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BEFORE THE
ILLINOIS COMMERCE COMMISSION

BENCH SESSION
(TRANSPORTATION)

Chicago, Illinois
September 9, 2010

Met pursuant to notice, at 10:30 a.m., in the
Main Hearing Room, Eighth Floor, 160 North LaSalle
Street, Chicago, Illinois

PRESENT:

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

SULLIVAN REPORTING COMPANY, by
Tracy L. Overocker, CSR

1 PROCEEDINGS

2 ACTING CHAIRMAN FLORES: Pursuant to the
3 provisions of the Illinois Opening Meetings Act, I
4 now convene a regularly scheduled Bench session of
5 the Illinois Commerce Commission.

6 With me in Chicago are
7 Commissioners Ford, O'Connell-Diaz, Elliott and
8 Colgan. I am Acting Chairman Flores. We have a
9 quorum.

10 Before moving into the agenda,
11 according to Section 1700.10 of the Illinois
12 Administrative Code, this is the time we allow for
13 members of the public to address the Commission.
14 Members of the public wishing to address the
15 Commission must notify the Chief Clerk's Office at
16 least 24 hours prior to the Bench session. According
17 to the Chief Clerk's Office, we have four requests to
18 speak at today's Bench session.

19 ACTING CHAIRMAN FLORES: Very well. Moving on
20 to the Transportation and Railroad agenda.

21 Items RR-1 through RR-4 can be taken
22 together. These are stipulated agreements for safety

1 improvements to railroad crossings in a number of
2 cities and towns across Illinois. In each case,
3 Staff recommends entering an Order approving the
4 stipulated agreement.

5 Is there a motion to enter the Orders?

6 COMMISSIONER ELLIOTT: So moved.

7 ACTING CHAIRMAN FLORES: I will second it.

8 It's been moved and seconded.

9 All in favor say "aye."

10 (Chorus of ayes.)

11 Any opposed?

12 (No response.)

13 The vote is 5-0. The Orders are
14 entered and the stipulated agreements are approved.
15 We will use this 5-0 vote for the remainder of the
16 Transportation agenda unless otherwise noted.

17 Items R-5 and R-6 can be taken
18 together. These are petitions for Orders for
19 improvements and modifications to grade separation
20 structures at railroad crossings in Decatur and near
21 Fairmont City.

22 In each case, our Administrative Law

1 Judge recommends entering the Order.

2 Is there any discussion?

3 (No response.)

4 Any objections?

5 (No response.)

6 Hearing none, the Orders are entered
7 and the improvements are approved.

8 Item 7 is Docket No. T08-0031. This
9 concerns a stipulated agreement for safety
10 improvements to a highway over-rail -- grade
11 separated crossing at Jefferson County. In this
12 case, Staff recommends entering a Supplemental Order
13 approving an extension of time to complete the
14 project.

15 Is there any discussion?

16 (No response.)

17 Any objections?

18 (No response.)

19 Hearing none, the Supplemental Order
20 is entered.

21 Moving now to the Motor Carrier's
22 portion of today's agenda. Items -- excuse me. Item

1 MC-1 concerns Elite Moving & Storage's application
2 for a Certificate of Public Convenience and Necessity
3 to operate as a carrier of household goods in
4 Illinois.

5 Administrative Law Judge O'Brien
6 recommends entering an Order granting the
7 certificate.

8 Is there any discussion?

9 (No response.)

10 Any objections?

11 (No response.)

12 Hearing none, the certificate is
13 granted.

14 Item MC-2 concerns Terrance Jones's
15 application for an Operator's Employment Permit under
16 Chapter 625 ILCS 5/18a-403 of the Illinois Commercial
17 Relocation of Trespassing Vehicles Law.

18 Administrative Law Judge
19 Kirkland-Montague recommends entering an Order
20 granting the permit.

21 Is there any discussion?

22 (No response.)

1 Judge, there are a couple questions.
2 In reviewing this particular matter, I had some
3 questions concerning the applicant's background. I
4 wanted just to confirm his criminal background. Was
5 a check done or was it requested, a criminal
6 background?

