

1 PROCEEDINGS

2 CHAIRMAN SCOTT: Let's start with the
3 Transportation agenda and with the minutes from prior
4 Commission meetings. Up first are minutes from our
5 June 22 Bench Session. Is there a motion to approve
6 the minutes.

7 COMMISSIONER O'CONNELL-DIAZ: So moved.

8 CHAIRMAN SCOTT: Is there a second?

9 COMMISSIONER ELLIOTT: Second.

10 CHAIRMAN SCOTT: It's been moved and seconded.
11 All in favor say aye.

12 COMMISSIONERS: Aye.

13 CHAIRMAN SCOTT: Any opposed?

14 (No response.)

15 The vote is five to nothing, and the
16 June 22 Bench Session minutes are approved.

17 Next up are minutes from our July 7
18 Bench Session. Is there a motion to approve the
19 minutes?

20 COMMISSIONER FORD: So moved.

21 CHAIRMAN SCOTT: Is there a second?

22 COMMISSIONER O'CONNELL-DIAZ: Second.

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

2 All in favor say aye.

3 COMMISSIONERS: Aye.

4 CHAIRMAN SCOTT: Any opposed?

5 (No response.)

6 The vote is five to nothing, and the
7 July 7 Bench Session minutes are approved.

8 Last up are minutes from our July 27
9 Bench Session. Is there a motion to approve the
10 minutes?

11 ACTING COMMISSIONER COLGAN: So moved.

12 CHAIRMAN SCOTT: Is there a second?

13 COMMISSIONER O'CONNELL-DIAZ: Second.

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

15 All in favor say aye.

16 COMMISSIONERS: Aye.

17 CHAIRMAN SCOTT: Any opposed?

18 (No response.)

19 The vote is five to nothing, and the
20 July 27 Bench Session minutes are approved.

21 Item RR-1 is Docket Numbers T07-0073
22 and T08-0154. This item concerns petitions by the

1 Illinois Department of Transportation for eminent
2 domain authority for the taking of land in Cook
3 County for grade crossing improvements and for
4 permission to conduct the improvement project. ALJ
5 Kirkland-Montaque recommends entry of an Order
6 granting the petitions.

7 Is there any discussion?

8 (No response.)

9 Is there a motion to enter the Order?

10 COMMISSIONER O'CONNELL-DIAZ: So moved.

11 CHAIRMAN SCOTT: Is there a second?

12 ACTING COMMISSIONER COLGAN: Second.

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

14 All in favor say aye.

15 COMMISSIONERS: Aye.

16 CHAIRMAN SCOTT: Any opposed?

17 (No response.)

18 The vote is five to nothing, and the
19 Order is enter, and we will use this five to nothing
20 vote for the remainder of the Transportation agenda
21 unless otherwise noted.

22 Item RR-2 is Docket Number T10-0184.

1 This item also concerns a petition by IDOT for
2 eminent domain over land in Knox County. The
3 Department has filed a motion to dismiss its petition
4 due to agreement having been reached among the
5 parties. ALJ Duggan recommends granting dismissal.

6 Is there any discussion?

7 (No response.)

8 Any objections?

9 (No response.)

10 Hearing none, the petition is
11 dismissed.

12 Item RR-3 is Docket Number T11-0052.
13 This is a petition by the City of Chicago seeking
14 authorization for a project to establish a new grade
15 crossing. ALJ Kirkland-Montaque recommends entry of
16 an Order granting the City's petition.

17 Is there any discussion?

18 (No response.)

19 Any objections?

20 (No response.)

21 Hearing none, the Order is entered and
22 the petition is granted.

1 Item RR-4 is Docket Number T11-0083.
2 This is a petition by the Village of Tilton seeking
3 designation of a not-in-use at-grade crossing as
4 exempt under Section 11-1202 Sub 4 of the Vehicle
5 Code. ALJ Duggan recommends entry of an Order
6 designating the crossing as exempt in accordance with
7 the Village's request.

8 Is there any discussion?

9 (No response.)

10 Any objections?

11 (No response.)

