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BEFORE THE
ILLINOIS COMMERCE COMMISSION

TRANSPORTATION REGULAR OPEN MEETING

Chicago, Illinois
June 29, 2010

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

BEFORE:

- MR. MANUEL FLORES, Acting Chairman
- MS. ERIN M. O'CONNELL-DIAZ, Commissioner
- MR. SHERMAN J. ELLIOTT, Commissioner
via videoconference
- MR. JOHN T. COLGAN, Acting Commissioner via
videoconference

SULLIVAN REPORTING COMPANY, by
Auhdikiam Carney, CSR

1 License No. 084-004658

2 ACTING CHAIRMAN FLORES: Pursuant to the
3 provisions of the Illinois Open Meetings Act, I now
4 convene this regular open meeting of the Illinois
5 Commerce Commission. With me in Chicago is
6 Commissioner O'Connell-Diaz. With us in Springfield
7 are Commissioner Elliott and Acting Commissioner
8 Colgan. I am Acting Chairman Flores.

9 We have a quorum.

10 Commissioner Ford is not able to join
11 us as she is out of town today. Before moving into
12 the agenda, according to Section 1700.10 of the
13 Illinois Administrative Code, this is the time we
14 allow the members of the public to address the
15 Commission. Members of the public wishing to address
16 the Commission must notify the Chief Clerk's Office
17 at least 24 hours prior to the meeting of the
18 Commission. According to the Chief Clerk's Office,
19 we have no request to speak for today's session.

20 Starting first with the Transportation
21 Agenda, we have one item on the agenda. This item
22 concerns a Stipulated Settlement Agreement reached

1 between Lincoln Towing and the Commission's
2 Transportation Counsel concerning alleged violations
3 in Illinois Commercial Transportation Law. We held
4 this matter from a previous hearing, and I believe we
5 have our Transportation Counsel available for any
6 questions.

7 Do the Commissioners have any
8 questions on this matter for Counsel?

9 (No response.)

10 Very well.

11 I had a couple of questions. In terms
12 of the -- if you can give us just -- I know that we
13 were provided already with an Order and also the
14 actual Stipulated Settlement Agreement. The -- what
15 gives me some concern here is the number of
16 violations as it relates to the -- Section 92
17 Illinois Admin Code 1710.170, and that's for the
18 failure to purchase and complete the relocation tow
19 record forms.

20 Could you give us some -- could you
21 just describe what exactly it is that we're looking
22 at here.

1 MR. NAGEL: Certainly. Essentially what --
2 and, again, it's part of the Settlement Agreement.
3 Lincoln hasn't admitted to these practices, but the
4 Commission receives numerous complaints with regard
5 to relocation towing companies and we investigate all
6 of those complaints.

7 In fact, last year we received over
8 1300 complaints with regard to relocation towing
9 alone. With one of those complaints we came into
10 evidence that Lincoln Towing was collecting
11 information when a car reaches its lot, doing data
12 entry into their records system, but they were not
13 printing out the invoice until the car was claimed.
14 What this resulted in is vehicles when they are
15 unclaimed, Lincoln Towing was not generating an
16 invoice for those vehicles, and invoices are
17 currently \$7.50.

18 So as part of the settlement we went
19 back three years in the annual reports which are
20 self-reported numbers from the relocators. We went
21 through Lincoln's annual reports for three years as
22 well as current records in '09 up through, I believe,

1 August of '09. So what you're seeing with regard to
2 the number, the 2133, that is essentially three years
3 worth of invoices that Lincoln would have had to have
4 purchased for their unclaimed vehicles. Basically
5 they were trying to save \$7.50 for each tow. By all
6 accounts, those tows seem to have been proper tows.

7 ACTING CHAIRMAN FLORES: In terms of the
8 unclaimed vehicles, did we take a look at -- you
9 know, what analysis was done with regards to the
10 vehicles that were towed that were relocated and
11 scrapped. Did you analyze the records for these
12 vehicles?

13 MR. NAGEL: Just to give you an idea of the
14 scope of how many records are involved, in 2008 --
15 which is the last year that we have complete numbers
16 available for Lincoln Towing -- in 2008 within the
17 regulated counties, 97,000 vehicles were relocated.
18 Of those vehicles, approximately 19,000 were towed by
19 Lincoln Towing alone. So Lincoln Towing conducts
20 approximately 19 percent of the tows.

21 With regard to unclaimed vehicles,
22 there are requirements in chapter 4 of the Illinois

1 Vehicle Code that set forth the steps that need to be
2 taken for a vehicle that is unclaimed to be scrapped.
3 Much of that is regulated by the Secretary of State's
4 Office with regard to title and certificates to
5 scrap. And the company that Lincoln uses, I want to
6 say, is Action Iron. They are also required to keep
7 logs of book and we do have some information from
8 Action Iron. In fact, that's how we got numbers from
9 '09 through August because, again, those numbers have
10 not been crunched for the annual report yet.

11 So with regard to those steps in the
12 process, we really have limited means of scouring
13 over literally thousands of records and we also have
14 concurrent jurisdiction with the Secretary of State's
15 Office.

