **website, is available to anybody with internet access**
6 **in the world.**

7 Q. Okay.

8 So I'd like to refocus, so how many vehicles
9 does Dolly own?

10 **A. Zero.**

11 Q. Okay.

12 How many people does Dolly employ?

13 **A. Dolly employs roughly 30 people.**

14 Q. Do you know all 30 people?

15 **A. I do.**

16 Q. Okay.

17 How many movers does Dolly employ?

18 **A. Zero.**

19 Q. So who at Dolly performs those moves, the
20 micro moving?

21 **A. Yeah, independent contractors who have signed**
22 **up on the Dolly platform.**

23 Q. Okay.

24 Will you please turn to Exhibit KS-4?

25 **A. Okay.**

Direct Examination by Mr. Bryant / Shawver 85

1 Q. And what are you looking at?

2 **A. This is the "About" screen on the Dolly**
3 **Facebook page.**

4 Q. What's the purpose of an "About" page on
5 Facebook?

6 **A. Like many of you, this is -- it's kind of like**
7 **a digital business card, right? So there's contact**
8 **information and a small blurb about the company.**

9 Q. Okay.

10 Are the two men in the photo Dolly employees?

11 **A. No, they are not.**

12 Q. Okay.

13 So you say it's like a business card. So
14 does it say anywhere there on the page that Dolly is a
15 moving company that will move household goods?

16 **A. No, it does not.**

17 Q. Okay.

18 Will you please turn to Exhibit KS-5 and
19 identify it for the record?

20 **A. That is a screenshot of the Dolly Twitter**
21 **page.**

22 Q. And can you identify on this page -- or where
23 on this page does it say what Dolly does and where it
24 does it?

25 **A. Yes. So underneath the name Dolly, there's a**

Direct Examination by Mr. Bryant / Shawver 86

1 short blurb about what Dolly does, and then we do not
2 say where it does it on this page.

3 Q. So nowhere on that page does it say that
4 Dolly is a moving company?

5 **A. No, it does not.**

6 Q. Okay.

7 Will you please turn to Exhibit KS-6?

8 **A. Okay.**

9 Q. And what are you looking at there?

10 **A. This -- this is a screenshot of Dolly's**
11 **current YouTube page that shows all the videos that**
12 **are under the Dolly page.**

13 Q. And I understand that this is a screenshot of
14 a video, but in any of the videos, as senior marketing
15 director for Dolly, would these videos from YouTube
16 say where Dolly moves household goods, or is it just a
17 description of how to use Dolly's platform?

18 **A. To my knowledge, I believe it only talks about**
19 **how to use Dolly.**

20 Q. Okay.

21 So what is the purpose of KS-4 -- Exhibits
22 KS-4 through KS-8, Dolly's Facebook, Twitter, YouTube,
23 Pinterest and Instagram pages?

24 **A. Yeah, so they are pages to largely communicate**
25 **with our existing or potential customers to -- a lot**

Direct Examination by Mr. Bryant / Shawver 87

1 of them are where we answer customer service
2 questions, but largely to communicate and interact
3 with customers.

4 Q. So why does Dolly not say on any of those
5 websites that they move household goods, move solid
6 waste or move anything at all?

7 **A. Yeah, I mean -- I think -- again, like, we try**
8 **to be really clear about the role that Dolly plays**
9 **versus what the customer may think. So this is**
10 **where -- that similar language that I discussed**
11 **earlier where we talk about Dolly connecting people to**
12 **local truck owners versus this is what Dolly does.**

13 Q. Okay.

14 Will you please turn to Exhibit KS-9 and
15 identify it for the record?

16 **A. This is the Dolly Yelp page.**

17 Q. And what is Yelp?

18 **A. Yelp is a third-party site that aggregates**
19 **reviews from -- from people that either had an**
20 **experience or want to learn about an experience with a**
21 **company.**

22 Q. And how is a Yelp page created?

23 **A. Yelp pages are typically created by -- by**
24 **customers who have used the service.**

25 Q. So it basically can be anyone?

Direct Examination by Mr. Bryant / Shawver 88

1 **A. Anybody, correct.**

2 Q. And Ms. Paul spoke earlier about Dolly
3 claiming this particular Yelp page. What does that
4 mean?

5 **A. So when you claim a Yelp page as we have, you**
6 **are able to respond to customers who have provided a**
7 **review for the company.**

