

1 BEFORE THE
2 ILLINOIS COMMERCE COMMISSION

3 BENCH SESSION
4 (TRANSPORTATION)

5
6 Springfield, Illinois
7 Wednesday, May 16, 2012

8
9 Met, pursuant to notice, at 10:30 a.m.

10 in Hearing Room A, First Floor, Leland Building, 527
11 East Capitol Avenue, Springfield, Illinois.

12
13 PRESENT:

14 MR. DOUGLAS P. SCOTT, Chairman

15 MS. LULA M. FORD, Commissioner
 (Via audiovisual conference)

16 MS. ERIN M. O'CONNELL-DIAZ, Commissioner
17 (Via teleconference)

18 MR. JOHN T. COLGAN, Commissioner

19 MS. ANN McCABE, Acting Commissioner
 (Via audiovisual conference)

20
21 SULLIVAN REPORTING COMPANY, by
 Carla J. Boehl, Reporter
22 CSR #084-002710

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PROCEEDINGS

CHAIRMAN SCOTT: Pursuant to the provisions of the Open Meetings Act, I now convene a regularly scheduled Bench Session of the Illinois Commerce Commission. With me in Springfield is Commissioner Colgan, and with us in Chicago are Commissioner Ford and Acting Commissioner McCabe. I am Chairman Scott. We have a quorum.

We also have Commissioner O'Connell-Diaz available by phone. Per our rules, we will have to vote to allow Commissioner O'Connell-Diaz to participate by phone. Is there a motion to allow Commissioner O'Connell-Diaz to participate by phone?

COMMISSIONER COLGAN: So moved.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER FORD: Second.

CHAIRMAN SCOTT: It's been moved and seconded.

All in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN SCOTT: Any opposed?

(No response.)

1 The vote is four to nothing, and
2 Commissioner O'Connell-Diaz may participate by phone.

3 COMMISSIONER O'CONNELL-DIAZ: Thank you.

4 CHAIRMAN SCOTT: Thank you.

5 Before moving into the agenda,
6 according to Section 1700.10 of Title II of the
7 Administrative Code, this is the time we allow
8 members of the public to address the Commission.
9 Members of the public wishing to address the
10 Commission must notify the Chief Clerk's Office at
11 least 24 hours prior to the Commission meeting.

12 According to the Chief Clerk's Office
13 we have one request to speak at today's Bench
14 Session. A request to speak today comes from Allison
15 Fisher (sp) and Robert Garcia. Just as a reminder,
16 you will have three minutes for your presentation
17 today.

18 I believe they are in Chicago?

19 COMMISSIONER FORD: Yes.

20 CHAIRMAN SCOTT: Okay. So if you want to maybe
21 take one of the seats by the -- so that we can hear
22 you?

1 MS. FISHER: Is it possible to wait for Robert?
2 He is on his way. He just got a little bit lost
3 coming off of the train.

4 (Pause.)

5 CHAIRMAN SCOTT: He is here, okay. That was
6 good timing. So take a seat up at the table.

7 MR. GARCIA: Thank you. Am I on?

8 COMMISSIONER FORD: Yes.

9 MR. GARCIA: Good afternoon, ladies and
10 gentlemen. I apologize about the delay. You know,
11 with all the NATO stuff going on, I guess traffic is
12 a bit crazy out there. I hope you guys are doing
13 very good today.

14 My name is Robert Garcia and I am a
15 resident of the southeast side of Chicago. I was
16 asked to come today to speak to you on behalf of the
17 Environmental Justice Alliance of the greater
18 southeast side of Chicago and thousands of Illinois
19 residents who will be directly impacted by your
20 decisions on the proposed Leucadia, a/k/a Chicago
21 Clean Energy Gasification Plant.

22 I want to stress the name Leucadia to

1 you because ultimately you are being asked to make a
2 decision that will force Illinois consumers to foot
3 the bill for increased profits for this company's
4 executives and shareholders. A newly released report
5 suggests this bill will cost each Illinois resident
6 over a thousand dollars a year and the State of
7 Illinois billions of dollars over a single decade.

8 We have gotten over 6,000 comments
9 against this proposal from my fellow southeast side
10 residents, along with customers of Nicor and Ameren
11 across the state of Illinois, that I am submitting to
12 you today for the record at this time.

