

# Indiana Election Commission

## Minutes

### November 14, 2012

**Members Present:** Daniel A. Dumezich, Chairman of the Indiana Election Commission (“Commission”); S. Anthony Long, Vice Chairman of the Commission; Bryce Bennett, Commission member; Suzannah Wilson Overholt, Commission member.

**Members Absent:** None.

**Staff Attending:** Trent Deckard, Co-Director, Indiana Election Division of the Office of the Indiana Secretary of State (Election Division); J. Bradley King, Co-Director of the Election Division; Leslie Barnes, Co-General Counsel of the Election Division; Dale Simmons, Co-General Counsel of the Election Division; Abbey Taylor, Campaign Finance staff, Election Division; Michelle Thompson, Campaign Finance staff, Election Division.

**Also Attending:** None.

#### 1. Call to Order

The Chair called the November 14, 2012 meeting of the Commission to order at 1:30 p.m. in the office of the Election Division, Indiana Government Center South Room E-204, 302 West Washington Street, Indianapolis, Indiana.

The Chair noted that proper notice of the meeting had been given, as required by state law. A copy of the meeting notice, agenda, and designations of proxy are incorporated by reference in these minutes. *[Copies of all documents incorporated by reference are available for public inspection and copying at the Election Division Office.]*

#### 2. Transaction of Business

The Commission transacted the business set forth in the Transcript of Proceedings prepared by Rhonda J. Hobbs of Connor Reporting. A copy of this document is incorporated by reference in these minutes.

The following corrections of scrivener’s errors in this document are approved by the Commission:

Page 17, line 6, replace “feral” with “federal”.

Page 18, line 16, replace “Commission” with “COMMISSION”.

Page 18, line 19, replace “service” with “Service”.

### 3. Adjournment

There being no further items on the Commission's agenda, the Chair entertained a motion to adjourn. Mr. Bennett moved, seconded by Mr. Long, that the Commission do now adjourn. The Chair called the question, and declared that with four members voting "aye" (Mr. Dumezich, Mr. Long, Mr. Bennett, and Ms. Overholt), and no Commission member voting "no," the motion was adopted. The Commission then adjourned at 2:13 p.m.

Respectfully submitted,

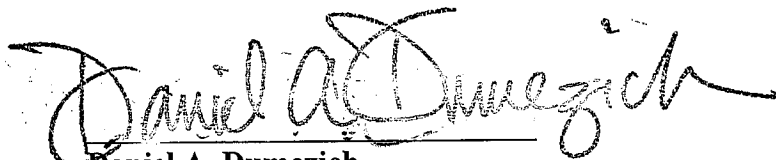


Trent Deckard  
Co-Director



J. Bradley King  
Co-Director

**APPROVED:**



Daniel A. Dumezich  
Chairman

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INDIANA ELECTION COMMISSION  
PUBLIC SESSION AGENDA

Conducted On: Wednesday, November 14, 2012

Location: Indiana Government Center South  
403 West Washington Street  
Room E-204  
Indianapolis, Indiana 46204

*Handwritten signature*

A STENOGRAPHIC RECORD BY:  
Rhonda J. Hobbs, RPR  
Notary Public  
Stenographic Reporter

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CONNOR REPORTING, INC.  
1650 One American Square  
Indianapolis, IN 46282  
(317) 236-6022

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A P P E A R A N C E S

INDIANA ELECTION COMMISSION:

- Mr. Daniel Dumezich - Chairman
- Mr. Anthony Long - Vice Chairman
- Mr. Bryce Bennett - Commission Member
- Ms. Suzannah Overholt - Commission Member

INDIANA ELECTION DIVISION STAFF:

- Mr. Bradley King - Co-Director
- Mr. Trent Deckard - Co-Director
- Mr. Dale Simmons - Co-Legal Counsel
- Ms. Leslie Barnes - Co-Legal Counsel
- Ms. Michelle Thompson - Campaign Finance
- Ms. Abbey Taylor - Campaign Finance

1           CHAIRMAN D. DUMEZICH: This meeting of the  
2           Indiana Election Commission is called to order.  
3           The following members of the commission are  
4           present. I'm the Chairman, Dan Dumezich, Vice  
5           Chairman Anthony Long, Member Bryce Bennett, and  
6           Member Suzan Overholt.

