

In The Matter Of:
Illinois Commerce Commission
Bench Session

Transportation
March 19, 2014

Marzullo Reporting Agency
345 North LaSalle, 1605
Chicago, IL 60654
(312) 321-9365

Original File pm3-19-14-1.txt

Min-U-Script®

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

BEFORE THE
ILLINOIS COMMERCE COMMISSION

BENCH SESSION
(TRANSPORTATION)

Chicago, Illinois
Wednesday, March 19th, 2014,

Met, pursuant to notice, at 10:30 a.m in Hearing
Room A, First Floor, Leland Building, 527 East Capitol
Avenue, Springfield, Illinois.

PRESENT:

MR. DOUGLAS P. SCOTT, Chairman

MR. JOHN T. COLGAN, Commissioner, via teleconference

MS. ANN McCABE, Commissioner, via teleconference

MR. MIGUEL DEL VALLE, Commissioner

MS. SHERINA MAYE, Commissioner

MARZULLO REPORTING AGENCY, by
PAMELA A. MARZULLO, Reporter
CSR #084-001624

1 CHAIRMAN SCOTT: Pursuant to the provisions of
2 the Open Meetings Act, I now convene a
3 regularly-scheduled Bench session of the Illinois
4 Commercial Commission.

5 With us in Springfield are Commissioner
6 Colgan, Commissioner McCabe and Commissioner Maye.
7 With me in Chicago is Commissioner Del Valle. I'm
8 Chairman Scott.

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

18 Moving first to the transportation agenda,
19 Item R-1 is Docket No. T14-0018. This is Toledo,
20 Peoria and Western Railway, the City of Eureka,
21 Chenoa Township and IDOT's stipulated agreement
22 seeking authorization for a Safety Improvement
23 Project at a highway-rail grade crossing in Woodford
24 and McLean Counties.

1 Our transportation counsel recommends
2 entry of an Order approving the stipulated
3 agreement. Is there any discussion?

4 (No response.)

5 CHAIRMAN SCOTT: Is there a motion to enter the
6 Order?

7 COMMISSIONER DEL VALLE: So moved.

8 COMMISSIONER MAYE: Second.

9 CHAIRMAN SCOTT: Moved by Commissioner Del
10 Valle, seconded by Commissioner McCabe.

11 Is there any discussion?

12 (No response.)

13 CHAIRMAN SCOTT: All in favor, say aye.

14 (A chorus of ayes.)

15 CHAIRMAN SCOTT: Any opposed?

16 (No response.)

17 CHAIRMAN SCOTT: The vote is 5 to nothing, and
18 the Order is entered. We will use this 5 to nothing
19 vote for remainder of today's transportation agenda,
20 otherwise noted.

21 Items RR-2 is Docket No. T14-0020. This
22 is the Village of Glenview's petition for
23 authorization to construct a multi-use
24 pedestrian-rail grade crossing in Cook County.

1 ALJ Kirkland-Montague recommends entry of
2 an Order granting the requested relief.

3 Is there any discussion?

4 (No response.)

5 CHAIRMAN SCOTT: Are there any objections?

6 (No response.)

7 CHAIRMAN SCOTT: Hearing none, the Order is
8 entered.

9 Items RR-3 and RR-4 can be taken together.
10 These items are stipulated agreements seeking
11 authorization for Safety Improvement Projects at
12 highway-rail grade crossings in Adams and Macoupin
13 Counties.

14 In both cases, the parties have requested
15 additional time for funding and our transportation
16 counsel recommends entry of an Order approving
17 additional time for funding.

18 Is there any discussion?

19 (No response.)

20 CHAIRMAN SCOTT: Any objections?

21 (No response.)

22 CHAIRMAN SCOTT: Hearing none, the supplemental
23 orders are entered.

24 Items MC-1 and MC-2 can be taken together.

1 These are applications for an Operator's Employment
2 Permit pursuant to Section 5/18a-403 of the Illinois
3 Commercial Relocation of Trespassing Vehicles Law.

4 In both cases, ALJ Kirkland-Montaque
5 recommends entry of an Order dismissing the
6 pleadings without prejudice.

7 Is there any discussion?

8 (No response.)

9 CHAIRMAN SCOTT: Are there any objections?

10 (No response.)

11 CHAIRMAN SCOTT: Hearing none, the orders are
12 entered and the proceedings are dismissed.

13 Item MC-3 is Illinois Towing Service's
14 application for a commercial vehicle relocation
15 towing license pursuant to the Illinois Commercial
16 Relocation of Trespassing Vehicles Law. The ALJ
17 Kirkland-Montaque recommends entry of an Order
18 granting the application.

19 Is there any discussion?

20 (No response.)

21 CHAIRMAN SCOTT: Any objections?

22 (No response.)

23 CHAIRMAN SCOTT: Hearing none, the Order is
24 entered.

1 On to Collateral Recovery, Item CR-1 is
2 Benji Byer's application for a Class EE Recovery
3 Permit, pursuant to Section 45 of the Collateral
4 Recovery Act. ALJ Kirkland-Montaque recommends
5 entry of an Order dismissing the proceeding without
6 prejudice.

7 Is there any discussion?

8 (No response.)

9 CHAIRMAN SCOTT: Any objections?

10 (No response.)

11 CHAIRMAN SCOTT: Hearing none, the Order is
12 entered.

13 Items CR-2 is Charles Durkin's application
14 for a Class E Recovery Permit, pursuant to Section
15 45 of the Collateral Recovery Act. ALJ
16 Kirkland-Montaque recommends entry of an Order
17 granting the requested permit.