12 Hearing none, the Order is entered.

13 Item RR-5 is Docket Number T11-0107.

14 This item concerns a Stipulated Agreement regarding
15 public safety improvements at highway-rail grade
16 crossing in Stark County. Staff recommends entry of
17 an Order approving the Stipulated Agreement.

18 Is there any discussion?

19 (No response.)

20 Any objections?

21 (No response.)

22 Hearing none, the Order is entered.

1 Items RR-6 through RR-10 (T10-0060,
2 T06-0099, T09-0081, T09-0092, T10-0042) can be taken
3 together. These item each concern Stipulated
4 Agreements regarding public safety improvements at
5 highway-rail grade crossings across Illinois. In
6 each case Staff recommends entry of a Supplemental
7 Order granting additional time associated with the
8 projects' completion or authorizing funding
9 reimbursement for the project.

10 Is there any discussion?

11 (No response.)

12 Any objections?

13 (No response.)

14 Hearing none, the Supplemental Orders
15 are entered.

16 On to Motor Carriers, Items MC-1
17 through MC-6 can be taken together. These items each
18 involve Stipulated Settlement Agreements concerning
19 alleged violations of the Illinois Commercial
20 Transportation Law. In each case our transportation
21 counsel recommends entry of an Order accepting the
22 Stipulated Settlement Agreement.

1 Is there any discussion?

2 (No response.)

3 Any objections?

4 (No response.)

5 Hearing none, the Orders are entered
6 and the Settlement Agreements are approved.

7 Item MC-7 is an application by Barrett
8 Moving and Storage Company and Suddath Relocation
9 Systems of Chicago doing business as Barrett Moving
10 and Storage for transferring Barrett's Household
11 Goods Certificate to Suddath. ALJ Kirkland-Montague
12 recommends entry of an Order approving the transfers.

13 Is there any discussion?

14 (No response.)

15 Any objections?

16 (No response.)

17 Hearing none, the Order is entered.

18 Item MC-8 is AKS Moving Service's
19 application for Household Goods Property Motor
20 Carrier Authority. ALJ Duggan recommends the
21 Commission enter an Order approving the application.

22 Is there any discussion?

1 (No response.)

2 Any objections?

3 (No response.)

4 Hearing none, the Order is entered.

5 Items MC-9 and MC-10 can be taken
6 together. These items are applications for renewal
7 of Commercial Relocation Towing Licenses brought by
8 TMW Towing and Superior Towing. In each case our
9 transportation counsel recommends entry of an Order
10 approving the renewal application.

11 Is there any discussion?

12 (No response.)

13 Any objections?

14 (No response.)

15 Hearing none, the Orders are entered
16 and the renewals are granted.

17 Item MC-11 is Northwest Recovery's
18 application for renewal of its Commercial Relocation
19 Towing License. The Commission entered an Order
20 approving renewal on July 7, 2011, and before us
21 today is an Amendatory Order correcting a
22 typographical mistake. Staff recommends entry of the

1 Amendatory Order.

2 Is there any discussion?

3 (No response.)

4 Any objections?

5 (No response.)

6 Hearing none, the Amendatory Order is
7 entered.

8 Item MC-12 is Golf and Busse Towing's
9 application for a Commercial Relocator's License.
10 The Commission likewise entered an Order approving
11 the application in this matter on July 7, 2011.
12 Before us today is an Amendatory Order correcting an
13 error in the applicant's name. ALJ Kirkland-Montaque
14 recommends entry of the Amendatory Order.

15 Is there any discussion?

16 (No response.)

17 Any objections?

18 (No response.)

19 Hearing none, the Amendatory Order is
20 entered.

21 Item MC-13 is Ricardo Lozano's
22 application for an Operator's Employment Permit under

1 Section 18-403 of the Illinois Commercial Relocating
2 of Trespassing Vehicles Law. This item was held at a
3 prior Bench Session and, Commissioner Elliott, I
4 believe you have some revisions to propose?