8 Q. Are you able to edit any information on the
9 page?

10 **A. No, you are not.**

11 Q. Okay.

12 Will you please turn to Exhibit KS-10?

13 **A. Okay.**

14 Q. And will you identify that for the record?

15 **A. Yes, this is an updated screenshot of**
16 **Craigslist where we have gone down to Services, we**
17 **filtered by Services, Labor and Moving, and then typed**
18 **in Dolly Movers.**

19 **Did I turn the wrong page?**

20 Q. No, no, you're fine.

21 And so is -- again, Exhibits KS-1 through
22 KS-10 are from what period? When were they taken,
23 those screenshots taken?

24 **A. The end of last week, March 7th or 8th.**

25 Q. Okay.

Direct Examination by Mr. Bryant / Shawver 89

1 JUDGE MOSS: So let me be sure I
2 understand this Exhibit KS-10. As I understand it, if
3 you go to Craigslist Seattle and type in the search
4 term Dolly Movers, these are the results you get?

5 MR. BRYANT: Right. What we tried to do,
6 your Honor, was recreate Commission Staff's exhibits,
7 and we did the same search and came up with different
8 results, but because our search was more recent.

9 JUDGE MOSS: I see. All right. Thank
10 you.

11 MR. BRYANT: You're welcome.

12 BY MR. BRYANT:

13 Q. What market or city is the Craigslist ad
14 from?

15 **A. Seattle.**

16 Q. And why aren't there any results in the
17 Seattle Craigslist classified when you search for
18 Dolly under the heading Labor, Hauling and Moving?

19 **A. We no longer post in that category.**

20 Q. So there's no advertisements, for lack of a
21 better word, on Craigslist for Dolly under --

22 **A. Not under Labor and Moving, no.**

23 Q. Got it.

24 MR. BRYANT: I think that's it. We're
25 done.

1 JUDGE MOSS: That's the last of your
2 questions?

3 MR. BRYANT: Yep.

4 JUDGE MOSS: So just to be sure I got that
5 last point -- I was busy taking notes -- so this
6 was -- okay. I'm referring now to KS-10. And the
7 date on which you did that search was what?

8 THE WITNESS: It looks like --

9 MR. BRYANT: March 7th.

10 JUDGE MOSS: March 7th. And now you're
11 saying, if I did that search today, I would not get
12 results like this because the search term Dolly Movers
13 would simply return nothing on Craigslist?

14 THE WITNESS: Correct.

15 JUDGE MOSS: Okay. I just wanted to be
16 sure I understood what you were saying. But up to and
17 including March 7th, it would produce results.

18 THE WITNESS: It -- I don't remember when
19 we stopped, but some period before March 7th.

20 JUDGE MOSS: You stopped before March 7th
21 or after March 7th?

22 THE WITNESS: Before March 7th. I don't
23 know the exact dates.

24 JUDGE MOSS: I'm confused. This says --
25 the dates on these are March 7th, so you put in the

1 search term on March 7th and came up with these
2 results.

3 THE WITNESS: I'm sorry. Yes. All of
4 those results are not Dolly. Those are other moving
5 companies that came up with that search.

6 JUDGE MOSS: But on March 7th when you put
7 in the search term Dolly Movers, it produced these
8 results; you're saying that would no longer be the
9 case.

10 So I'm saying -- so -- but before, up to
11 and including March 7th, if I put in the search term
12 Dolly Movers, I would have gotten some results like
13 these; wouldn't necessarily be the same ones?

14 THE WITNESS: Yeah, sorry. I'll try to --

15 MR. BRYANT: If I could clarify.

16 So Staff's Exhibit SP-13, they did perform
17 the same search and they got results because Dolly
18 advertised there or Dolly had results for that search.

