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BEFORE THE  
ILLINOIS COMMERCE COMMISSION

BENCH SESSION

February 5th, 2014  
Chicago, Illinois

Met, pursuant to notice, at 10:30 o'clock a.m. At  
160 North LaSalle Street, Chicago, Illinois 60601.

BEFORE:

- MR. DOUGLAS P. SCOTT, Chairman
- MR. JOHN T. COLGAN, Commissioner
- MS. ANN McCABE, Commissioner
- MR. MIGUEL del VALLE, Commissioner
- MS. SHERINA E. MAYE, Commissioner
- MR. JOHN T. COLGAN, Commissioner  
(Via videoconference)

MIDWEST LITIGATION SERVICES, by  
JOANNA VITALE,  
Certified Shorthand Reporter  
Illinois CSR No. 084-004323

1                   CHAIRMAN SCOTT: Is everyone ready in  
2 Springfield?

3                   COMMISSIONER COLGAN: We're ready to go.

4                   CHAIRMAN SCOTT: Pursuant to the provisions of the  
5 Open Meetings Act, I now convene a regularly scheduled  
6 bench session of the Illinois Commerce Commission. With  
7 me in Chicago are Commissioner McCabe, Commissioner del  
8 Valle, and Commissioner Maye. In Springfield is  
9 Commissioner Colgan. I am Chairman Scott. We have a  
10 quorum.

11                   Before moving into the agenda, according to  
12 Section 1700.10 of Title 2 of the Administrative Code,  
13 this is the time we allow members of the public to  
14 address the Commission. Members of the public wishing  
15 to address the Commission must notify the Chief Clerk's  
16 Office at least 24 hours prior to Commission meetings.  
17 According to the Chief Clerk's office, we have no  
18 requests to speak at today's bench session.

19                   Moving to Transportation, we'll start with the  
20 railroad portion of today's agenda:

21                   Item RR-1 is Docket No. T13-0088. This is the  
22 Department of Transportation, on behalf of the People of  
23 the State of Illinois', their petition for approval of  
24 the taking or damaging of certain properties owned by a  
25 transportation common carrier in DuPage County by

1 exercising the right of eminent domain. ALJ Duggan  
2 recommends entry of an Order approving the use of  
3 eminent domain.

4 Is there any discussion?

5 Is there a motion to enter the Order?

6 COMMISSIONER McCABE: So moved.

7 CHAIRMAN SCOTT: Moved by Commissioner McCabe.

8 Second?

9 COMMISSIONER MAYE: Second.

10 CHAIRMAN SCOTT: Seconded by Commissioner Maye.

11 Any discussion?

12 All in favor say aye.

13 (Ayes heard.)

14 CHAIRMAN SCOTT: Any opposed?

15 (No response.)

16 CHAIRMAN SCOTT: The vote is 5-0 and the Order is  
17 entered. We will use this 5-0 vote for the remainder of  
18 today's transportation agenda unless otherwise noted.

19 Item RR-2 is Docket No. T13-0128. This is the  
20 Indiana Railroad Company, the Village of Oblong, the  
21 City of Robinson and IDOT's stipulated agreement  
22 regarding safety improvement at a highway rail grade  
23 crossing in Crawford County. Our transportation counsel  
24 recommends entry of an Order approving the agreement.

25 Is there any discussion?

1 Any objections?

2 (No response.)

3 CHAIRMAN SCOTT: Hearing none, the Order is  
4 entered.

5 Moving now to Motor Carriers, Item MC-1, Shawn  
6 Bradley-Shimizu's application for an operator's  
7 employment permit under Chapter 625 ILCS 5/18a-403 of  
8 the Illinois Commercial Relocation of Trespassing  
9 Vehicles Law. ALJ Kirkland-Montague recommends entry of  
10 an Order granting the application.