13 You know, this proposal would be
14 laughably absurd if it wasn't for the millions of
15 dollars poured into marketing that has caused some
16 lawmakers into agreeing to it. How in the world can
17 someone ask you with a straight face to pay to build
18 a facility for them so they can charge you a high
19 fixed rate for a product whose price is falling on
20 the open market? How can you rationally trust a
21 volatile company whose main holdings are in
22 telecommunications, timber, plastics and casinos to

1 make us subsidize a new energy venture for them? How
2 can you allow us to take the risk their shareholders
3 refuse to take -- excuse me, refuse to take, and pay
4 more at a time when the State is cutting funding to
5 utility assistance programs? How can you believe
6 their coal, with all the scientific evidence showing
7 otherwise, is somehow now a clean energy source?

8 Friends and members of the ICC, these
9 questions are what these professional con artists are
10 asking you to blind yourself to, just like they are
11 trying to blind you to the impact that more coal in
12 our community will have.

13 I am submitting a collection of photos
14 to you, which are right here, from our community that
15 show what we see and breathe on a daily basis. At a
16 time when our community is making strides towards
17 reinvigorating itself with work as a site of Illinois
18 Millennium Reserve, more dirty energy threatens this,
19 along with other permanent jobs and opportunities
20 that a clean environment will create. New housing
21 developments, area tourism, along with local green
22 entrepreneurship will not succeed with growing coal

1 piles, trucks, traffic and increased health concerns.

2 You will be making a decision on this
3 proposal that not only will affect the health and
4 lives of people of Chicago's southeast side
5 residents, but the cost that your children and their
6 children, along with the State of Illinois, will have
7 to pay for a very long time to come.

8 Having spent five years working with
9 hundreds of people who are many struggling to pay
10 their utility bills, I urge you to reject this
11 proposal. Temporary jobs at the cost of degrading
12 the Millennium Reserve and all the opportunities this
13 presents to our community, along with growing health
14 risks and, most of all, the increased costs that our
15 fellow Illinois residents will have to pay will not
16 work.

17 Neither utility companies, the State
18 of Illinois nor any of our friends or family should
19 have to pay a bill that shareholders of the company
20 that is profiting from it refuse to risk themselves.

21 Ladies and gentlemen, please listen to
22 your hearts, your minds and your reason and not the

1 made-up economic models by a company that has never
2 done this before. There is more to the cost of a
3 project than projections of rising gas prices which,
4 according to gas price indices over the past years,
5 are still falling.

6 I thank you very much for your time.

7 CHAIRMAN SCOTT: Thank you, Mr. Garcia. Thank
8 you, Ms. Fisher.

9 MR. GARCIA: We appreciate very much the
10 opportunity to speak to you.

11 CHAIRMAN SCOTT: Thank you. That concludes the
12 public presentation portion of today's Bench Session,
13 and we will move to the Transportation agenda.

14 Up first are the approval of minutes
15 from our April 18 Bench Session. Is there a motion
16 to approve the April 18 minutes?

17 COMMISSIONER COLGAN: So moved.

18 CHAIRMAN SCOTT: Is there a second?

19 COMMISSIONER O'CONNELL-DIAZ: Second.

20 CHAIRMAN SCOTT: It's been moved and seconded.

21 All in favor say aye.

22 COMMISSIONERS: Aye.

1 CHAIRMAN SCOTT: Any opposed?

2 (No response.)

3 The vote is five to nothing, and the
4 April 18 Bench Session minutes are approved.

5 Moving on to the Railroad section,
6 Item RR-1 is Docket Number T12-0042. This is a
7 petition to permit the construction of a
8 pedestrian-rail crossing in DuPage County. ALJ
9 Kirkland-Montague recommends entry of an Order
10 granting the petition.

11 Is there any discussion?

12 (No response.)

13 Is there a motion to enter the Order?

14 COMMISSIONER COLGAN: So moved.

15 CHAIRMAN SCOTT: Is there a second?

16 COMMISSIONER O'CONNELL-DIAZ: Second.

17 CHAIRMAN SCOTT: It's been moved and seconded.

18 All in favor say aye.

19 COMMISSIONERS: Aye.

20 CHAIRMAN SCOTT: Any opposed?

21 (No response.)