18 I believe Commissioner Del Valle has some
19 minutes to propose. Commissioner?

20 COMMISSIONER DEL VALLE: Thank you,
21 Mr. Chairman. My edits can be found on pages 2
22 through 4 of the Order. They reversed the Order's
23 conclusion and refused the applicant a permit.

24 In addition to adding to the applicant's

1 evidence section, my edit replaces the proposed
2 Order's analysis and concludes that the applicant's
3 permit be refused, pursuant to Section 80A1, which
4 states that "An applicant's permit may be refused if
5 the applicant knowingly makes a misrepresentation in
6 their application for the Recovery Permit."

7 Despite reading the instructions of the
8 application, and understanding that it didn't have a
9 time limit on convictions, which must be disclosed,
10 the applicant filed an application, which failed to
11 list any of this convictions.

12 The edit does not engage in a Section 85A
13 analysis of the applicant's criminal history,
14 because the criminal background is not the basis for
15 the refusal. Rather the refusal is based on the
16 narrow ground of misrepresentation; thus, the edit
17 does not address the applicant's fitness to hold a
18 Recovery Permit.

19 With that, I move the adoption of this
20 item.

21 CHAIRMAN SCOTT: The edits have been moved. Is
22 there a second?

23 COMMISSIONER MAYE: Second.

24 CHAIRMAN SCOTT: Seconded by Commissioner Maye.

1 Any discussion on the edits?

2 (No response.)

3 CHAIRMAN SCOTT: All in favor, say eye.

4 (A chorus of ayes.)

5 CHAIRMAN SCOTT: Any opposed?

6 (No response.)

7 CHAIRMAN SCOTT: The vote is 5 to nothing, and
8 the edits are adopted.

9 Is there now a motion to enter the Order
10 as amended?

11 COMMISSIONER DEL VALLE: So moved.

12 COMMISSIONER McCABE: So moved.

13 CHAIRMAN SCOTT: Moved by Commissioner Del
14 Valle, seconded by Commissioner McCabe.

15 All in favor, say aye.

16 (A chorus of ayes.)

17 CHAIRMAN SCOTT: Any opposed?

18 (No response.)

19 CHAIRMAN SCOTT: The vote is 5 to nothing. The
20 Order as amended is entered.

21 We have two administrative matters on the
22 agenda today. Item AM-2 is a review of the 2015 to
23 2019 Crossing Safety Improvement Program's five-year
24 plan, submitted pursuant Section 8(c) of the Motor

1 Fuel Tax Law, 35 ILCS 505/8(C), which directs the
2 Commission to implement a five-year planning process
3 for highway-rail grade crossing Safety Improvement
4 Projects. Staff recommends approval of the plan.

5 Is there any discussion?

6 (No response.)

7 CHAIRMAN SCOTT: Is there a motion to approve
8 the 2015 to 2019 Crossing Safety Improvement
9 five-year plan?

10 COMMISSIONER COLGAN: So moved.

11 CHAIRMAN SCOTT: Moved by Commissioner Colgan.
12 Is there a second?

13 COMMISSIONER McCABE: Second.

14 CHAIRMAN SCOTT: Seconded by Commissioner
15 McCabe.

16 Any discussion?

17 (No response.)

18 CHAIRMAN SCOTT: All in favor, say aye.

19 (A chorus of ayes.)

20 CHAIRMAN SCOTT: Any opposed?

21 (No response.)

22 CHAIRMAN SCOTT: The vote is 5 to nothing and
23 the plan is approved.

24 Item AM-2 is our review of the 2013 Annual

1 Report on Accidents and Incidents involving
2 Hazardous Materials on Railroads in Illinois.
3 Current law requires Annual Hazardous Material
4 Report to be submitted to the Governor and leaders
5 of the General Assembly by the first week in April
6 of each year. Staff recommends approval of the
7 report.

8 Is there any discussion?

9 (No response.)

10 CHAIRMAN SCOTT: Are there any objections to
11 approving the report?

12 (No response.)

13 CHAIRMAN SCOTT: Hearing none, the report is
14 approved.

15 Mr. Matrisch, is there any further
16 transportation business to come before the
17 Commission today?

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

19 CHAIRMAN SCOTT: That concludes today's
20 transportation agenda?

21 COMMISSIONER MAYE: Chairman Scott?

22 CHAIRMAN SCOTT: Yes.

23 COMMISSIONER MAYE: Can I ask you for a
24 two-minute recess?

1 CHAIRMAN SCOTT: Sure.

2 (Recess taken.)

3 COMMISSIONER MAYE: I'm sorry, I'm back.

4 CHAIRMAN SCOTT: That's okay.

5 (WHICH WERE ALL THE PROCEEDINGS HAD.)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

1 STATE OF ILLINOIS)
) SS:
2 COUNTY OF C O O K)

3

4 PAMELA A. MARZULLO, C.S.R., being first duly sworn,
5 says that she is a court reporter doing business in the city
6 of Chicago; that she reported in shorthand the proceedings
7 had at the Proceedings of said cause; that the foregoing is
8 a true and correct transcript of her shorthand notes, so
9 taken as aforesaid, and contains all the proceedings of said
10 the bench session.

11

PAMELA A. MARZULLO
License No. 084-001624

12

13

14 SUBSCRIBED AND SWORN TO
before me this ____ day
15 of _____ 2014.

16

Notary Public

17

18

19

20

21

22

23

24