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

MR. MATRISCH: Yes, we are.

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

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

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

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

(No response.)

Hearing none, the Minutes as edited are approved.

Moving onto our Railroad Agenda, Items RR-1 through RR-4 are various Orders Authorizing Grade Crossing Safety in multiple projects.
throughout Illinois.

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

(No response.)

Hearing none, the Orders are approved.

Moving onto our Motor Carrier Agenda,

Items MC-1 and 2 are Applications for Certificates of Public Convenience and Necessity under the Provisions of the Illinois Commercial Transportation Law.

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

(No response.)

Hearing none, the Orders are approved.

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

Commissioner del Valle, I believe you have some questions for the ALJ.
COMMISSIONER del VALLE: Yes. Thank you, Mr. Chairman. I have a few questions.

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

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

COMMISSIONER del VALLE: They have two locations?

JUDGE KIRKLAND-MONTAGUE: Right.

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

JUDGE KIRKLAND-MONTAGUE: Correct.

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

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

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

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

How do we go about doing that?

JUDGE KIRKLAND-MONTAGUE: Well, ALJ Duggan did the renewal application, but I can tell you that in any relocation application consideration is given
for the storage lots. In fact, the police go out
and inspect the storage lots before a license is
granted to determine whether or not it's in
compliance with the Commission's rules.

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

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

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

COMMISSIONER del VALLE: Can he answer that
question?

JUDGE KIRKLAND-MONTAGUE: Sure.

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

COMMISSIONER del VALLE: That's of the applicant?
The applicant is asked that question?

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

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

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

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

I realize that we can't force anyone or ask anyone to upgrade their facility in that we
are looking for basic things like security, but it sounds like we just take their word for it. I don't see how a police officer -- is there a police report of the inspection that's part of the record?

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

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


JUDGE DUGGAN: Sure.

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

JUDGE DUGGAN: Okay. I wasn't aware of that.
COMMISSIONER del VALLE: Isn't that in your report -- in your documents?

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

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

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

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

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

JUDGE KIRKLAND-MONTAGUE: Yes, going forward.

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

When the Commission initiated the hearing to determine fitness of the company for the
renewal of its license, the Commission directed that
the scope of the proceeding would address any facts
that may bear on the fitness to hold a license.
I explained from the Bench that this
should include not only the number of citations but
also the amounts of civil penalties and types of
violations.
So I want to know of the over 30
citations that have been resolved and 20 still
pending, do you know how many are for removal of
vehicles from properties where the company had no
signs? Number one, did any of these cases -- of
those cases dispute the existence of a valid
contract which has been a problem in the past and
do you know of the top three allegations in over 300
citation proceedings that were eventually dismissed?
I went over those questions quickly.
I would have to forward these questions to you.
JUDGE KIRKLAND-MONTAGUE: That's fine.
JUDGE DUGGAN: Is that addressed to me,
Commissioner del Valle?
JUDGE KIRKLAND-MONTAGUE: I will start, because I
actually hear the citations more often than Commissioner ALJ Duggan.

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

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

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

In fact, I have the docket sheet for the next citation hearing, and the only description we get of violations is a violation of 18(a) which
is in the Relocation Towing Act, so there are numerous -- hundreds of violations that could fall under that statute.

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

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

JUDGE KIRKLAND-MONTAGUE: That's possible.

COMMISSIONER del VALLE: -- be repeat offenders?

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

COMMISSIONER del VALLE: Okay. I was just wondering. Just to go back to the storage lot situation again, we have no way of determining, other than asking the applicant, whether their
facility is adequate, including the appearance of
the place, like the one on Armitage Avenue, because
they only have two locations?

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

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

JUDGE KIRKLAND-MONTAGUE: Okay.

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

JUDGE KIRKLAND-MONTAGUE: I understand.

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

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

(No response.)

Is there a motion to approve the proposed Order?

ACTING COMMISSIONER ROSALES: So moved.

CHAIRMAN SHEAHAN: Is there a second?

COMMISSIONER MCCABE: Seconded.

CHAIRMAN SHEAHAN: All those in favor, say aye.

COMMISSIONER DEL VALLE: And I will abstain.

CHAIRMAN SHEAHAN: Opposed, say no.

COMMISSIONER DEL VALLE: Abstain.

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

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

Is there any objection to approving the proposed Order?
(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.)
CERTIFICATE OF REPORTER

STATE OF ILLINOIS )
COUNTY OF COOK )

CASE NO.

TITLE: BENCH SESSION (TRANSPORTATION)

I, PATRICIA WESLEY, do hereby certify that I am a court reporter employed by SULLIVAN REPORTING COMPANY, of Chicago, Illinois; that I reported in shorthand the evidence taken and the proceedings had on the hearing on the above-entitled case on the 8th day of July A.D., 2015; that the foregoing 16 pages are a true and correct transcript of my shorthand notes so taken as aforesaid, and contains all of the proceedings directed by the Commission or other person authorized by it to conduct the said hearing to be stenographically reported.

Dated at Chicago, Illinois, this 15th day of July, A.D., 2015.

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Reporter.