5 COMMISSIONER ELLIOTT: Yes, thank you,
6 Mr. Chairman. I added some language to the Order I
7 think that clarifies further our authority to deny
8 the request, and I would submit that as an amendment
9 to the petition.

10 CHAIRMAN SCOTT: Very good. Is there a second?

11 ACTING COMMISSIONER COLGAN: Second.

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

13 Is there any further discussion on
14 these revisions?

15 (No response.)

16 All in favor of the revisions say aye.

17 COMMISSIONERS: Aye.

18 CHAIRMAN SCOTT: Any opposed?

19 (No response.)

20 The vote is five to nothing, and
21 Commissioner Elliott's revisions are adopted.

22 Is there a motion to enter the Order

1 denying Mr. Lozano's application as amended by
2 Commissioner Elliott's revisions?

3 COMMISSIONER ELLIOTT: So moved.

4 CHAIRMAN SCOTT: Is there a second?

5 ACTING COMMISSIONER COLGAN: Second.

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

7 All in favor say aye.

8 COMMISSIONERS: Aye.

9 CHAIRMAN SCOTT: Any opposed?

10 (No response.)

11 The vote is five to nothing, and the
12 Order as revised is entered and Mr. Lozano's
13 application is denied.

14 Item MC-14 is Joseph Paul Graf's
15 application for a Dispatcher's Employment Permit.
16 The applicant's sponsoring employer no longer
17 supports his application, and ALJ Kirkland-Montaque
18 recommends entry of an Order dismissing his
19 application without prejudice.

20 Is there any discussion?

21 (No response.)

22 Any objections?

1 (No response.)

2 Hearing none, the Order is entered and
3 the application is dismissed.

4 We have one Administrative Matter up
5 for consideration today. Item AM-1 concerns a
6 citation proceeding brought by the Commission against
7 Rendered Services for violations of the Illinois
8 Commercial Transportation Law. Before us today is
9 what I understand to be a motion for Independent
10 Review Board review brought by the company.

11 Is there discussion on this?

12 COMMISSIONER O'CONNELL-DIAZ: Chairman, if we
13 could have -- this is kind of a different thing than
14 we have normally seen. Maybe we could have Judge
15 Kirkland step us through what's before us.

16 JUDGE KIRKLAND-MONTAQUE: Sure. This motion
17 for rehearing and reconsideration brought by Rendered
18 Services arises out of a citation hearing which
19 normally is done on a monthly basis in the main
20 hearing room, and I just render a decision
21 forebearing citation of either the commercial
22 relocation -- the Illinois Commercial Relocation of

1 Trespassing Vehicles Law or the Illinois Commercial
2 Transportation Law.

3 This particular citation was brought
4 under the Commercial Relocation of Trespassing
5 Vehicles Law because the citation was for an improper
6 tow. However, Rendered requested rehearing and
7 reconsideration under -- or, rather, pursuant to the
8 Illinois Commercial Transportation Law which has a
9 provision for review and rehearing by an independent
10 review board.

11 Because that's not the proper means to
12 request a review or rehearing for a relocation
13 matter, I have construed their Motion for a Rehearing
14 as a Petition for Interlocutory Review. Basically
15 they are requesting that someone review the decision
16 that I made on their citation.

17 So as such I have presented it to the
18 Commission as a Petition for Interlocutory Review in
19 which case the Commission can either affirm, reverse
20 or decline to act on the matter.

21 Does that help?

22 COMMISSIONER O'CONNELL-DIAZ: Yeah. And just

1 to clarify for my understanding, the Independent
2 Review Board that is suggested in pleadings and this,
3 is that the Commission or is that another review
4 board that's set up --

5 JUDGE KIRKLAND-MONTAQUE: That's -- I am sorry
6 for interrupting. It is -- pursuant to the statute,
7 it is a Commission review board. But from my
8 understanding I am not sure whether it is fully
9 staffed at this point in time.

10 COMMISSIONER O'CONNELL-DIAZ: And just to
11 clarify, your -- I know you cannot make a
12 recommendation to us because we're in the
13 interlocutory phase and we have new legislation that
14 doesn't permit you to make a recommendation. But
15 your ruling on this was based on jurisdiction and
16 that the Commission doesn't have jurisdiction over
17 what Rendered is requesting.