7           The Indiana Election Staff is Co-Directors  
8           Trent Deckard and Brad King; Co-General Counsel,  
9           Leslie Barnes and Dale Simmons, and the court  
10          reporter is Rhonda Hobbs from Connor &  
11          Associates.

12          At this time I'd request that Mr. Deckard  
13          and Mr. King confirm that the commission meeting  
14          has been properly noticed as required under the  
15          Open Door Law.

16          MR. B. KING: Mr. Chairman and Members of  
17          the Commission, notice of this meeting was  
18          posted in compliance with the Open Door Law.

19          CHAIRMAN D. DUMEZICH: Okay. I recognize  
20          Mr. Deckard and Mr. King to present the minutes  
21          from six past meetings, including minutes from  
22          the older meetings that have been transcribed by  
23          our diligent, hard working court reporter,  
24          Rhonda Hobbs.

25          These minutes are from September 5th, 2002,

1 April 19th, 2006, August 27th, 2007, September  
2 18th, 2007, August 6th, 2012, and September 4th,  
3 2012 meetings.

4 MR. B. KING: Mr. Chairman and Members of  
5 the Commission, Mr. Deckard and myself have  
6 reviewed the minutes and present them to you for  
7 your approval.

8 MR. T. DECKARD: The copies -- there was a  
9 question about where they are?

10 MR. B. KING: You can bring them.

11 VICE CHAIRMAN A. LONG: I assume they're  
12 probably voluminous?

13 MR. T. DECKARD: They're very voluminous.

14 MR. B. KING: Yes, they are.

15 CHAIRMAN D. DUMEZICH: It's a stack like  
16 this (indicating.)

17 VICE CHAIRMAN A. LONG: I believe the staff  
18 has looked at them and reviewed them and so I'd  
19 move we accept them as presented.

20 CHAIRMAN D. DUMEZICH: Hearing a motion, is  
21 there a second?

22 COMMISSION MEMBER B. BENNETT: I'll second  
23 that motion.

24 CHAIRMAN D. DUMEZICH: Hearing a second, is  
25 there any discussion?

1 (No response.)

2 CHAIRMAN D. DUMEZICH: Hearing none, all in  
3 favor, say aye?

4 THE COMMISSION: Aye.

5 CHAIRMAN D. DUMEZICH: All opposed, nay?  
6 (No response.)

7 CHAIRMAN D. DUMEZICH: The ayes have it,  
8 4-0. The motion is approved and the minutes are  
9 adopted. Okay, Campaign Finance, ratification  
10 of campaign finance settlement agreements. I  
11 recognize Miss Taylor and Miss Thompson of our  
12 campaign finance staff to present the  
13 information regarding the campaign finance  
14 settlement agreements on the sheets that have  
15 been included in our binder.

16 MS. M. THOMPSON: Mr. Chairman and Members  
17 of the Commission, there's a list of three  
18 committees to ratify, that have agreed to pay  
19 the settlement agreement and waive the hearing.

20 VICE CHAIRMAN A. LONG: These are the  
21 recommended steps towards fines?

22 MS. M. THOMPSON: Correct.

23 CHAIRMAN D. DUMEZICH: Is there a motion to  
24 ratify the finance settlement agreements as  
25 presented?

1 COMMISSION MEMBER B. BENNETT: So moved.

2 CHAIRMAN D. DUMEZICH: Second?

3 VICE CHAIRMAN A. LONG: Second.

4 CHAIRMAN D. DUMEZICH: Any discussion?

5 (No response.)

6 CHAIRMAN D. DUMEZICH: Hearing none, all in  
7 favor of approval, indicate by saying aye?

8 THE COMMISSION: Aye.

9 CHAIRMAN D. DUMEZICH: All opposed, nay?

10 (No response.)

11 CHAIRMAN D. DUMEZICH: 4-0, the ayes have  
12 it. Okay. Approval of forms, I recognize Mr.  
13 Deckard and Mr. King to present Order 2012-170  
14 for the approval of election forms?

15 MR. B. KING: Mr. Chairman and Members of  
16 the Commission, in your packets behind the tab  
17 labeled Forms Order is Order 2012-170.

