

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In re Application of

Dolly, Inc.

for a permit to operate as a motor carrier  
of household goods and a permit to  
operate as a motor freight common  
carrier

DOCKET TV-190357

NOTICE OF INTENT TO DENY  
APPLICATION FOR PERMANENT  
AUTHORITY

NOTICE OF OPPORTUNITY FOR  
HEARING

**BACKGROUND**

- 1 On May 6, 2019, Dolly, Inc. (Dolly or Applicant) filed a Household Goods Moving Company Permit Application with the Washington Utilities and Transportation Commission (Commission) for provisional and permanent authority to operate in Washington State as a household goods carrier (2019 Permit Application or Application).<sup>1</sup>
- 2 RCW 81.80.075(3) requires the Commission to consider (1) whether an applicant for a household goods carrier permit is fit to perform the services proposed and conform to the requirements, rules, and regulations of the Commission, and (2) whether the Applicant's operations are consistent with the public interest.
- 3 The Commission will grant or deny an application for permanent authority after it conducts a complete review of the application, including supporting statements, reports, or other information necessary to determine fitness. Commission rules provide that the Commission may reject or deny an application for permanent authority if the Commission believes the applicant is unfit, or if issuing the permit is not in the public interest.
- 4 If it is necessary to resolve outstanding issues or concerns related to the Applicant's fitness, whether the Applicant's operations would be consistent with the public interest, or any other issue resulting from a complaint or public comment, the Commission may hold a hearing or brief adjudicative proceeding on any application for permanent authority.<sup>2</sup>

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<sup>1</sup> In addition to the 2019 Permit Application, Dolly filed a Petition for Rule Exemption from a number of the Commission's rules on May 6, 2019 ("Exemption Petition"). The Commission will postpone consideration of Dolly's Exemption Petition, *see* WAC 480-07-035(3), pending a final determination of whether to grant Dolly's 2019 Permit Application, as that determination may render the exemption request moot.

<sup>2</sup> WAC 480-15-350.

5 Commission staff (Staff) evaluated the 2019 Permit Application and recommends the Commission deny the 2019 Permit Application for the reasons set out below.

### FACTUAL ALLEGATIONS

6 On January 10, 2018, the Commission issued Order 01 in Docket TV-171212. Order 01 alleged that Dolly was operating as a household goods carrier, a common carrier, and a solid waste hauler without first obtaining the required permit or certificate from the Commission.

7 On April 9, 2018, the Commission, through an administrative law judge (ALJ) issued Corrected Order 02 in Docket TV-171212 classifying Dolly as a household goods carrier, a common carrier transporting property other than household goods in the state of Washington, and a solid waste company offering to pick up, transport, and dispose of solid waste in Washington. Corrected Order 02 ordered Dolly to cease and desist jurisdictional operations until it first obtained a permit or certificate from the Commission; it also imposed a penalty of \$69,000 against the Company, a portion of which the ALJ suspended on the condition of future compliance with Commission rules and orders.

8 On May 18, 2018, the Commission issued Order 04 in Docket TV-171212. The order denied Dolly's petition for administrative review of Corrected Order 02, thereby affirming the ALJ's findings and conclusions in that order.

9 In Order 04, the Commission ordered Dolly to cease and desist from operating as a household goods carrier, common carrier, or a solid waste collection company until it first obtained authority from the Commission. Because a person engages in business as a household goods carrier by advertising to do so, the Commission ordered Dolly to make specific changes to its advertising to comply with the cease and desist order. In Order 04, the Commission also affirmed the \$69,000 penalty that was imposed by the ALJ, but suspended the entirety of the penalty for a period of two years conditioned on Dolly's compliance with the terms of Order 04, including its cease and desist provisions.

10 On May 29, 2018, Dolly moved to stay the effectiveness of Order 04. In its request for a stay, Dolly conceded that it would need to cease operations in the event that Order 04 became effective.

11 On June 8, 2018, the Commission denied Dolly's motion to stay the effectiveness of Order 04.

12 On June 15, 2018, Dolly petitioned for review of Order 04 in Thurston County Superior Court. Dolly then moved the Superior Court to stay the effectiveness of Order 04. In doing so, Dolly contended that unless the court stayed Order 04, Dolly would need to

cease providing service in Washington. The Superior Court denied Dolly's motion for stay on June 29, 2018.

