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BEFORE THE
ILLINOIS COMMERCE COMMISSION
BENCH SESSION
(TRANSPORTATION)
Wednesday, July 8, 2015
Chicago, Illinois

Met, pursuant to notice, at 10:30 A.M.,
at 160 North La Salle Street, Chicago, Illinois.

- PRESENT:
- BRIEN J. SHEAHAN, Chairman
 - ANN MCCABE, Commissioner
 - SHERINA E. MAYE, Commissioner
 - MIGUEL DEL VALLE, Commissioner
 - JOHN R. ROSALES, Acting-Commissioner

SULLIVAN REPORTING COMPANY, by
PATRICIA WESLEY
CSR NO. 084-002170

1

2 CHAIRMAN SHEAHAN: Good morning. Are we ready to
3 proceed in Springfield?

4 MR. MATRISCH: Yes, we are.

5 CHAIRMAN SHEAHAN: Pursuant to the Open Meetings
6 Act, I call the July 8, 2015 Bench Session of the
7 Illinois Commerce Commission to order.

8 Commissioners McCabe, del Valle, Maye
9 and Rosales are present with me in Chicago, and we
10 have a quorum.

11 We have no requests to speak and will,
12 therefore, move into our Regular Transportation
13 Agenda. There are edits to the Minutes of our June
14 24, 2015 Transportation Bench Session Minutes.

15 Are there any objections to approval
16 of the Minutes as edited?

17 (No response.)

18 Hearing none, the Minutes as edited
19 are approved.

20 Moving onto our Railroad Agenda, Items
21 RR-1 through RR-4 are various Orders Authorizing
22 Grade Crossing Safety in multiple projects

1 throughout Illinois.

2 Are there any objections to
3 considering these items together or approving the
4 proposed Orders?

5 (No response.)

6 Hearing none, the Orders are approved.

7 Moving onto our Motor Carrier Agenda,
8 Items MC-1 and 2 are Applications for Certificates
9 of Public Convenience and Necessity under the
10 Provisions of the Illinois Commercial Transportation
11 Law.

12 Are there any objections to
13 considering these items together and approving the
14 proposed Orders?

15 (No response.)

16 Hearing none, the Orders are approved.

17 Item MC-3 is an Application for
18 Renewal of a Commercial Relocator's License pursuant
19 to Section 401 of the Illinois Commercial Relocation
20 of Trespassing Vehicles Law.

21 Commissioner del Valle, I believe you
22 have some questions for the ALJ.

1 COMMISSIONER del VALLE: Yes. Thank you,
2 Mr. Chairman. I have a few questions.

3 Is it correct that the sole owner of
4 the company also is the sole owner of the LLC that
5 owns the facilities that consist of leases for its
6 storage lots?

7 JUDGE KIRKLAND-MONTAGUE: Actually, I can answer
8 that question. The answer is for the Clark Street
9 location that is correct. They also lease another
10 location that is not owned by the same --

11 COMMISSIONER del VALLE: They have two locations?

12 JUDGE KIRKLAND-MONTAGUE: Right.

13 COMMISSIONER del VALLE: So the other location is
14 the Armitage location; is that correct?

15 JUDGE KIRKLAND-MONTAGUE: Correct.

16 COMMISSIONER del VALLE: Are you saying the
17 Armitage location is not owned by the owner of
18 Lincoln?

19 JUDGE KIRKLAND-MONTAGUE: According to the
20 information that's in the record on the rate
21 increase, the only lot that is owned by Lincoln's
22 owner is the Clark Street lot. Actually it doesn't

1 speak to who is the owner of the Armitage lot.

2 COMMISSIONER del VALLE: Okay. Our rules for
3 license renewal require that there be conformance
4 with Subpart M regarding the company's storage lot
5 that addresses the security of the lot, but in our
6 Rules 1710-22, Policy and Applications, our rules
7 state the Commission shall consider, with regard to
8 applications for renewal of relocater's license, the
9 criminal records of the applicants, owners or
10 controllers, directors, officers and members,
11 managers and employees and agents, the safety
12 records of those persons, compliance record of those
13 persons, the equipment, facilities and storage lots
14 of the applicants, and the other factors that bear
15 the fitness to hold a license.

16 We are suppose to determine that there
17 is security, and that there is lighting, and that
18 the facilities are adequate.

19 How do we go about doing that?

20 JUDGE KIRKLAND-MONTAGUE: Well, ALJ Duggan did
21 the renewal application, but I can tell you that in
22 any relocation application consideration is given

1 for the storage lots. In fact, the police go out
2 and inspect the storage lots before a license is
3 granted to determine whether or not it's in
4 compliance with the Commission's rules.