18 CHAIRMAN D. DUMEZICH: Tell us about it.

19 MR. B. KING: The Order reflects a statute  
20 that was adopted during the 2012 session by the  
21 Indiana General Assembly that requires  
22 candidates for election to local and school  
23 board offices to file a statement of economic  
24 interest which sets forth 12 pieces of  
25 information that are requested from the



1 candidate.

2 Although there are no regularly scheduled  
3 elections in 2013, the statute does apply to  
4 candidates for selection to fill office vacancies  
5 and goes into effect January 1st, 2003. The  
6 form --

7 CHAIRMAN D. DUMEZICH: 2013.

8 MR. B. KING: 2013, thank you.

9 CHAIRMAN D. DUMEZICH: Old people do that,  
10 you know?

11 MR. B. KING: Yeah, I do. The Form CAN-12  
12 as is designated, is prepared so that it can be  
13 distributed to county election officials to  
14 provide to the county chairman and other  
15 individuals involved with filling vacant offices  
16 starting the 1st of 2013. I'll be happy to  
17 answer questions.

18 CHAIRMAN D. DUMEZICH: And so we had to  
19 adopt this by January 1st, 2013; correct?

20 MR. B. KING: Yes, Mr. Chairman.

21 CHAIRMAN D. DUMEZICH: Yet another reason  
22 for this meeting today. Do I hear a motion --  
23 oh, I'm sorry?

24 MR. T. DECKARD: Mr. Chairman, the only  
25 thing I would add is I appreciated the

1 opportunity to review the form with Mr. King is  
2 that -- for the counties they will have a great  
3 deal of property or ownership in working with  
4 candidates as they begin to fill these out at  
5 the local level so the commission members may  
6 hear a little bit about that. This is an act of  
7 the legislature that has come down to us and the  
8 Divisional staff will assist in any way we can.

9 CHAIRMAN D. DUMEZICH: Do you think that  
10 interaction is going to be good or bad?

11 MR. T. DECKARD: Mr. Chairman, I'm always  
12 optimistic, but I wouldn't bet my mortgage yet.

13 COMMISSION MEMBER B. BENNETT: What -- is  
14 this time for discussion, or is there a motion?

15 CHAIRMAN D. DUMEZICH: Let's have a motion  
16 and then we'll have discussion.

17 VICE CHAIRMAN A. LONG: I'll move to  
18 approve it.

19 CHAIRMAN D. DUMEZICH: Okay. Hearing a  
20 motion to --

21 VICE CHAIRMAN A. LONG: Order 2012-170.

22 COMMISSION MEMBER B. BENNETT: I'll second  
23 it for purposes of discussion.

24 CHAIRMAN D. DUMEZICH: Good.

25 COMMISSION MEMBER B. BENNETT: How does

1           this change from the prior form, Mr. King; is  
2           there anything in particular?

3           MR. B. KING: Mr. Commissioner, in this  
4           case there is no prior form. This is an  
5           entirely new statutory requirement. It does  
6           resemble the statement of economic interest that  
7           candidates for the state legislature have to  
8           file and state-wide candidates have to file, so  
9           it's similar, but there is no previous form.

10          CHAIRMAN D. DUMEZICH: I can tell you from  
11          my own personal experience, when I was in the  
12          General Assembly, it is a horrible thing to fill  
13          out. It takes forever. If you belong to a big  
14          law firm, all the clients who allow these -- the  
15          abuse that they -- our staff had Mayor Brown at  
16          the time, about 140 hours to get the information  
17          compiled. There were Christmas presents for  
18          everybody.

19          COMMISSION MEMBER B. BENNETT: Twelve  
20          simple questions resulted in that?

21          CHAIRMAN D. DUMEZICH: Yeah.

22          COMMISSION MEMBER S. OVERHOLT: Does the  
23          statute specify that this language be used,  
24          specifically, the specifying my spouse because  
25          that actually -- I mean I could see where it

1           would be -- there's other wording that would --  
2           there are people who could avoid answering this  
3           due to that limited language. So I don't know  
4           if the legislature had required these or that --  
5           I guess I can look that up, sorry.

6           VICE CHAIRMAN A. LONG: That's all right.

7           MR. B. KING: I believe you're correct,  
8           that the statute, specifically, refers to  
9           spouse.