11 Is there any discussion?

12 I would like to propose edits to this Order.  
13 These edits reverse the conclusion, thereby denying  
14 Mr. Bradley-Shimizu's application for an operator's  
15 permit. They also add language recommending the  
16 applicant return for certification after he has  
17 completed the terms of his probation. I believe this is  
18 consistent with the Commission's actions on these  
19 matters in the past. We have two serious crimes, one  
20 involving violence; one involving theft that happened  
21 fairly recently and the gentleman is still on parol  
22 for -- excuse me, probation for another year. So with  
23 that, I would move the adoption of these edits.

24 Is there a second?

25 COMMISSIONER MAYE: Second.

1 CHAIRMAN SCOTT: Seconded by Commissioner Maye.

2 Commissioner del Valle?

3 COMMISSIONER del VALLE: Question for ALJ, what is  
4 the fee for applying for the permit?

5 JUDGE MONTAQUE: \$50.

6 COMMISSIONER del VALLE: Okay. And when this  
7 person after they complete the probationary period comes  
8 in to apply again, they'll pay another \$50?

9 JUDGE MONTAQUE: Correct.

10 COMMISSIONER del VALLE: I'm not looking for  
11 answers here today because I think it's something we  
12 need to explore. And I agree -- and we're voting for  
13 favor of the edit, but I'm concerned that even though in  
14 the law we don't indicate that if you're on probation  
15 you will be denied a permit or in our rules we don't  
16 indicate that if you're on probation, you'll be denied a  
17 permit. It is basically a decision that we've made as a  
18 commission to -- and one that I agree with and I fully  
19 support, but I think it's just a bit unfair to allow  
20 someone to apply and not let them know that they're  
21 going to lose their 50 bucks because they're on  
22 probation. So I'm wanting to explore how is it that we  
23 can approach it -- how is it that we can inform people  
24 so that doesn't happen? Because if they successfully  
25 complete their probationary period, we're more than

1 likely -- we're likely, not a guaranteed, depending on  
2 the circumstances, to approve it. So I'd like for us to  
3 think about that and explore that.

4 JUDGE MONTAQUE: Okay.

5 CHAIRMAN SCOTT: There may be something to do  
6 too -- Just thinking this off the top of my head, it may  
7 be something to do, too, with the fee itself. And if  
8 they come back, you know, to do something with the fee  
9 rather than another 50 -- we have costs that are  
10 involved in that. We've already done a lot of the  
11 preparatory work on an applicant. If it gets to this  
12 point, so, you know, perhaps we could make the argument  
13 that we're not doing as much so we can do an  
14 adjustment --

15 COMMISSIONER del VALLE: That's the type of thing  
16 I'd like to explore.

17 CHAIRMAN SCOTT: Because the only concern I have is  
18 that I think we have granted some folks who were on  
19 probation for a long period of time that we granted --  
20 and I don't know that I necessarily want to box  
21 ourselves in -- You know, if the statute says it, that's  
22 one thing, but just on a case-by case basis, I think I  
23 want to leave us that flexibility.

24 COMMISSIONER del VALLE: Yes, and I agree with  
25 that. I recall that case where we made an exception to

1 our own practice. But that was one. It's the only one  
2 that I could recall. So if we could just explore that,  
3 I'd appreciate it.

4 CHAIRMAN SCOTT: Thank you. Commissioner Colgan?

5 COMMISSIONER COLGAN: Yeah, I'm not going to  
6 support the edit. I think you made a comment that this  
7 was consistent with our previous decisions. I'm not  
8 sure that it is; in the sense I remember we voted for a  
9 situation like this to deny the application of a person  
10 who is on probation, but that person had another job.  
11 They had a job in Missouri. And in this case, denying  
12 this application basically takes this man's job away,  
13 and he's in compliance with his terms of his probation.  
14 I agree that it's -- both issues are serious issues, but  
15 he is in compliance with his probation, and now he's not  
16 going to have a job. So I'm going to vote no.

