BEFORE THE

ILLINOIS COMMERCE COMMISSION

BENCH SESSION

(TRANSPORTATION)

Springfield, Illinois

Wednesday, December 18, 2013

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
MR. JOHN T. COLGAN, Commissioner
MS. ANN McCABE, Commissioner
MR. MIGUEL DEL VALLE, Commissioner
MS. SHERINA MAYE, Commissioner

MIDWEST LITIGATION SERVICES, by Angela C. Turner, Reporter
CSR #084-004122
CHAIRMAN SCOTT: Is everybody ready in Chicago?

JUDGE DOLAN: We're here, Chairman.

CHAIRMAN SCOTT: Okay. Very good.

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 are Commissioner Colgan, Commissioner McCabe, Commissioner del Valle and Commissioner Maye. And I am Chairman Scott. We have a quorum.

Before moving into the agenda, according to Section 1700.10 of Title 2 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 Commission meetings. According to the Chief Clerk's office, we have no requests to speak at today's Bench Session.

Starting first with the Transportation Agenda, we'll begin with the approval of minutes from our December 4th Bench Session. I understand
amendments have been forwarded.

Is there a motion to amend the minutes?

COMMISSIONER COLGAN: So moved.

CHAIRMAN SCOTT: Moved by Commissioner Colgan.

Is there a second?

COMMISSIONER McCABE: Second.

CHAIRMAN SCOTT: Second by Commissioner McCabe. Motion has been seconded.

All in favor say aye.

(Chorus of ayes.)

CHAIRMAN SCOTT: Any opposed?

(No response.)

CHAIRMAN SCOTT: The vote is five to nothing and the amendments are adopted.

Is there now a motion to approve the minutes as amended?

COMMISSIONER DEL VALLE: So moved.

COMMISSIONER COLGAN: So moved.

CHAIRMAN SCOTT: Moved by Commissioner del Valle; second by Commissioner Colgan.

COMMISSIONER COLGAN: Second.

CHAIRMAN SCOTT: All in favor say aye.

(Chorus of ayes.)
CHAIRMAN SCOTT: Any opposed?
(No response.)
CHAIRMAN SCOTT: The vote is five to nothing and the minutes from our December 4th Bench Session, as amended, are approved.

Item RR-1 is Docket Number T06-0027. This is the County of Will's petition for authorization of funding to construct a safety improvement project at a highway-rail grade crossing in Will County. Petitioners have requested additional time and funding to complete the project.

And ALJ Kirkland-Montague recommends entry of a second supplemental Order granting the requested relief.

Is there any discussion?
(No response.)
CHAIRMAN SCOTT: Is there a motion to enter the Order?
COMMISSIONER McCabe: So moved.
CHAIRMAN SCOTT: Moved by Commissioner McCabe.
COMMISSIONER MAYE: Second.
CHAIRMAN SCOTT: Second by Commissioner Maye.
All in favor say aye.

(Chorus of ayes.)

CHAIRMAN SCOTT: Any opposed?

(No response.)

CHAIRMAN SCOTT: The vote is five to nothing and the Order is entered.

We will use this five to nothing vote for the remainder of today's Transportation Agenda unless otherwise noted.

Items RR-2 through RR-5 can be taken together. These items are petitions seeking authorization and funding for safety improvement projects at highway-rail grade crossings in Illinois.

In each case, ALJ Duggan recommends entry of an Order granting the requested relief.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Are there any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Orders are entered.

On to Motor Carriers, Item MC-1 is a stipulated settlement agreement concerning alleged violations of the Illinois Commercial Transportation
Law by Schnowske and Sons Trucking.

Our transportation counsel recommends entry of an Order accepting the settlement agreement.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Order is entered.

Items MC-2 and MC-3 can be taken together.

These items are applications for household goods property motor carrier authority under the Illinois Commercial Transportation Law.

In both cases, the ALJ recommends entry of an Order granting the application.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Orders are entered.

We have two administrative matters for consideration today. Item AM-1 is a resolution extending our appreciation and best wishes to
Mr. John Blair on his retirement. I'm going to read this first and ask John to come forward.

By the Commission, whereas, John J. Blair has been employed in the Rail Safety Section of the Illinois Commerce Commission's Transportation Bureau since October 18, 1982, and he's retiring on December 31, 2013;

Whereas, throughout his 31 years of service to the Commission, John displayed his commitment to public safety by his actions and deeds; and whereas, John has consistently demonstrated his interests and concern for the benefit of the Commission's Rail Safety Program by his attitude and the quality of his work;

Whereas, John has consistently demonstrated professionalism by his interaction with rail carriers, highway agencies and the public, and his involvement in the development of national policies for the design and installation of highway-rail grade crossing warning systems; and whereas, John's retirement will create a void in the Commission due to the absence of his knowledge and his ability to serve the people of Illinois.