7 JUDGE KIRKLAND-MONTAQUE: Yes. All applicants
8 are put through a criminal background check.

9 ACTING CHAIRMAN FLORES: I needed to confirm
10 that. I just -- I needed to confirm that. And since
11 the -- he has had no further criminal activity since
12 the --

13 JUDGE KIRKLAND-MONTAQUE: Not since the 2006
14 conviction. He has been released from parole
15 successfully.

16 ACTING CHAIRMAN FLORES: Very good. And the
17 report that I had access to, there was an issue of
18 alcohol abuse. I wanted to confirm that he had
19 completed an alcohol rehab program.

20 JUDGE KIRKLAND-MONTAQUE: Yes. That was a
21 condition of his parole and he did successfully
22 complete that, otherwise he'd be back in prison.

1 ACTING CHAIRMAN FLORES: Did he -- do we have
2 access to that report?

3 JUDGE KIRKLAND-MONTAQUE: Well, on our criminal
4 report that the Office of Transportation Counsel
5 gets, there's a notice that he's been discharged from
6 parole, which means that he had to complete his --
7 all of the requirements of parole, which included 6
8 months of alcohol and drug rehabilitation.

9 ACTING CHAIRMAN FLORES: We didn't have -- we
10 just had access to the report from the --

11 JUDGE KIRKLAND-MONTAQUE: From IDOC, from the
12 Illinois Department of Correction, we get their
13 reports.

14 ACTING CHAIRMAN FLORES: And it's pretty
15 thorough?

16 JUDGE KIRKLAND-MONTAQUE: Yes.

17 ACTING CHAIRMAN FLORES: Very complete. It
18 demonstrates -- provides all of the questions --
19 answers to the questions that anybody --

20 JUDGE KIRKLAND-MONTAQUE: Right. Basically,
21 that he has been discharged from their system,
22 otherwise he would be in prison or within their

1 system still.

2 ACTING CHAIRMAN FLORES: Okay. Very well. I
3 just wanted to confirm that. Thank you.

4 JUDGE KIRKLAND-MONTAQUE: You're welcome.

5 ACTING CHAIRMAN FLORES: Any other questions or
6 comments or discussion?

7 COMMISSIONER O'CONNELL-DIAZ: I'd just like to
8 thank Judge Kirkland-Montaque for the complete memo
9 she provided us, with the details that you analyzed
10 to come to the conclusion that you did and the Order
11 that allows this individual to, you know, go out and
12 start a life that he now has completed his time and
13 changed his ways and hope that he continues on the
14 path.

15 JUDGE KIRKLAND-MONTAQUE: Thank you.

16 ACTING CHAIRMAN FLORES: Any other comments?
17 Questions?

18 (No response.)

19 Very well. Then hearing none, the
20 permit is granted.

21 The Item MC-3, Nickolas Todd
22 Germaine's application for an Operator's Employment

1 Permit under Chapter 625 ILCS 5/18a-403 of the
2 Illinois Commercial Relocation of Trespassing
3 Vehicles Law.

4 Again, Administrative Law Judge
5 Kirkland-Montaque recommends entering an Order
6 granting the permit. Similar questions, Judge.
7 Again we had, obviously, a review of the entire
8 report provided by the Illinois Department of
9 Corrections that would speak to this individual's
10 past criminal record and also completion of anger
11 management and alcohol treatment classes; correct?

12 JUDGE KIRKLAND-MONTAQUE: Yes.

13 ACTING CHAIRMAN FLORES: Fair enough.

14 Any other questions? Comments.

15 (No response.)

16 Again I just want to thank -- echo
17 Commissioner O'Connell-Diaz's compliments, Judge, in
18 providing this very thorough analysis and report
19 and -- so thank you.

20 COMMISSIONER O'CONNELL-DIAZ: If I might,
21 Chairman. I would also like to commend the body shop
22 that's involved here. I notice that it's the same

1 employer and that they're creating a situation where
2 these folks have an opportunity to be employed, get
3 on the right foot and I think that's important in our
4 review of this, that this is a -- it's the same
5 company that's doing this and it's -- so there's more
6 companies out there that will give these folks a
7 second chance now, you know, that they've fulfilled
8 their obligation and are looking to be gainfully
9 employed and support their families and themselves.
10 I'd like to commend the -- Red's Body Shop for that.