18 JUDGE KIRKLAND-MONTAQUE: I am sorry, I didn't
19 get the last part of your question.

20 COMMISSIONER O'CONNELL-DIAZ: That the
21 Commission doesn't have proper jurisdiction.

22 JUDGE KIRKLAND-MONTAQUE: Regarding the

1 petition for -- I am sorry, the Motion for Rehearing
2 and Reconsideration by an Independent Review Board, I
3 would say, no, we don't -- this matter doesn't fall
4 under that section of the law.

5 COMMISSIONER O'CONNELL-DIAZ: And that was your
6 ruling at the hearing that you had?

7 JUDGE KIRKLAND-MONTAQUE: No, I am sorry. No,
8 that was not my -- my ruling at the hearing was that
9 they performed an improper tow of a truck and I also
10 ordered them to refund to the truck owner the money
11 that they charged. I think it was about \$5,000 for
12 the improper tow. I ordered them to return that
13 money, and that's the basis of their request for
14 review.

15 They are saying I don't have the
16 authority to order them to refund the money on an
17 improper tow.

18 CHAIRMAN SCOTT: So the -- I am sorry. Go
19 ahead.

20 COMMISSIONER ELLIOTT: Well, yeah, that's their
21 pleading. That's their pleading for relief. But the
22 question is, the requested relief that they are

1 seeking was done under the improper section of the
2 law.

3 COMMISSIONER FORD: Absolutely.

4 JUDGE KIRKLAND-MONTAQUE: Correct.

5 COMMISSIONER ELLIOTT: My question is, is this
6 something that has come before the Commission or has
7 yet to come before the Commission or will it come
8 before the Commission, the actual decision on the
9 citation?

10 JUDGE KIRKLAND-MONTAQUE: I think that's what
11 they are trying to present to you now.

12 COMMISSIONER ELLIOTT: But otherwise would it
13 come before us or is this a decision that's sort of
14 administratively made or is this something that the
15 Commission would vote on at some point?

16 JUDGE KIRKLAND-MONTAQUE: Actually, I have not
17 seen them come before the Commission before. In the
18 past there was one instance in which I made a ruling
19 and I presented it to the Commission in an Order and
20 then the parties then contested the matter in circuit
21 court. I have not had an instance where a decision
22 that I have made was presented or requested to be

1 reviewed by an Independent Review Board or the
2 Commissioners.

3 COMMISSIONER FORD: I think you want us to
4 affirm your decision, isn't that correct?

5 JUDGE KIRKLAND-MONTAQUE: Well, if you are
6 asking my recommendation based on pleadings, I would
7 suggest -- I would recommend that you affirm it, and
8 my basis would be a broad reading of the duties and
9 powers of the Commission regarding the Illinois
10 Commercial Relocation of Trespassing Vehicles Law. I
11 would say that the Commission has the authority under
12 625 ILCS 5/18a-200, General Powers, to order a
13 relocater to refund the amount owed to it on an
14 improper tow.

15 And I might add that this has never
16 been an issue throughout my time here. I have
17 ordered refunds to consumers when there was an
18 improper tow. So this matter has come up because the
19 amount is \$5,000. It is rather unique.

20 COMMISSIONER FORD: That's it. Yeah. So I
21 will go with -- I would like to move that we --

22 CHAIRMAN SCOTT: Commissioner, can I first -- I

1 am sorry, Commissioner.

2 The part that's confusing to me is,
3 Judge, you are saying that they have filed an appeal
4 essentially under the wrong part of the law and they
5 have appealed to the wrong folks. They are appealing
6 a decision that if they should appeal it, it should
7 come to us but they have appealed it essentially
8 under a different law, to a different body, that
9 isn't this Commission.

10 JUDGE KIRKLAND-MONTAQUE: Well, it is this
11 Commission and basically it is Staff's position that
12 they have brought their appeal under the wrong bar,
13 and Staff's position is that you should dismiss it or
14 affirm my decision for that reason.