19 I think this is from September 2017; is
20 that correct?

21 MS. PAUL: The date's on the bottom.

22 MR. BRYANT: So even though -- Craigslist
23 is just weird. When you put in the search, this Dolly
24 Movers, stuff comes up, but nothing for Dolly comes up
25 because it wants to put movers in front of you. But

1 Dolly has no -- no results. These are different
2 moving companies on SP-1 or 10X or SP-10 -- KS-10.

3 JUDGE MOSS: What would happen if I put in
4 Dolly Movers today?

5 THE WITNESS: If you put in Dolly Movers
6 today, it would be similar to what you're seeing in
7 SP -- or in KS-10.

8 JUDGE MOSS: Okay. So it's going to pick
9 up something --

10 THE WITNESS: It will pick up results.

11 JUDGE MOSS: -- just because it says
12 "Movers"?

13 THE WITNESS: Correct.

14 JUDGE MOSS: Okay. Gotcha. All right.

15 Now I understand the distinction you're trying to
16 draw.

17 All right. Very well. And Mr. Bryant has
18 indicated his questioning of the witness is complete.

19 Mr. Roberson, do you have any
20 cross-examination?

21 MR. ROBERSON: I believe I have a very
22 short cross-examination if you'd like to proceed or we
23 can take a break.

24 JUDGE MOSS: If it's mercifully brief,
25 then let's go ahead and continue and let everybody go

Cross-Examination by Mr. Roberson / Shawver 93

1 about their business.

2

3 CROSS-EXAMINATION

4 BY MR. ROBERSON:

5 Q. You mentioned that you're familiar with all
6 of Dolly's social channels, correct?

7 **A. Yes.**

8 Q. And so let's talk about Twitter, for example.

9 JUDGE MOSS: We have two soft-spoken
10 counsel today. No criticism, of course.

11 MR. ROBERSON: I thought I had it right
12 earlier.

13 JUDGE MOSS: You have to have a voice that
14 projects into the mic.

15 BY MR. ROBERSON:

16 Q. The Twitter page that Ms. Paul testified
17 about, is that Dolly's only Twitter handle?

18 **A. I believe we have a support handle as well.**

19 Q. Is there also a Muck Foving handle?

20 **A. There may be.**

21 Q. So there are more pages, I guess, than just
22 what Ms. Paul testified about, correct?

23 **A. More pages?**

24 Q. More handles. If I were to go to Twitter, I
25 wouldn't just get Dolly's -- the page she testifies

Cross-Examination by Mr. Roberson / Shawver 94

1 about, correct; there would be other pages created by
2 other handles?

3 **A. Yes, I believe there's a Muck Foving one. I**
4 **don't know if it's active, but I believe we have it.**

5 Q. All right.

6 Now, you testified that Dolly doesn't employ
7 any of its movers. I see in a lot of your web
8 presence, I see men in Dolly shirts, correct?

9 **A. Correct.**

10 Q. And none of those pages explicitly say that
11 none of those people is not a Dolly employee, correct?

12 **A. That none of the people are not a Dolly**
13 **employee?**

14 Q. The men in Dolly shirts.

15 JUDGE MOSS: There was a double negative
16 there, Mr. Roberson.

17 MR. ROBERSON: Sorry.

18 BY MR. ROBERSON:

19 Q. Is there any -- is there any indication on
20 that page that the men in orange shirts are not Dolly
21 employees?

22 **A. We have an indication that the helpers -- on**
23 **the site that the helpers are all independent**
24 **contractors.**

25 Q. So I'm looking at KS-1. I don't see that.

Cross-Examination by Mr. Roberson / Shawver 95

1 **A. So, yes, in this specific screenshot, no,**
2 **there is no indication.**

3 Q. So if I go to KS-2, do I see the words
4 "independent," "non-employee," any of those words?

5 **A. Are you -- you're asking me to look at the**
6 **LinkedIn page --**

7 Q. Yeah.

8 **A. -- KS-2?**

9 **There is nothing on this, no.**

10 Q. Okay. Fair enough.

11 You mentioned that Dolly's operating in other
12 states, correct?

13 **A. Correct.**

14 Q. One of those is Illinois?

15 **A. Correct.**

16 Q. Has Dolly been cited for operating without a
17 permit in Illinois?

18 **A. I believe we have, yes.**

19 Q. Okay.

20 Later in your testimony you talked about what
21 Dolly does advertise. So it does advertise that it
22 provides truck and muscle, correct --