16 ACTING CHAIRMAN FLORES: The concern that I
17 have and what gave me pause here is -- and I know
18 that these are not allegations before us, but -- I'm
19 just concerned about a potential or a circumstance
20 where people of more modest means who may have their
21 car tore up for one reason or another may not have
22 the opportunity to reclaim that vehicle. And my fear

1 is, again, a company or an actor here taking
2 advantage and looking at these kinds of charges as
3 almost the cost of doing business and at the same
4 time the impact that this kind of practice has or may
5 have rather on folks of moderate or modest income
6 levels. And I just want to make sure that -- and I
7 commend your office. I know how hard you work. So
8 this is not a question in terms of you know what
9 we're doing, it just caught my eye and I'm sure the
10 other Commissioners looked at that number as well and
11 said, Wow, this is a very high number.

12 Very well. I have no other questions.

13 Are there any other questions or
14 discussion?

15 COMMISSIONER ELLIOTT: I would have one,
16 Chairman, following up on some of the areas that you
17 touched on.

18 Can you tell me when the last time the
19 fines of this were updated or how long they've been
20 enforced at the current levels.

21 MR. MATRISCH: The fines are statutorily set.
22 The last time the Commission adjusted the fines as

1 sort of a policy matter was around 2004 or 2005.
2 Prior to that, all violations were assessed \$75
3 regardless of the severity. And because we recognize
4 that some violations were certainly more severe than
5 others, we increased it to sort of a sliding scale
6 depending on the severity of the violation.

7 COMMISSIONER ELLIOTT: Thanks. That's all I
8 have.

9 COMMISSIONER O'CONNELL-DIAZ: Commissioner
10 Elliott, that's an important because I do recall when
11 we had some other matters with Lincoln Towing and
12 having lived in Lincoln Park and been visited upon by
13 Lincoln Towing. Actually I never had my car towed by
14 Lincoln Towing, but I used to watch them tow. And
15 so -- what are they called, the pirates of Lincoln
16 Park -- that was a question that I was concerned with
17 when we did change the methodology, but since this is
18 statutorily set we're kind of in that place where we
19 can fine them based on what those amounts are.

20 I have one question with regard to the
21 2000 alleged invoice problems. This was over a
22 three-year period? Am I correct in understanding

1 that.

2 MR. NAGEL: Yes.

3 COMMISSIONER O'CONNELL-DIAZ: Okay. So of the
4 19,000 cars that Lincoln tows, that's per year?

5 MR. NAGEL: That's approximately per year, yes.

6 COMMISSIONER O'CONNELL-DIAZ: I'm trying to get
7 the magnitude. It's always good to keep our eyes on
8 all towers, especially Lincoln Towing.

9 ACTING CHAIRMAN FLORES: Any other questions or
10 comments?

11 ACTING COMMISSIONER COLGAN: I'm pretty much in
12 line with what Commissioner Elliott said and I think
13 something you said, Chairman. If this is a cost of
14 doing business that is affordable, then we might want
15 to at some point have a look at if our -- if the
16 penalties are actually enough to prevent this from an
17 ongoing practice. However, it seems like those
18 penalties were set by the General Assembly, so we
19 have to enforce what we have available to us to
20 enforce. So that's my only comment.

21 COMMISSIONER O'CONNELL-DIAZ: Yeah, and with
22 that double edged sword comes the fact that if the

1 penalties are increased, then they're going to charge
2 people more to retrieve their cars in the event that
3 they are towed, so it's a double edged sword really.
4 They're making the penalties so high then the
5 consumers are really going to suffer, the people that
6 have parked their cars in the wrong places because
7 those are going to flow right through.

8 So I think it's a balance that one has
9 to make with getting them into compliance, but in a
10 manner that as Chairman Flores expressed concern
11 about when actually that happens when your car is
12 towed and how much it cost to get it out. It's a
13 fair piece of money for a lot of folks or for anyone
14 really. So if it's going to be more, I think that's
15 the balancing that has to go on.

16 ACTING CHAIRMAN FLORES: All right. Well,
17 thank you for your time.

18 I'd like to make a motion to accept
19 the stipulated Settlement Agreement.

20 Is there a second?

21 COMMISSIONER O'CONNELL-DIAZ: Second.

22 ACTING CHAIRMAN FLORES: Its been moved and

1 seconded.

2 All in favor say "aye."

3 (Chorus of ayes.)

4 Any opposed?

5 (No response.)

6 The vote is 4-0 and the Stipulated
7 Settlement Agreement is approved.

8 Thank you so much for your work and
9 input on this matter.

10 MR. NAGEL: Thank you.

11 ACTING CHAIRMAN FLORES: Mr. Matrisch, is there
12 anything further to come before the Commission on the
13 Transportation Agenda today?

14 MR. MATRISCH: Nothing further, Chairman.
15 Thank you.

16 ACTING CHAIRMAN FLORES: Very well. Thank you,
17 sir.

18 (And those were all the
19 proceedings had.)

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