

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

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

DOLLY, INC.

DOCKET TV-171212

COMMISSION STAFF'S PETITION  
FOR ADMINISTRATIVE REVIEW

**I. INTRODUCTION**

1 Commission Staff of the Washington Utilities and Transportation Commission (Commission) petitions for administrative review of Order 02 in this docket pursuant to WAC 480-07-825. Staff asks the Commission to modify a provision of its cease-and-desist order that is inconsistent with the United States Constitution.

**II. STATEMENT OF FACTS**

2 The Commission recently issued Order 02 in this docket, in which it classified Dolly as a company engaging in jurisdictional operations without the necessary permits and ordered it to cease and desist from such operations.<sup>1</sup> The Commission specifically required Dolly “to remove immediately its web-based application from the Internet and its presence from Facebook, Twitter, Pinterest, and any other social media sites or other platforms it uses or has used to make its services known.”<sup>2</sup>

**III. STATEMENT OF ISSUE**

3 Should the Commission grant review and modify its cease and desist order to comport with the Commerce Clause of the United States Constitution?

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<sup>1</sup> *In re Determining the Proper Carrier Classification of, and Complaint for Penalties Against Dolly, Inc.*, Docket TV-171212, Order 02, at 15-16 ¶¶ 1, 2, 4 (Mar. 30, 2018) (hereinafter Order 02).

<sup>2</sup> Order 02 at 16 ¶ 4.

#### IV. ARGUMENT

4 The above quoted portion of Order 02 violates the Commerce Clause of the United States Constitution. A State impermissibly intrudes into Congress's regulatory jurisdiction over interstate commerce by regulating commercial conduct occurring in another state.<sup>3</sup> The provision of Order 02 noted above goes well beyond requiring Dolly to modify its advertisements to cease and desist from unpermitted operations in the state of Washington; it impermissibly requires actions that affect Dolly in the six other states in which it operates.<sup>4</sup> The Commission must modify it.

#### V. CONCLUSION

Commission Staff requests that the Commission grant review and modify the quoted provisions in Order 02 to make them consistent with the Commerce Clause and the United States Constitution.

DATED this 2<sup>nd</sup> day of April 2018.

Respectfully submitted,

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<sup>3</sup> *Bostain v. Food Exp., Inc.*, 159 Wn.2d 700, 720, 153 P.3d 846 (2007); *Healy v. Beer Institute, Inc.*, 491 U.S. 324, 335-37, 109 S. Ct. 2491, 105 L. Ed. 2d 275 (1989).

<sup>4</sup> See Shawver, TR. at 83:20-22, in this docket.