- 13 On July 6, 2018, Dolly filed a Household Goods Moving Company Permit Application with the Commission for provisional and permanent authority to operate in Washington State as a household goods carrier under Docket TV-180605 (2018 Permit Application).
- 14 On July 12, 2018, Staff requested by motion that the Commission impose the suspended penalty based on Staff investigations on June 15, 2018, and July 10, 2018. On those dates, Staff investigated and determined that Dolly continued to advertise for and/or provide regulated services despite the provisions in Order 04 requiring Dolly to cease and desist.
- 15 On August 3, 2018, the Commission granted Staff's motion and imposed the suspended penalty by entering Order 06 in Docket TV-171212. It did so after determining that Dolly admitted it continued to operate in violation of the cease and desist provisions in Order 04.
- 16 Between August and October of 2018, Staff investigated Dolly's compliance with Order 04 and other Commission rules and orders. Staff discovered that Dolly continued to advertise regulated services on its website and its Facebook, Twitter, and Instagram pages. Dolly's webpage contained maps, down to the neighborhood level, indicating that Dolly still offered and/or provided service in Seattle, Washington. Furthermore, Dolly continued to offer to transport household goods or other property between two points in Washington State for compensation on its website. For example, on September 20, 2018, Staff used Dolly's website and obtained a quote for an "apartment move" between two points in Thurston County, Washington.
- 17 On September 21, 2018, the Commission issued a Notice of Intent to Deny Application for Permanent Authority and Notice of Opportunity for Hearing on Staff's recommendation. The Commission based its notice on Staff's allegation that Dolly continued to operate as a household goods carrier in violation of the applicable statutes as well as Commission orders in Docket TV-171212.
- 18 On October 5, 2018, Dolly submitted a Request for Adjudicative Proceeding in order to contest the Commission's intent to deny its 2018 Permit Application. The Commission, accordingly, set the matter for hearing on December 19, 2018.
- 19 At hearing, Staff and the Company each presented testimony and oral argument. Staff testified about its investigation and its conclusion that "Dolly has shown itself to be unwilling and/or unable to comply with the public service laws and the Commission's rules and orders, and therefore unfit to hold a permit."

20 On February 14, 2019, the Commission entered Order 01 in Docket TV-180605. The order denied Dolly's 2018 Permit Application without prejudice. The order noted that "Dolly has yet to comply with [Order 04]" and that "[t]he record in this docket is replete with evidence that Dolly is still advertising, soliciting, offering, and entering into agreements to transport household goods in Washington in violation of Commission orders and applicable statutes and rules."<sup>3</sup> Additionally, the Commission was clear on the need for Dolly to fully cease and desist to come into complete compliance *prior* to filing another application:

Dolly professes a willingness to comply with Commission requirements but claims to need direction from the Commission on what to do to operate legally in Washington. We have repeatedly provided such guidance, which the Company has consistently ignored. *Dolly must first comply with Order 04. To do so, the Company must cease and desist any and all activities related to the transportation of household goods in Washington . . .* Once Dolly is in compliance with Order 04, the Company should work with Staff to determine how Dolly can operate within the requirements established by the legislature and the Commission. *Only then should Dolly refile an application for a household goods carrier permit.*<sup>4</sup>

21 On or about May 6, 2019, Dolly made changes to its website to comply with some of the terms of Order 04 and also filed the 2019 Permit Application with the Commission. The 2019 Permit Application was substantially the same as the 2018 Permit Application in substance, and provided no credible assurances or guarantees of future compliance with Commission rules and orders despite the Company's extended history of flouting those rules and orders.

22 The 2019 Permit Application also contains erroneous information, misrepresentations, and/or omits material information. For example, page six of Dolly's 2019 Permit Application asked: "Do you have, or have you ever had a business-related legal proceeding against you in Washington, or in any other state?" Dolly's response cited only a Washington "UTC Staff Investigation" dated "January 2018." Dolly failed to disclose that the Company has been repeatedly cited for violations by the Illinois Commerce Commission ("ICC"). On February 2, 2015, an ALJ with the ICC found Dolly guilty of unlawfully brokering household goods, for which the Company was assessed a \$100 penalty.<sup>5</sup> On May 14, 2015, an ALJ with the ICC cited Dolly for

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<sup>3</sup> *In re Application of Dolly, Inc. for a Permit to Operate as a Motor Carrier of Household Goods and a Permit to Operate as a Motor Freight Common Carrier*, Docket TV-180605, Order 01 ¶ 17 (Feb. 14, 2019).

<sup>4</sup> *Id.* ¶ 25 (emphasis added).

<sup>5</sup> *In re Dolly, LLC*, Admin. Citation No. 68732 (Ill. Comm. Comm'n Feb. 2, 2015) (ALJ order).

unlawfully identifying itself in its advertising, for which the Company was assessed a \$100 penalty.<sup>6</sup> On October 4, 2016, the ICC issued a citation to Dolly for operating without the required household goods license, for which the Company was assessed a \$750 penalty.<sup>7</sup> In order to be granted either provisional or permanent operating authority by the Commission, an applicant must submit a properly completed permit application that “does not contain any indication of fraud, misrepresentation, or erroneous information.”<sup>8</sup>

