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

We have a quorum.

Commissioner Ford is not able to join us as she is out of town today. Before moving into the agenda, according to Section 1700.10 of the Illinois Administrative Code, this is the time we allow the 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 meeting of the Commission. According to the Chief Clerk's Office, we have no request to speak for today's session.

Starting first with the Transportation Agenda, we have one item on the agenda. This item concerns a Stipulated Settlement Agreement reached
between Lincoln Towing and the Commission's Transportation Counsel concerning alleged violations in Illinois Commercial Transportation Law. We held this matter from a previous hearing, and I believe we have our Transportation Counsel available for any questions.

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

(No response.)

Very well.

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

Could you give us some -- could you just describe what exactly it is that we're looking at here.
MR. NAGEL: Certainly. Essentially what -- and, again, it's part of the Settlement Agreement. Lincoln hasn't admitted to these practices, but the Commission receives numerous complaints with regard to relocation towing companies and we investigate all of those complaints.

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

So as part of the settlement we went back three years in the annual reports which are self-reported numbers from the relocators. We went through Lincoln's annual reports for three years as well as current records in '09 up through, I believe,
August of '09. So what you're seeing with regard to
the number, the 2133, that is essentially three years
worth of invoices that Lincoln would have had to have
purchased for their unclaimed vehicles. Basically
they were trying to save $7.50 for each tow. By all
accounts, those tows seem to have been proper tows.

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

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

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

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

ACTING CHAIRMAN FLORES: The concern that I have and what gave me pause here is -- and I know that these are not allegations before us, but -- I'm just concerned about a potential or a circumstance where people of more modest means who may have their car tore up for one reason or another may not have the opportunity to reclaim that vehicle. And my fear
is, again, a company or an actor here taking advantage and looking at these kinds of charges as almost the cost of doing business and at the same time the impact that this kind of practice has or may have rather on folks of moderate or modest income levels. And I just want to make sure that -- and I commend your office. I know how hard you work. So this is not a question in terms of you know what we're doing, it just caught my eye and I'm sure the other Commissioners looked at that number as well and said, Wow, this is a very high number.

Very well. I have no other questions. Are there any other questions or discussion?

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

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

MR. MATRISCH: The fines are statutorily set. The last time the Commission adjusted the fines as
sort of a policy matter was around 2004 or 2005.

Prior to that, all violations were assessed $75 regardless of the severity. And because we recognize that some violations were certainly more severe than others, we increased it to sort of a sliding scale depending on the severity of the violation.

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

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

I have one question with regard to the 2000 alleged invoice problems. This was over a three-year period? Am I correct in understanding
MR. NAGEL: Yes.

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

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

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

ACTING CHAIRMAN FLORES: Any other questions or comments?

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

COMMISSIONER O'CONNELL-DIAZ: Yeah, and with that double edged sword comes the fact that if the
penalties are increased, then they're going to charge people more to retrieve their cars in the event that they are towed, so it's a double edged sword really. They're making the penalties so high then the consumers are really going to suffer, the people that have parked their cars in the wrong places because those are going to flow right through.

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

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

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

Is there a second?

COMMISSIONER O'CONNELL-DIAZ: Second.

ACTING CHAIRMAN FLORES: Its been moved and
seconded.

All in favor say "aye."

(Chorus of ayes.)

Any opposed?

(No response.)

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

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

MR. NAGEL: Thank you.

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

MR. MATRISCH: Nothing further, Chairman.

Thank you.

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

(And those were all the proceedings had.)