17 CHAIRMAN SCOTT: Further discussion? The motion is  
18 moved and seconded to support the edits as I proposed  
19 them. All in favor say Aye.

20 (Ayes heard.)

21 CHAIRMAN SCOTT: Opposed?

22 MR. COLGAN: No.

23 CHAIRMAN SCOTT: The vote is 4-1 and the edits are  
24 adopted. Is there now a motion to enter the order as  
25 amended?

1 COMMISSIONER MAYE: So moved.

2 CHAIRMAN SCOTT: Moved by Commissioner Maye.

3 Is there a second?

4 COMMISSIONER McCABE: Second.

5 CHAIRMAN SCOTT: Seconded by Commissioner McCabe.

6 All in favor say Aye.

7 (Ayes heard.)

8 CHAIRMAN SCOTT: Opposed?

9 COMMISSIONER COLGAN: No.

10 CHAIRMAN SCOTT: Vote is 4-1 and the Order as  
11 amended is entered, and the application as denied.

12 Item MC-2 is Deckster Coorsen's application  
13 for an operator's employment permit under Chapter 625  
14 ILCS, Section 5/18a-403 of the Illinois Commercial  
15 Relocation of Trespassing Vehicles Law. ALJ Duggan  
16 recommends entry of an Order granting the application.

17 Is there any discussion?

18 COMMISSIONER MAYE: Yes.

19 CHAIRMAN SCOTT: Commissioner Maye ...

20 COMMISSIONER MAYE: The edits that I'm proposing to  
21 this Order amended to provide more detail as to the  
22 applicant's criminal background history. I found the  
23 language in the Order indicating the applicant had no  
24 pertinent convictions quite vague. While I understand  
25 the commission strives to protect the privacy of



1 applicants, I think it's essential that the Commission  
2 be provided with the details necessary to determine  
3 whether or not a particular charge or conviction is  
4 pertinent to the underlying decision. As such, these  
5 edits include mention of the conviction of the  
6 applicant's criminal background check records. Going  
7 forward, I would urge all ALJs to provide the Commission  
8 with as much information as possible in these cases.

9 With that, I move the adoption of these edits.

10 CHAIRMAN SCOTT: The edits have been moved. Is  
11 there a second?

12 COMMISSIONER del VALLE: Second.

13 CHAIRMAN SCOTT: Seconded by  
14 Commissioner del Valle.

15 Any discussions on the edits?

16 COMMISSIONER MAYE: Excuse me, I just want to  
17 mention I did have collaboration with Mr. Del Valle's  
18 office. My apologies.

19 CHAIRMAN SCOTT: Any further discussion?

20 All in favor of the edits vote aye.

21 (Ayes heard.)

22 CHAIRMAN SCOTT: Opposed?

23 (No response.)

24 CHAIRMAN SCOTT: The vote is 5-0 and the edits are  
25 adopted. Is there now a motion to enter the Order as

1 amended?

2 COMMISSIONER McCABE: So moved.

3 CHAIRMAN SCOTT: Moved by Commissioner McCabe.

4 Is there a second?

5 COMMISSIONER MAYE: Seconded by Commissioner Maye.

6 CHAIRMAN SCOTT: Any discussion? All in favor say  
7 aye.

8 (Ayes heard.)

9 CHAIRMAN SCOTT: The vote is 5-0 and the Order as  
10 amended is entered.

11 On to collateral recovery. Item CR-1 is  
12 granted Brandon Canales' application for a Class EE  
13 recovery permit pursuant to Section 45 of the Collateral  
14 Recovery Act. ALJ Duggan recommends entry of an order  
15 granting the application.

16 Is there any discussion?

17 (No response.)

18 CHAIRMAN SCOTT: Are there any objections?

19 (No response.)