Now therefore be it resolved that the
Illinois Commerce Commission hereby extends its deepest appreciation and gratitude to John J. Blair for his dedication and outstanding service to the Commission and conveys its best wishes to him.

We need a motion to approve the resolution.

COMMISSIONER COLGAN: So moved.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER McCABE: Second.

CHAIRMAN SCOTT: All in favor say aye.

(Chorus of ayes.)

CHAIRMAN SCOTT: Any opposed?

(No response.)

CHAIRMAN SCOTT: The resolution is carried.

John, do you want to come forward?

(Mr. Blair accepts plaque.)

CHAIRMAN SCOTT: Congratulations.

MR. BLAIR: Thank you.

(Applause.)

MR. BLAIR: Thank you. Thanks for the kind words. I wish the best to all my co-workers here in the future. And it's been a quick 31 years. It seems like Steve Hickey and myself started at the same time from the University of Illinois. And I thought I would be here like two years, and now it's
31 years. So anyway, thanks for everything.

CHAIRMAN SCOTT: Thank you very much. We really appreciate your service.

Item AM-2 concerns the City of Urbana, the City of Champaign, and the County of Champaign's Joint Petition seeking authorization to construct a highway bridge in Champaign County. Intervener Preserve Olympian Farmland has filed a Petition for Interlocutory Review of the Hearing Examiner's Ruling.

During the course of the proceeding, the ALJ in this case made a ruling that the Commission's jurisdiction and oversight of the construction projects of this nature was limited to whether the improvements were designed properly and how the costs for the improvements would be paid. However, both the statutes and relevant case law indicate that the Commission has a more substantial role in determining the need and the public convenience for a particular project.

This assessment is further supported by the Commission's approval each year of a plan and report which lays out, going forward, which projects the Commission will take on, and by the testimony in the
case at issue, in which Staff describes an extensive process to prioritize the individual projects. Therefore, testimony as to the necessity of a project may be relevant, and testimony of Dr. Wilson, in this case, may be admitted. In so doing, however, the Commission makes no representation as to the weight of that testimony. The parties had based their pleadings and testimony on the limited jurisdictional interpretation set out by the ALJ, and thus should have the opportunity to revise pleadings and/or testimony in accordance with this Order. The Motion to Dismiss is unnecessary, and would create an unreasonable delay in a case that has already taken two years to reach this point. In addition, in last week's meeting, a representative from IDOT commented to the Commission that time is of the essence. It has come to our attention that outside funding sources may be withdrawn if the project does not move forward. The Commission, while making no representation about the ultimate resolution of this matter, finds that it is in the public interest to moved expeditiously in the event that the project is ultimately approved.
At this time, I would make a motion that it would include the following steps in response to the petitions at issue:

One, grant the Petition for Interlocutory Review filed by Intervenor Preserve Olympian Farmland with respect to allowing the testimony of Dr. David Wilson.

Two, deny the request for Oral Argument.

Three, deny the Motion to Dismiss filed by Intervener Preserve Olympian Farmland.

Four, grant the parties leave to revise their pleadings and present testimony as deemed necessary by the Administrative Law Judge in accordance with this Order.

And five, ask the ALJ, in the interest of the time constraints of which we've heard, to move the matter as expeditiously as possible.

So I would make that as a motion.

Is there second?

COMMISSIONER COLGAN: Second.

CHAIRMAN SCOTT: Second by Commissioner Colgan.

Any discussion?

(No response.)
CHAIRMAN SCOTT: All in favor say aye.

(Chorus of ayes.)

CHAIRMAN SCOTT: Any opposed?

(No response.)

CHAIRMAN SCOTT: The vote is five to nothing and the Petition for Interlocutory Review is granted in accordance with the previous comments and the Motion for Oral Argument and to dismiss are denied.

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

MR. MATRISCH: No, Chairman. Thank you very much.

CHAIRMAN SCOTT: Thank you.

Very well. Then that concludes today's Transportation Agenda.

TRANSPORTATION SESSION CONCLUDED.
CERTIFICATE OF REPORTER

I, Angela C. Turner, a Certified Shorthand Reporter within and for the State of Illinois, do hereby certify that the hearing aforementioned was held on the time and in the place previously described.

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

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Angela C. Turner
IL CSR #084-004122