10          MR. D. SIMMONS: This is for you.

11          MR. B. KING: Dale, why don't you speak up  
12          for Rhonda.

13          MR. D. SIMMONS: It's in 3-8-9 here.

14          VICE CHAIRMAN A. LONG: You need to send a  
15          couple of those home with me since we're not  
16          replacing the books.

17          MS. L. BARNES: Okay. Do you need a copy,  
18          Mr. Chairman?

19          CHAIRMAN D. DUMEZICH: No thank you.

20          MS. L. BARNES: Okay.

21          COMMISSION MEMBER B. BENNETT: Do you  
22          recall the question?

23          CHAIRMAN D. DUMEZICH: I think they're  
24          reviewing.

25          COMMISSION MEMBER B. BENNETT: They're

1 still looking?

2 CHAIRMAN D. DUMEZICH: Yeah.

3 COMMISSION MEMBER S. OVERHOLT: It says  
4 spouse, okay.

5 VICE CHAIRMAN A. LONG: It's 3-9-8 --  
6 3-8-9-8?

7 COMMISSION MEMBER S. OVERHOLT: Right.

8 VICE CHAIRMAN A. LONG: It's right above  
9 for the filer, spouse receives more than  
10 33 percent of the filer's spouse's income. The  
11 legislature is not being politically correct.

12 COMMISSION MEMBER S. OVERHOLT: Well, it's  
13 just -- all right. That answers my question.

14 CHAIRMAN D. DUMEZICH: It would be an  
15 unfair advantage to those people that that's not  
16 mentioned, in light of my experience with the  
17 form.

18 VICE CHAIRMAN A. LONG: Thank you for  
19 catching that.

20 CHAIRMAN D. DUMEZICH: Okay. If there's no  
21 further discussion on the question, adoption of  
22 the form -- all in favor of the form, please  
23 indicate by saying aye?

24 THE COMMISSION: Aye.

25 CHAIRMAN D. DUMEZICH: All opposed, nay?

1 (No response.)

2 CHAIRMAN D. DUMEZICH: 4-0, the ayes have  
3 it. Is there a motion to authorize the Election  
4 Division Staff to affix each member's signature  
5 stamp on the final copy of this order and other  
6 orders approved by the Commission at this  
7 meeting?

8 VICE CHAIRMAN A. LONG: So moved.

9 CHAIRMAN D. DUMEZICH: Second?

10 COMMISSION MEMBER B. BENNETT: Second.

11 CHAIRMAN D. DUMEZICH: Okay. Any  
12 discussion?

13 (No response.)

14 CHAIRMAN D. DUMEZICH: Hearing none, all in  
15 favor of the motion for the use of signature  
16 stamps, please indicate by saying aye?

17 THE COMMISSION: Aye.

18 CHAIRMAN D. DUMEZICH: Opposed, nay?

19 (No response.)

20 CHAIRMAN D. DUMEZICH: 4-0, the ayes have  
21 it. The motion is approved. Okay, Order  
22 2012-171, Extension of time to receive and  
23 process certain mailed absentee ballots. Okay,  
24 we're all aware of the devastation that  
25 resulted. Hurricane Sandy struck the East Coast

1 on October 29th causing incredible damage to New  
2 York and New Jersey and parts of New England.

3 More than two weeks later, the process of  
4 restoring such basic services, such as mail pickup  
5 and delivery, frankly, is still not complete. A  
6 very good friend of mine just got electricity  
7 yesterday, so I mean it's really bad.

8 Sandy struck on the final day before Indiana  
9 voters could request that an absentee ballot be  
10 mailed to them. Even before that day, hundreds of  
11 Indiana voters were temporarily in Connecticut, New  
12 Jersey and New York and Rhode Island had filed  
13 applications for mailed absentee ballots with their  
14 county election boards, and these ballots had been  
15 sent to them.

16 Although the U.S. Postal Service did its best  
17 to continue mail delivery in the aftermath of this  
18 natural disaster, the hurricane did disrupt mail  
19 service during the period for voters to return  
20 their absentee ballots by election day.