22 The vote is five to nothing, and the

1 Order is entered.

2 We will use this five to nothing vote
3 for the remainder of the Transportation agenda,
4 unless otherwise noted.

5 Items RR-2 through RR-10 (T12-0066,
6 T12-0067, T12-0070, T12-0071, T12-0072, T12-0073,
7 T12-0074, T12-0075, T12-0076) can be taken together.
8 These items concern Stipulated Agreements regarding
9 public safety improvements at highway-rail grade
10 crossings across Illinois. In each case Staff
11 recommends entry of an Order approving the Stipulated
12 Agreement.

13 Is there any discussion?

14 (No response.)

15 Any objections?

16 (No response.)

17 Hearing none, the Orders are entered.

18 Item RR-11 is Docket Number T11-0071.

19 This item concerns a Stipulated Agreement regarding
20 public safety improvements at eight Union Pacific
21 highway-rail grade crossings in Cook County. Staff
22 recommends entry of an Amended Order modifying the

1 cost division table in the agreement.

2 Is there any discussion?

3 (No response.)

4 Any objections?

5 (No response.)

6 Hearing none, the Amended Order is
7 entered.

8 On to Motor Carriers, Items MC-1
9 through MC-3 are Stipulated Settlement Agreements
10 regarding alleged violations of the Illinois
11 Commercial Transportation Law. In each case our
12 Transportation counsel recommends entry of an Order
13 accepting the Settlement Agreement.

14 Is there any discussion?

15 (No response.)

16 Any objections?

17 (No response.)

18 Hearing none, the Orders are entered.

19 Item MC-4 is Action Movers of
20 Chicago's application for new Household Goods
21 Property Motor Carrier Authority. ALJ Duggan
22 recommends entry of an Order approving the

1 application.

2 Is there any discussion?

3 (No response.)

4 Any objections?

5 (No response.)

6 Hearing none, the Order is entered.

7 Item MC-5 is Rendered Services'
8 application for renewal of its Commercial Relocation
9 Towing License. Our Transportation counsel
10 recommends entry of an Order granting renewal.

11 I want to hold this matter, but
12 before I do I had a couple of questions. And do we
13 have the Office of Transportation counsel available?

14 (Whereupon Transportation
15 Counsel was seated at the
16 table.)

17 Thanks for being here this morning.

18 When we look at these normally, we
19 see administrative citations a couple in the last two
20 years, a handful in the last years. This company had
21 57 in the last two years, 44 of which were dismissed,
22 nine of which they had paid, although there was a

1 question and appeal over whether to grant the refunds
2 that had been ordered for them to do, and then there
3 are still four pending, I believe.

4 That number just seems high in the
5 aggregate. Is that high, given the volume that they
6 do, or not high, given the volume that -- if that
7 question makes any sense. I mean, if they are doing
8 thousands, 57 may not be that big a number.

9 MS. ANDERSON: In response to your question,
10 Chairman, Rendered Services, Inc., the renewal
11 applicant in this matter, according to their two most
12 recent Annual Reports on file, relocated over 19,000
13 cars a year in those periods. So that somewhat might
14 make the number of 57 seem less shocking compared to
15 what is normally presented to the Commission with
16 some smaller volume relocators.

17 Another issue in this period is that,
18 due to the ongoing number of Administrative Citations
19 as well as a few matters that the Commission had
20 before it within the past year for Motions on
21 Rehearing concerning Administrative Citations, as
22 well as a delay in the fingerprinting process of the

1 sole shareholder of this corporation, the number of
2 Administrative Citations has sort of spilled over a
3 two-year period into closer to a three-year period
4 because of the ongoing pendency of the renewal
5 application.

6 CHAIRMAN SCOTT: And you don't have to do it
7 with every one, but just is it unusual to have that
8 many Administrative Citations that are then
9 dismissed? Is that part of some kind of negotiated
10 settlement? Is that just on an individual basis are
11 they looked at and then dismissed? That number
12 seemed fairly high to me as well.

13 MS. ANDERSON: Well, in terms of the number of
14 citations that have been dismissed, that will come
15 from basically one of three sources. Either the
16 citations were heard at a hearing and dismissed on
17 the merits by the Administrative Law Judge or they
18 might have been dismissed on the motion of the Office
19 of Transportation counsel prior to hearing if there
20 was some discussion with the relocater and it was
21 found that the citation should not have been issued.

