BEFORE THE
ILLINOIS COMMERCE COMMISSION

BENCH SESSION

(TRANSPORTATION)

Springfield, Illinois

Wednesday, May 16, 2012

Met, pursuant to notice, at 10:30 a.m.
in Hearing Room A, First Floor, Leland Building, 527
East Capitol Avenue, Springfield, Illinois.

PRESENT:

MR. DOUGLAS P. SCOTT, Chairman

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

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

MR. JOHN T. COLGAN, Commissioner

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

SULLIVAN REPORTING COMPANY, by
Carla J. Boehl, Reporter
CSR #084-002710
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.)
The vote is four to nothing, and Commissioner O'Connell-Diaz may participate by phone.

COMMISSIONER O'CONNELL-DIAZ: Thank you.

CHAIRMAN SCOTT: Thank you.

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

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

I believe they are in Chicago?

COMMISSIONER FORD: Yes.

CHAIRMAN SCOTT: Okay. So if you want to maybe take one of the seats by the -- so that we can hear you?
MS. FISHER: Is it possible to wait for Robert?
He is on his way. He just got a little bit lost coming off of the train.

(Pause.)

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

MR. GARCIA: Thank you. Am I on?

COMMISSIONER FORD: Yes.

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

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

I want to stress the name Leucadia to
you because ultimately you are being asked to make a
decision that will force Illinois consumers to foot
the bill for increased profits for this company's
executives and shareholders. A newly released report
suggests this bill will cost each Illinois resident
over a thousand dollars a year and the State of
Illinois billions of dollars over a single decade.

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

You know, this proposal would be
laughably absurd if it wasn't for the millions of
dollars poured into marketing that has caused some
lawmakers into agreeing to it. How in the world can
someone ask you with a straight face to pay to build
a facility for them so they can charge you a high
fixed rate for a product whose price is falling on
the open market? How can you rationally trust a
volatile company whose main holdings are in
telecommunications, timber, plastics and casinos to
make us subsidize a new energy venture for them? How can you allow us to take the risk their shareholders refuse to take -- excuse me, refuse to take, and pay more at a time when the State is cutting funding to utility assistance programs? How can you believe their coal, with all the scientific evidence showing otherwise, is somehow now a clean energy source?

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

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

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

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

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

Ladies and gentlemen, please listen to your hearts, your minds and your reason and not the
made-up economic models by a company that has never
done this before. There is more to the cost of a
project than projections of rising gas prices which,
according to gas price indices over the past years,
are still falling.

I thank you very much for your time.

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

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

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

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

COMMISSIONER COLGAN: So moved.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER O'CONNELL-DIAZ: Second.

CHAIRMAN SCOTT: It's been moved and seconded.

All in favor say aye.

COMMISSIONERS: Aye.
CHAIRMAN SCOTT: Any opposed?

(No response.)

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

Moving on to the Railroad section,

Item RR-1 is Docket Number T12-0042. This is a petition to permit the construction of a pedestrian-rail crossing in DuPage County. ALJ Kirkland-Montaque recommends entry of an Order granting the petition.

Is there any discussion?

(No response.)

Is there a motion to enter the Order?

COMMISSIONER COLGAN: So moved.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER O'CONNELL-DIAZ: Second.

CHAIRMAN SCOTT: It's been moved and seconded.

All in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN SCOTT: Any opposed?

(No response.)

The vote is five to nothing, and the
Order is entered.

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

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

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Orders are entered.

Item RR-11 is Docket Number T11-0071. This item concerns a Stipulated Agreement regarding public safety improvements at eight Union Pacific highway-rail grade crossings in Cook County. Staff recommends entry of an Amended Order modifying the
cost division table in the agreement.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Amended Order is entered.

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

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Orders are entered.

Item MC-4 is Action Movers of Chicago's application for new Household Goods Property Motor Carrier Authority. ALJ Duggan recommends entry of an Order approving the
Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered.

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

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

(Whereupon Transportation Counsel was seated at the table.)

Thanks for being here this morning.

When we look at these normally, we see administrative citations a couple in the last two years, a handful in the last years. This company had 57 in the last two years, 44 of which were dismissed, nine of which they had paid, although there was a
question and appeal over whether to grant the refunds that had been ordered for them to do, and then there are still four pending, I believe.

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

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

Another issue in this period is that, due to the ongoing number of Administrative Citations as well as a few matters that the Commission had before it within the past year for Motions on Rehearing concerning Administrative Citations, as well as a delay in the fingerprinting process of the
sole shareholder of this corporation, the number of Administrative Citations has sort of spilled over a two-year period into closer to a three-year period because of the ongoing pendency of the renewal application.

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

MS. ANDERSON: Well, in terms of the number of citations that have been dismissed, that will come from basically one of three sources. Either the citations were heard at a hearing and dismissed on the merits by the Administrative Law Judge or they might have been dismissed on the motion of the Office of Transportation counsel prior to hearing if there was some discussion with the relocator and it was found that the citation should not have been issued. And then another cause for dismissal
is something that the Chairman alluded to, which was
having a sort of a negotiation with the relocator and
reaching some sort of settlement as opposed to
getting an Order entered through the hearing process
by the Judge.

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

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

CHAIRMAN SCOTT: Are there any further
questions?

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

CHAIRMAN SCOTT: Further discussion?

COMMISSIONER O'CONNELL-DIAZ: Mr. Chairman?

CHAIRMAN SCOTT: Yes.

COMMISSIONER O'CONNELL-DIAZ: I have a
procedural question. And I totally agree with
holding it because I have the same concerns that both
you and Commissioner Ford have expressed.

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

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

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

Is the ALJ there?

CHAIRMAN SCOTT: Yes. Go ahead.

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

The only way that something akin to an
interim process would happen is if the Commission were to at this point deny the renewal matter. What would happen then is the application would become set for a fitness hearing pursuant to Section 400 of the Illinois Commercial Relocation of Trespassing Vehicles Law.

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

MS. ANDERSON: Commissioner, the purpose of the renewal process is for the Commission to receive the renewal application and verify ongoing compliance with the fitness criteria to have the relocator's license. So that involves various steps, including a backgrounds check, a criminal background check, and making sure that the standard is complied with on an ongoing basis.

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

CHAIRMAN SCOTT: What you are saying, though, then if we were to deny their application for
renewal, then we would in essence be automatically
sending them -- questioning their fitness and sending
them to a fitness hearing in that case?

MS. ANDERSON: That's correct.

COMMISSIONER COLGAN: Okay. I understand that.

CHAIRMAN SCOTT: Further discussion?

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

CHAIRMAN SCOTT: Okay.

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

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

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

Is there any discussion?

(No response.)

Any objections?
(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