11 Thank you.

12 ACTING CHAIRMAN FLORES: I'm sorry. Before we
13 continue, something else that -- again, I just want
14 to confirm this; the child support would also be in
15 that IDOC Report?

16 JUDGE KIRKLAND-MONTAQUE: No, but the applicant
17 testified that he has a plan -- a payment plan to
18 bring him up to speed with his past-due child support
19 payments and he has been fulfilling that requirement.

20 ACTING CHAIRMAN FLORES: So we saw -- what you
21 saw besides his testimony that he was -- that he had
22 a plan, what else did we inquire about the child

1 support?

2 JUDGE KIRKLAND-MONTAQUE: Well, it was
3 basically based on his testimony that he was up to
4 date on his child support payments and that he had
5 worked out a plan with the court system on that.
6 There is no criminal record to that effect that we
7 had access to, other than his being arrested for, you
8 know, if there is a warrant issued or something of
9 that nature; but there is no criminal information on
10 that.

11 ACTING CHAIRMAN FLORES: And if he wanted -- if
12 he was wanted for arrest, that would have appeared in
13 the criminal record?

14 JUDGE KIRKLAND-MONTAQUE: Actually, I'm not
15 sure if he was -- if there was an outstanding
16 warrant. I'm not sure if the Illinois Department of
17 Corrections would have that, it might be a local
18 matter that OTC would have to request information on.

19 COMMISSIONER O'CONNELL-DIAZ: Wasn't he -- in
20 fact, that was why he was arrested in the first
21 place, because --

22 JUDGE KIRKLAND-MONTAQUE: Right.

1 COMMISSIONER O'CONNELL-DIAZ: -- situation and
2 they responded and he was arrested for the
3 outstanding warrant. So --

4 JUDGE KIRKLAND-MONTAQUE: Right.

5 COMMISSIONER O'CONNELL-DIAZ: -- I would
6 imagine if there was an outstanding warrant, they
7 would be --

8 JUDGE KIRKLAND-MONTAQUE: He would be
9 rearrested.

10 COMMISSIONER O'CONNELL-DIAZ: -- shown -- yeah,
11 he would be rearrested and that would also show up in
12 any kind of criminal background check if there was an
13 outstanding warrant out there.

14 ACTING CHAIRMAN FLORES: That's what I wanted
15 to confirm, though. I want to make sure that we have
16 the -- that we would have had access to a report that
17 would. It indicated that he was wanted on a warrant.
18 I mean, look, again, I can appreciate the effort made
19 on this individual to get a job and to get back on
20 payments; but by the same token, I want to make sure
21 that he's not wanted on some kind of criminal
22 violation for not paying child support.

1 JUDGE KIRKLAND-MONTAQUE: Well, there was no
2 indication on his criminal record that he is wanted
3 for child support. The records that the Office of
4 Transportation Counsel receives has no indication
5 that at this point in time he's in violation of
6 anything.

7 ACTING CHAIRMAN FLORES: Fair enough. Hearing
8 that, any further questions or -- okay.

9 Any objections?

10 (No response.)

11 Very well. Hearing none, the permit
12 is granted.

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

15 JUDGE KIRKLAND-MONTAQUE: He's not with us
16 today.

17 JUDGE WALLACE: Mr. Chairman, this is
18 Judge Wallace. There appears to be no further
19 Transportation matters.

20 ACTING CHAIRMAN FLORES: Right. Very well.
21 Thank you. That concludes the Transportation agenda.

22 (Whereupon, the Public Utility

1 portion of the proceedings are
2 contained in a separate transcript.)

3 ACTING CHAIRMAN FLORES: We're going to move to
4 the Public Utility agenda. There are three sets of
5 minutes to approve. We will start with the approval
6 of minutes from the August 10th Regular Opening
7 Meeting. I understand that amendments have been
8 forwarded. Is there a motion to amend the minutes?