- 23 On May 15, 2019, Staff conducted an investigation into Dolly’s compliance with Order 04. During this review, Staff attempted but was unable to obtain a quote for a residential household goods carrier move. Instead, Dolly’s website displayed a pop-up message stating that “[a]t this time, Dolly Helpers aren’t allowed to move goods between two residences in Washington State. We apologize for this inconvenience.”
- 24 Staff, however, *was* able to obtain quotes for a common carrier delivery and a related solid waste move. The Commission was clear in Order 04 that Dolly was required to immediately cease and desist *all* jurisdictional operations, not only as a household goods carrier but also as a common carrier and/or a solid waste collection company.<sup>9</sup>
- 25 On May 30, 2019, Staff reviewed Dolly’s compliance with Order 04. Staff determined that Dolly continued to advertise on its website and other platforms for regulated services in Seattle, Washington. For example, the “Services” page of Dolly’s website stated that Dolly was “[a]vailable in ... Seattle.” That same tab also sets out the company’s “Most Common Dollys,” which include “Apartment Moves,” “Retail Store Delivery,” and “Junk Removal,” the last of which “[i]ncludes trash removal and responsible disposal.” The Services tab also states that Dolly “can move just about anything” and lists various household goods and other property that a customer may enter into an agreement with Dolly to transport. Additionally, Dolly’s Facebook “Home” page offered “Transportation Service in Seattle, Washington.”
- 26 To establish fitness to obtain a permit, an applicant must demonstrate financial and

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<sup>6</sup> *In re Dolly, LLC*, Admin. Citation No. 68916 (Ill. Comm. Comm’n May 15, 2015) (ALJ order).

<sup>7</sup> Ill. Comm. Comm’n Admin. Citation No. 70856 (Oct. 4, 2016) (citation).

<sup>8</sup> WAC 480-15-302(1)-(2); WAC 480-15-305(1)(a) (requiring that an applicant “has met all of the criteria required for a provisional permit as described in WAC 480-15-302” before granting permanent authority).

<sup>9</sup> *In the Matter of Determining the Proper Carrier Classification of, and Complaint for Penalties Against Dolly, Inc.*, Docket TV-171212, Order 04 ¶ 75 (May 18, 2018) (“Dolly, Inc. must immediately cease operating as a household goods carrier, common carrier, and solid waste collection company unless it obtains authority from the Commission.”).

regulatory fitness. Regulatory fitness concerns whether an applicant is likely to comply with the Commission's rules.<sup>10</sup> The Commission considers past operating history as one of the best indicators of a company's willingness and ability to comply with regulatory requirements.<sup>11</sup> The Commission, however, does not consider a past history of engaging in illegal conduct a per se bar to a finding of fitness; an applicant may overcome such a history with credible assurances of future compliance coupled with objective manifestations of intent to comply.<sup>12</sup>

- 27 Staff recommends that the Commission deny the 2019 Permit Application because the Company fails to show regulatory fitness. While it appears Dolly has now ceased and desisted from its unlawful household goods carrier operations, it waited to do so until nearly a year after the Commission entered Order 04 and nearly three months after the Commission denied the 2018 Permit Application. Staff's May 2019 investigation shows that Dolly continues to conduct operations as a common carrier and a solid waste collection company. Dolly's Application also contains material misrepresentations and/or omissions. Dolly is, accordingly, unfit due to its failure to comply with both the public service laws and Order 04, and its failure to satisfy the criteria for operating authority because of the omissions or misrepresentations contained in its Application.

### DISCUSSION

- 28 Based on the information Staff presented, the Commission agrees with Staff's recommendation and intends to deny the 2019 Permit Application. The information Staff has discovered renders Dolly unfit to operate as a household goods moving company. Dolly has an extended history of unlawful operations that is presently ongoing. Dolly has, since Order 04's service date, knowingly and willingly operated in violation of a Commission order, offering only belated, incomplete, isolated, and scarce attempts at complying with the Commission's rules and orders. Selective, incremental, or incomplete compliance is *not* compliance.<sup>13</sup> Furthermore, Dolly withheld material information about business-related legal proceedings against it in Illinois, which is itself an independent basis for denial of the Application. All objective evidence suggests that Dolly either cannot or will not fully comply with the Commission's rules, and Dolly has offered no credible assurances of future compliance to overcome those objective demonstrations of its unfitness.

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<sup>10</sup> *In re Application of Redline Courier, Inc.*, App. No. P-77664, Order M.V.C. No. 148367, Hearing No. P-77664 (Dec. 13, 1994).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> See, e.g., *In re Classification of, and Complaint for Penalties Against Ghostruck Inc.*, Docket TV-161308, Order 05 ¶ 25 (June 1, 2017) ("Ghostruck violated the law, and continues to violate the law. The Commission does not allow illegal operations to 'simply wind down.' We order them to immediately cease and desist, as we do here.") (emphasis added).

**NOTICE**

- 29 The Commission hereby provides notice of its intention to deny Dolly's Application for permanent authority for failure to meet the application requirements in RCW 81.80 and WAC 480-15.
- 30 **NOTICE OF OPPORTUNITY FOR HEARING.** Dolly may request a hearing to contest the factual allegations set out in this notice. Dolly may request such a hearing by filing an electronic request for a hearing with the Commission's records center by **5:00 p.m. on June 18, 2019**. The request must be directed to the attention of Mark L. Johnson, Executive Director and Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250, and must reference Docket TV-190357.
- 31 If Dolly requests a hearing by **5:00 p.m. on June 18, 2019**, the Commission will schedule an adjudicative proceeding under chapter 34.05 RCW and chapter 480-07 WAC. If Dolly does not request a hearing by that date, the Commission will enter an order rejecting the Application.

DATED at Olympia, Washington, and effective June 3, 2019.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON  
Executive Director and Secretary