20 CHAIRMAN SCOTT: Hearing none, the Order is  
21 entered.

22 Item CR-2 is Charles Durkin's application for  
23 a Class EE Recovery Permit pursuant to Section 45 of the  
24 Collateral Recovery Act. ALJ Duggan recommends entry of  
25 an Order granting the application. This item will be

1 held for disposition of a future Commission proceeding.

2 Is there any discussion on that item before we  
3 move?

4 Mr. Matrisch, is there any further transportation  
5 business before the commission today?

6 MR. MATRISCH: No, Chairman. Thank you.

7 CHAIRMAN SCOTT: Thank you, sir.

8 Hearing none, this concludes today's  
9 Transportation Agenda.

10 Moving on now to the Public Utility agenda.  
11 We will begin with approval of minutes from our January  
12 7th Regular Open Meeting. I understand amendments have  
13 been forwarded. Is there a motion to approve the  
14 amendment?

15 COMMISSIONER McCABE: Move.

16 CHAIRMAN SCOTT: Moved by Commissioner McCabe.

17 Second?

18 COMMISSIONER MAYE: Second.

19 CHAIRMAN SCOTT: Seconded by Commissioner Maye.

20 All in favor say aye.

21 (Ayes heard.)

22 CHAIRMAN SCOTT: Any opposed?

23 (No response.)

24 CHAIRMAN SCOTT: The vote is 5-0, and the  
25 amendments are adopted. Is there now a motion to

1 approve the minutes as amended.

2 COMMISSIONER McCABE: So moved.

3 COMMISSIONER MAYE: Second.

4 CHAIRMAN SCOTT: Moved by Commissioner Maye.

5 Seconded by Commissioner McCabe. All in favor say aye.

6 (Ayes heard.)

7 CHAIRMAN SCOTT: The vote is 5-0 and the January

8 7th Regular Open Meeting minutes as amended are

9 approved.

10 Next we have the January 14th Regular Open

11 Meeting minutes. I understand amendments have been

12 forwarded. Is there a motion to approve the amendments?

13 COMMISSIONER McCABE: So moved.

14 CHAIRMAN SCOTT: Moved by Commissioner McCabe.

15 Second?

16 COMMISSIONER MAYE: Second.

17 CHAIRMAN SCOTT: Seconded by Commissioner Maye.

18 All in favor say aye.

19 (Ayes heard.)

20 CHAIRMAN SCOTT: Any opposed?

21 (No response.)

22 CHAIRMAN SCOTT: The vote is 5-0 and the amendments

23 are approved. Is there now a motion to approve the

24 minutes as amended.

25 COMMISSIONER MAYE: So moved.

1 CHAIRMAN SCOTT: Moved by Commissioner Maye.  
2 Second?  
3 COMMISSIONER McCABE: Second.  
4 CHAIRMAN SCOTT: Second by Commissioner McCabe.  
5 All in favor say aye.  
6 (Ayes heard.)  
7 CHAIRMAN SCOTT: Any opposed?  
8 (No response.)  
9 CHAIRMAN SCOTT: The vote is 5-0 and the  
10 January 14th Regular Open Meeting Minutes, as amended  
11 are approved.  
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1 STATE OF ILLINOIS )  
2 ) SS.  
3 COUNTY OF COOK )

4 Joanna Vitale, being first duly sworn, on oath  
5 says that she is a Certified Shorthand reporter doing  
6 business in the City of Chicago, County of Cook and the  
7 State of Illinois;

8 That she reported in shorthand the proceedings  
9 had at the foregoing meeting;

10 And that the foregoing is a true and correct  
11 transcript of her shorthand notes so taken as aforesaid  
12 and contains all of the proceedings had at the said  
13 meeting.

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16 \_\_\_\_\_  
17 Joanna Vitale, CSR

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19 C.S.R. No. 084-004323

20 SUBSCRIBED AND SWORN TO  
21 before me this 11th day of  
22 February, A.D., 2014.

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23 \_\_\_\_\_  
24 NOTARY PUBLIC

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