22 And then another cause for dismissal

1 is something that the Chairman alluded to, which was
2 having a sort of a negotiation with the relocater and
3 reaching some sort of settlement as opposed to
4 getting an Order entered through the hearing process
5 by the Judge.

6 CHAIRMAN SCOTT: Do we have a breakdown in this
7 case of how many fall into each of those three
8 categories?

9 MS. ANDERSON: No, Chairman, I don't have that
10 available.

11 CHAIRMAN SCOTT: Are there any further
12 questions?

13 COMMISSIONER FORD: Chairman, I, too, would
14 like to see you hold this matter. I have heard such
15 egregious statements about this, so I would like to
16 delve a little deeper into this.

17 CHAIRMAN SCOTT: Further discussion?

18 COMMISSIONER O'CONNELL-DIAZ: Mr. Chairman?

19 CHAIRMAN SCOTT: Yes.

20 COMMISSIONER O'CONNELL-DIAZ: I have a
21 procedural question. And I totally agree with
22 holding it because I have the same concerns that both

1 you and Commissioner Ford have expressed.

2 But if we were to enter this Order,
3 under the provisions of the statute should this not
4 be an Interim Order as opposed to a Final Order?

5 CHAIRMAN SCOTT: Because of the pendency of the
6 other cases that are still out there?

7 COMMISSIONER O'CONNELL-DIAZ: Yes. And it is
8 in the first part of the Order where it states that,
9 you know, that this will -- that section allows for
10 us to grant the application until a Final Order is
11 entered formally approving or denying the renewal
12 application. So we have got these other pending
13 matters.

14 Is the ALJ there?

15 CHAIRMAN SCOTT: Yes. Go ahead.

16 MS. ANDERSON: Commissioner, to answer your
17 question about that, the recommendation on this
18 renewal matter is presented to the Commission
19 basically to either grant or renew the renewal
20 application. The decision in this matter would not
21 be an Interim Order.

22 The only way that something akin to an

1 interim process would happen is if the Commission
2 were to at this point deny the renewal matter. What
3 would happen then is the application would become set
4 for a fitness hearing pursuant to Section 400 of the
5 Illinois Commercial Relocation of Trespassing
6 Vehicles Law.

7 COMMISSIONER COLGAN: So when someone applies
8 to be recertified, they don't have to pass the
9 fitness standard?

10 MS. ANDERSON: Commissioner, the purpose of the
11 renewal process is for the Commission to receive the
12 renewal application and verify ongoing compliance
13 with the fitness criteria to have the relocators
14 license. So that involves various steps, including a
15 backgrounds check, a criminal background check, and
16 making sure that the standard is complied with on an
17 ongoing basis.

18 So what you are describing is
19 something that has happened with respect to this
20 application that's on the bench today.

21 CHAIRMAN SCOTT: What you are saying, though,
22 then if we were to deny their application for

1 renewal, then we would in essence be automatically
2 sending them -- questioning their fitness and sending
3 them to a fitness hearing in that case?

4 MS. ANDERSON: That's correct.

5 COMMISSIONER COLGAN: Okay. I understand that.

6 CHAIRMAN SCOTT: Further discussion?

7 COMMISSIONER O'CONNELL-DIAZ: I am happy to
8 hold this, so.

9 CHAIRMAN SCOTT: Okay.

10 COMMISSIONER O'CONNELL-DIAZ: We will look
11 deeper into it, I am sure.

12 CHAIRMAN SCOTT: Very good. We will hold this
13 for further discussion then. Thank you very much,
14 counselor.

15 Items MC-6 and MC-7 can be taken
16 together. These are also petitions for renewal of
17 the Commercial Relocation Towing Licenses. In each
18 case our Transportation counsel recommends entry of
19 an Order granting renewal.

20 Is there any discussion?

21 (No response.)

22 Any objections?

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(No response.)

Hearing none, the Orders are entered.

We also have one Administrative matter for consideration. Item AM-1 concerns a rulemaking for implementation of the Collateral Recovery Act. Transportation Bureau Chief Matrisch recommends adopting a resolution which adopts the proposed rules with an effective date of June 1, 2012.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the resolution is adopted.

Mr. Matrisch, is there any further Transportation business to come before the Commission today?

MR. MATRISCH: No, Chairman. Thank you.

CHAIRMAN SCOTT: Thank you. Hearing none, that concludes today's Transportation agenda.

TRANSPORTATION AGENDA CONCLUDED