9 COMMISSIONER FORD: So moved.

10 ACTING CHAIRMAN FLORES: I will second it.
11 It's been moved and seconded.

12 All in favor say "aye."

13 (Chorus of ayes.)

14 Any opposed?

15 (No response.)

16 The vote is 5-0 amending the minutes.

17 Is there a motion to approve the
18 minutes as amended?

19 COMMISSIONER O'CONNELL-DIAZ: So moved.

20 ACTING CHAIRMAN FLORES: I will second it.
21 It's been moved and seconded.

22 All in favor say "aye."

1 (Chorus of ayes.)

2 Any opposed?

3 (No response.)

4 The vote is 5-0 approving the minutes
5 for August 10th as amended.

6 With respect to the minutes from --
7 for the August 12th Joint Policy Committee Meeting, I
8 understand the amendments have been forwarded. Is
9 there a motion to amend the minutes?

10 COMMISSIONER COLGAN: So moved.

11 ACTING CHAIRMAN FLORES: I will second it.
12 It's been moved and seconded.

13 All in favor say "aye."

14 Chorus of ayes.

15 Any opposed?

16 (No response.)

17 The vote is 5-0 amending the minutes.

18 Is there a motion to approve the
19 minutes as amended?

20 COMMISSIONER ELLIOTT: So moved.

21 ACTING CHAIRMAN FLORES: I will second it.
22 It's been moved and seconded.

1 All in favor say "aye."

2 (Chorus of ayes.)

3 Any Opposed?

4 No response.

5 The vote is 5-0 approving the minutes
6 for the August 12th Joint Policy Committee Meeting as
7 amended.

8 We also have minutes to approve from
9 the August 18th Bench session. I understand that
10 amendments have been forwarded.

11 I will make a motion to amend the
12 minutes. Is there a second?

13 COMMISSIONER FORD: Second.

14 ACTING CHAIRMAN FLORES: It's been moved and
15 seconded.

16 All in favor say "aye."

17 (Chorus of ayes.)

18 Opposed?

19 (No response.)

20 The vote is 5-0 amending the minutes.

21 Is there a motion to approve the
22 minutes as amended?

1 COMMISSIONER FORD: So moved.

2 ACTING CHAIRMAN FLORES: I will second. It's
3 been moved and seconded.

4 All in favor say "aye."

5 Chorus of ayes.

6 Any opposed?

7 (No response.)

8 The vote is 5-0 approving the minutes
9 for the August 18th Bench session as amended.

10 Given that we're talking about
11 minutes, I would just like to cover the approval of
12 the minutes for the August 18th Bench session. There
13 are no amendments, and so I would just like to make a
14 motion to approve those minutes.

15 Is there a second?

16 COMMISSIONER O'CONNELL-DIAZ: Second.

17 ACTING CHAIRMAN FLORES: All in favor say
18 "aye."

19 (Chorus of ayes.)

20 Any opposed?

21 (No response.)

22 None. The vote is 5-0 to approve the

1 minutes without amendments and that is for the
2 Transportation agenda and it's -- so moving on to the
3 Electric agenda, Item E-1 concerns initiating
4 reconciliation proceedings --

5 JUDGE WALLACE: Mr. Chairman?

6 ACTING CHAIRMAN FLORES: Yes, sir.

7 JUDGE WALLACE: That would be for the Public
8 Utility. You may have said Transportation.

9 COMMISSIONER ELLIOTT: No, that was
10 Transportation.

11 ACTING CHAIRMAN FLORES: No, that was
12 Transportation. Well, I apologize. What had
13 happened was I had skipped over that section in the
14 Railroad -- Transportation Section. But because I
15 had already started talking about minutes in terms of
16 agenda minutes, I thought that I would just include
17 that session so that it would be included in the
18 record. Is that okay, Judge?

19 JUDGE WALLACE: Yes.

20 ACTING CHAIRMAN FLORES: Moving on to the
21 actual agenda itself for matters pending before us.

22