5 COMMISSIONER del VALLE: So we depend on a police
6 report of that inspection?

7 JUDGE KIRKLAND-MONTAGUE: I don't know that there
8 is an actual written report, but I know that the
9 police go out and do a visual inspection of the lot
10 before the initial license is granted.

11 I don't know that -- ALJ Duggan is
12 more familiar with the renewal application.

13 COMMISSIONER del VALLE: Can he answer that
14 question?

15 JUDGE KIRKLAND-MONTAGUE: Sure.

16 JUDGE DUGGAN: Well, on renewal at the hearing
17 the applicant was asked to look at the application
18 and the representations made with regard to the lot
19 and asked if those representations were still
20 correct, and they answered that they were on Pages
21 24 and 25 of the transcript.

22 COMMISSIONER del VALLE: That's of the applicant?

1 The applicant is asked that question?

2 JUDGE DUGGAN: Right. So after the hearing, they
3 were asked if the representations regarding the
4 capacity of the fence, lighting, gates, light
5 operations, were still accurate at both locations,
6 and the applicant answered yes.

7 COMMISSIONER del VALLE: So we don't look at --
8 we don't look at the overall facility.

9 The facility I'm talking about on
10 Armitage looks like a junk yard. It's on a street
11 where there are residences, and I'm sure those
12 neighbors don't appreciate living within just a few
13 yards of a location that looks like a junk yard from
14 the outside, and so I'm trying to determine whether
15 we look at in any way the condition of the facility.

16 The Clark Street location doesn't
17 look like that, but the Armitage Street location
18 does look like that, and I ask whether it's owned by
19 the same fellow that's applying here for the
20 application -- for the permit.

21 I realize that we can't force anyone
22 or ask anyone to upgrade their facility in that we

1 are looking for basic things like security, but it
2 sounds like we just take their word for it. I don't
3 see how a police officer -- is there a police report
4 of the inspection that's part of the record?

5 JUDGE DUGGAN: I'm not in the renewal proceeding
6 itself. Certainly, as Ms. Kirkland-Montague said,
7 the ICC police go out and do inspections. So to the
8 extent that we don't entirely a hundred percent rely
9 simply on representations as far as the condition,
10 actually my information is to the contrary that both
11 of these lots were leased.

12 So to the extent that you are getting
13 at whatever control they have over -- or control the
14 applicant has over the ability to make it look nice,
15 you know, my information is that --

16 COMMISSIONER del VALLE: Wait. Wait. Wait just
17 a second.

18 JUDGE DUGGAN: Sure.

19 COMMISSIONER del VALLE: One is leased by Bank
20 Properties. Bank Properties is managed by the owner
21 of Lincoln.

22 JUDGE DUGGAN: Okay. I wasn't aware of that.

1 COMMISSIONER del VALLE: Isn't that in your
2 report -- in your documents?

3 JUDGE KIRKLAND-MONTAGUE: That's part of the rate
4 increase docket, and that's what I related to you
5 earlier. This case did not have that information.

6 The condition of the lot, as he
7 related from the transcript, they didn't go into
8 detail regarding the ownership of the lot like the
9 rate increase docket did.

10 COMMISSIONER del VALLE: I see. Because this
11 guy's paying rent to himself.

12 JUDGE KIRKLAND-MONTAGUE: Correct. According to
13 the rate increase docket sheet, the company has not
14 been paying rent for the last three years, but it,
15 indeed, owes \$10,000 a month in rent.

16 COMMISSIONER del VALLE: We will collect that at
17 some point.

18 JUDGE KIRKLAND-MONTAGUE: Yes, going forward.

19 COMMISSIONER del VALLE: And I don't want to get
20 into questions relating to complaints.

21 When the Commission initiated the
22 hearing to determine fitness of the company for the

1 renewal of its license, the Commission directed that
2 the scope of the proceeding would address any facts
3 that may bear on the fitness to hold a license.

4 I explained from the Bench that this
5 should include not only the number of citations but
6 also the amounts of civil penalties and types of
7 violations.

8 So I want to know of the over 30
9 citations that have been resolved and 20 still
10 pending, do you know how many are for removal of
11 vehicles from properties where the company had no
12 signs? Number one, did any of these cases -- of
13 those cases dispute the existence of a valid
14 contract which has been a problem in the past and
15 do you know of the top three allegations in over 300
16 citation proceedings that were eventually dismissed?