23 **A. Correct.**

24 Q. -- for moving, correct?

25 **A. Correct.**

Cross-Examination by Mr. Roberson / Shawver 96

1 Q. Okay.

2 Why doesn't Dolly just say explicitly that it
3 doesn't move anything?

4 **A. Well, so, like I said earlier, we try really**
5 **hard to explicitly say that Dolly does not move**
6 **anything, but that we will help find somebody to move**
7 **something, what's needed to be moved.**

8 Q. Okay.

9 Let's talk about Yelp. You mentioned it's a
10 third-party site, correct?

11 **A. Correct.**

12 Q. But Dolly has claimed it?

13 **A. Correct.**

14 Q. Why does Dolly claim a page?

15 **A. To be able to respond to customer reviews --**

16 Q. So --

17 **A. -- positive or negative.**

18 Q. -- it communicates with the public?

19 **A. It communicates, yes.**

20 Q. And so as part of that, Dolly can post on
21 Yelp, correct?

22 **A. No, that's not correct.**

23 Q. So how does it answer --

24 **A. Oh, I'm sorry. So to be able to post, like, a**
25 **response?**

Redirect Examination by Mr. Bryant / Shawver 97

1 Q. Yeah.

2 **A. Yes, that's correct.**

3 Q. Okay.

4 MR. ROBERSON: I can't think of what the
5 last question I was going to ask was, so I think I'm
6 done.

7 JUDGE MOSS: All right, Mr. Roberson.
8 Let's hope it was not critical to the outcome of the
9 case. All right.

10 So I believe we're finished with our
11 examination of witnesses. You got something,
12 Mr. Bryant?

13 MR. BRYANT: Yes, just one redirect
14 question.

15 JUDGE MOSS: All right. Go ahead.

16
17 REDIRECT EXAMINATION

18 BY MR. BRYANT:

19 Q. You just heard Mr. Roberson ask you whether
20 or not Dolly advertises for truck and muscle, correct?

21 **A. Correct.**

22 Q. Does Dolly own the truck or the muscle?

23 **A. No.**

24 **JUDGE MOSS: (Laughter.) Sorry.**

25 **A. No, Dolly does not.**

98

1 MR. BRYANT: That's all.

2 JUDGE MOSS: Owing trucks is one thing,
3 but owing muscle? Really? That's why I was amused,
4 Mr. Bryant. All right.

5 We are then complete with our questioning.
6 All right. I assume the parties are going to want an
7 opportunity to brief. Yes? No? Let me know.

8 MR. ROBERSON: It's up to Mr. Bryant.

9 JUDGE MOSS: Mr. Bryant, do you wish to
10 file a brief to advocate on behalf of your client?

11 MR. BRYANT: No.

12 JUDGE MOSS: All right. Very well.
13 Mr. Roberson?

14 MR. ROBERSON: I don't feel the need to
15 respond if he's not going to file a brief.

16 JUDGE MOSS: That's fine. I think I can
17 take the record as I have it, analyze it critically
18 and come to a conclusion without the need for briefs,
19 but I wanted to give you the opportunity to do so.
20 And you have both declined the opportunity, so that's
21 where we'll leave that.

22 Is there anything else we need to take up
23 today?

24 MR. ROBERSON: No.

25 MR. BRYANT: No.

1 JUDGE MOSS: All right. With that being
2 the case, I would like to thank both of our witnesses
3 for their fine testimony. I would like to thank
4 counsel for their good efforts today.

5 I think we have developed a sufficient
6 record to resolve this matter, and I will take it
7 under consideration and will publish an initial order
8 in due course, and we'll see where things go after
9 that. All right?

10 MR. ROBERSON: Thank you.

11 JUDGE MOSS: Thank you very much. We're
12 off the record.

13 MR. BRYANT: Thank you.

14 (Proceeding concluded at
15 11:28 a.m.)

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CERTIFICATE

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I, ANITA W. SELF, a Certified Shorthand
Reporter in and for the State of Washington, do hereby
certify that the foregoing transcript is true and
accurate to the best of my knowledge, skill and
ability.

IN WITNESS WHEREOF, I have hereunto set my hand
and seal this 27th day of March, 2018.

ANITA W. SELF, RPR, CCR #3032