15 However, looking at -- when I look at
16 the motion, to me what they are asking is for someone
17 to review my decision and what means are there to do
18 that. There are either Independent Review Board,
19 which doesn't apply in this case, or the
20 interlocutory review.

21 COMMISSIONER FORD: If it was an improper tow.
22 And I don't see why it would come to this body, other

1 than the fact that they don't want to refund the
2 \$5,000. This is just a way, in my opinion, of
3 getting around returning to the customer \$5,000. So
4 I would move that this body affirm the decision of
5 the ALJ in this issue.

6 COMMISSIONER O'CONNELL-DIAZ: I would second
7 that. I think this sounds like from an improper tow.
8 The moneys are appropriately returned to, and it
9 appears that that is the normal course of a matter
10 like this.

11 This is, as I view it, it is a
12 defective pleading. It is asking the Commission to
13 do something that -- to hear oral argument in an area
14 that we don't normally nor should we get into. So,
15 therefore, that lacks merit. So you have a defective
16 pleading.

17 But, again, you have got to go back to
18 the base of the improper tow and moneys that should
19 be flowing back to the consumer whose vehicle was
20 improperly towed and had to pay a substantial amount
21 of money.

22 CHAIRMAN SCOTT: I am just trying to make sure

1 I get it in the right form from a legal standpoint.
2 So would the proper motion then be to deny the
3 interlocutory -- the Petition for Interlocutory
4 Review because that's the way the Judge has treated
5 this motion, as an interlocutory review? So if we
6 move to deny that, then that would be accomplishing,
7 I think, what both Commissioner Ford and Commissioner
8 O'Connell-Diaz are suggesting.

9 COMMISSIONER ELLIOTT: Well, I guess that's my
10 question, is, if we deny it, then it let's the
11 decision of the Administrative Law Judge stand. But
12 I am still struggling with whether or not this --
13 whether we make a decision at some point on this case
14 or it never comes before us. It is just testament by
15 the Judge instead of coming before us, correct? So
16 she makes a decision it doesn't come to the
17 Commission on the Transportation agenda for
18 Commission vote, correct?

19 MR. MATRISCH: That's correct.

20 COMMISSIONER ELLIOTT: So, in essence, this is
21 just sort of a review board, whether it is the
22 Commission or the Independent Review Board that makes

1 this decision, is basically is one of the ALJs. So
2 the next relief they could seek would be the courts
3 possibly.

4 COMMISSIONER FORD: The Supreme.

5 COMMISSIONER O'CONNELL-DIAZ: Well, I think if
6 you just going back to what the title of their motion
7 is, Rendered Services has filed here, a Motion for
8 Rehearing and Reconsideration. So what we would be
9 doing would be denying that Motion for
10 Reconsideration and Reconsideration. I think that
11 would properly be the way to codify that in a ruling
12 on this. I don't think we have to get into whether
13 it is interlocutory or anything. We just say we deny
14 them, because that's what before us.

15 COMMISSIONER ELLIOTT: Yeah.

16 CHAIRMAN SCOTT: I think that works. Would you
17 like to put that in the form of a motion?

18 COMMISSIONER O'CONNELL-DIAZ: I would second
19 Commissioner Ford's motion to deny Rendered Services,
20 Inc.'s, Motion for Rehearing and Reconsideration.

21 CHAIRMAN SCOTT: And, Commissioner Ford, I just
22 want to confirm that that is the motion that --

1 COMMISSIONER FORD: Second.

2 CHAIRMAN SCOTT: Any other discussion on this?

3 (No response.)

4 All in favor say aye.

5 COMMISSIONERS: Aye.

6 CHAIRMAN SCOTT: Opposed?

7 (No response.)

8 The vote is five to nothing, and the
9 petition for review is denied.

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

12 MR. MATRISCH: Nothing further, Mr. Chairman.
13 Thank you.

14 CHAIRMAN SCOTT: Thank you very much. That
15 concludes today's Transportation agenda.

16 TRANSPORTATION AGENDA CONCLUDED

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