17 I went over those questions quickly.
18 I would have to forward these questions to you.

19 JUDGE KIRKLAND-MONTAGUE: That's fine.

20 JUDGE DUGGAN: Is that addressed to me,
21 Commissioner del Valle?

22 JUDGE KIRKLAND-MONTAGUE: I will start, because I

1 actually hear the citations more often than
2 Commissioner ALJ Duggan.

3 With regard to your question about
4 how, first of all, let me explain. A citation is
5 issued to the towing company. The ALJs don't
6 actually see a citation, unless it is not paid.
7 Most of the citations are either paid, or
8 negotiated, or settled. If it's paid, negotiated or
9 settled, we have no idea what the citation was
10 issued for. We only know if the citation is
11 presented to us for ruling by Staff.

12 So the question of how do we know
13 there were no signs, I cannot tell you that exactly,
14 because I don't know how many of those that were
15 paid or settled weren't for no signs.

16 Regarding not having a valid contract,
17 again, that would be similar. I don't know how many
18 out of those other issues were for not having a
19 valid sign.

20 In fact, I have the docket sheet for
21 the next citation hearing, and the only description
22 we get of violations is a violation of 18(a) which

1 is in the Relocation Towing Act, so there are
2 numerous -- hundreds of violations that could fall
3 under that statute.

4 So, unfortunately, I can't tell you
5 with any detail how many citations were issued for
6 exactly which violation.

7 COMMISSIONER del VALLE: So they could be repeat
8 offenders, but if they pay the fines constantly,
9 they could continue to --

10 JUDGE KIRKLAND-MONTAGUE: That's possible.

11 COMMISSIONER del VALLE: -- be repeat offenders?

12 JUDGE KIRKLAND-MONTAGUE: That's possible, and
13 they can continue to get fines and negotiate with
14 Staff where they agree to reimburse the vehicle
15 owner if the towing was determined to be a bad tow
16 by the company and Staff. So it doesn't necessarily
17 mean they paid their way out of every fine, but they
18 can, in fact, agree to reimburse vehicle owners.

19 COMMISSIONER del VALLE: Okay. I was just
20 wondering. Just to go back to the storage lot
21 situation again, we have no way of determining,
22 other than asking the applicant, whether their

1 facility is adequate, including the appearance of
2 the place, like the one on Armitage Avenue, because
3 they only have two locations?

4 COMMISSIONER KIRKLAND-MONTAGUE: Well, if the
5 Commission wishes, we could require the police to go
6 out and investigate the lot to make sure they're in
7 compliance with the Commission rules. We can do
8 that.

9 COMMISSIONER del VALLE: Okay. Well, then I'll
10 follow-up with you on that.

11 JUDGE KIRKLAND-MONTAGUE: Okay.

12 COMMISSIONER del VALLE: If this lot was in a
13 different neighborhood, if this lot was in Saginaw,
14 it won't be tolerated.

15 JUDGE KIRKLAND-MONTAGUE: I understand.

16 COMMISSIONER del VALLE: I know it, because for
17 full disclosure I live not that far from here, so I
18 see it practically every day and that's why I bring
19 it up here and want to know what our role is in
20 determining the adequacy of the facilities since we
21 are the ones granting the permits to operate and we
22 are the ones granting the rate increases.

1 JUDGE KIRKLAND-MONTAGUE: Okay.

2 CHAIRMAN SHEAHAN: Is there any other discussion
3 with respect to Item MC-3?

4 (No response.)

5 Is there a motion to approve the
6 proposed Order?

7 ACTING COMMISSIONER ROSALES: So moved.

8 CHAIRMAN SHEAHAN: Is there a second?

9 COMMISSIONER McCABE: Seconded.

10 CHAIRMAN SHEAHAN: All those in favor, say aye.

11 COMMISSIONER del VALLE: And I will abstain.

12 CHAIRMAN SHEAHAN: Opposed, say no.

13 COMMISSIONER del VALLE: Abstain.

14 CHAIRMAN SHEAHAN: Commissioner del Valle
15 indicated he's abstaining.

16 Moving onto Item MC-4 involves
17 Protective Parking Service Corporation's Petition
18 for a Relocation Towing Rate Increase pursuant to
19 the Illinois Commercial Relocation of Trespassing
20 Vehicles Law.

21 Is there any objection to approving
22 the proposed Order?

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(No response.)

Hearing none, the Order is approved.

Judge Kimbrel, do we have any other matters to come before the Commission today?

JUDGE KIMBREL: No, Mr. Chairman.

CHAIRMAN SHEAHAN: Commissioners, do we have any other business to discuss this morning?

(No response.)

Hearing none, we stand adjourned.

(Whereupon, the above matter was adjourned.)

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