21 We can never do everything we would want to do  
22 to help the victims after a disaster like this, but  
23 we will try to do whatever we can, of course. I  
24 called this meeting of the Indiana Election  
25 Commission to consider one small step that we can

1 take to help these voters have their ballots which  
2 were delayed by unforeseeable effects of a natural  
3 disaster account.

4 With that, I request that Mr. King and Mr. --  
5 I requested, excuse me, that Mr. King and Mr.  
6 Simmons prepare a document that entitled, "Order  
7 2012-171" for consideration by this commission. A  
8 copy of that order, along with informational  
9 documents from FEMA and the U.S. Postal Service is  
10 included in your binders today. I will now ask for  
11 Mr. King to read this document into the record.

12 MR. B. KING: Thank you, Mr. Chairman and  
13 Members of the Commission. Order No. 2012-171,  
14 Order Concerning Deadlines for Receipt and  
15 Processing of Certain Mailed Absentee Battles.  
16 Whereas, under Indiana Code 3-6-4.1-17, the  
17 Indiana Election Commission may, by unanimous  
18 vote of its entire membership, find that a  
19 natural disaster makes it impossible or  
20 unreasonable for a person to perform a duty or  
21 file a document by the time specified in the  
22 Indiana Election Code, issue an order extending  
23 the time for filing the document or performing  
24 the duty;

25 Whereas, Indiana Code 3-11-10-11 and



1           3-11-10-12 specify that, in a county in which  
2           absentee ballots must be delivered to the precinct  
3           for processing by a precinct election board, a  
4           county election board must have absentee ballots  
5           delivered while the polls are open and in  
6           sufficient time to enable the precinct election  
7           boards to vote the ballots during the time the  
8           polls are open, and further that Indiana Code  
9           3-11-10-35 specifies that, with the exception of an  
10          absentee ballot required to be treated as a  
11          provisional ballot, if an envelope containing an  
12          absentee ballot has not been opened before the  
13          close of the polls, then the envelope may not be  
14          opened without an order of a court;

15                 Whereas, Indiana Code 3-11.5-4-10 specifies  
16          that, in a county in which absentee ballots are  
17          processed at a central location by absentee ballot  
18          counters and the county election board, absentee  
19          ballots received by mail afternoon on election day  
20          are considered as arriving too late and may not be  
21          counted (meaning by noon, local time, November 6th,  
22          2012);

23                 Whereas, Indiana Code 3-12-4-6 specifies that  
24          at 6 p.m. on each election day, the county election  
25          board shall assemble to canvass the results

1 returned by each inspector and to declare the  
2 results of the election;

3           Whereas, Indiana Code 3-6-6-37 specifies that  
4 the appointment of a precinct election officer  
5 expires when the county election board completes  
6 the canvass of the precinct under IC 3-12-4;

7           Whereas, Indiana Code 3-11.7-5-1 specifies  
8 that all provisional ballots must be counted by not  
9 later than 3 p.m. ten (10) days following the  
10 election, meaning by 3 p.m. local time, November  
11 16th, 2012, following the 2012 General Election;

12           Whereas, Indiana Code 3-12-5 requires that the  
13 circuit clerk of each county, and the director of  
14 the Lake County Board of Elections and  
15 Registration, no later than noon, local time,  
16 November 19, prepare a statement listing the votes  
17 cast for federal, state, and state legislative  
18 candidates at the General Election, and transmit  
19 the statement to the Indiana Election Division,  
20 with the Division then to immediately prepare a  
21 certificate indicating which candidate has received  
22 the highest number of votes for each office.

23           Whereas, on October 30, 2012, President Obama  
24 signed Major Disaster Declaration DR-4085 declaring  
25 certain counties within the State of New York to be

1 eligible for direct federal assistance as a result  
2 of the effects of Hurricane Sandy;

3           Whereas, on October 30, 2012, President Obama  
4 signed Major Disaster Declaration DR-4086 declaring  
5 the entire State of New Jersey to be eligible for  
6 direct federal assistance as a result of the effects  
7 of Hurricane Sandy;

8           Whereas, on October 30, 2012, President Obama  
9 signed Major Disaster Declaration DR-4087 declaring  
10 certain counties within the State of Connecticut to  
11 be eligible for direct federal assistance as a  
12 result of the effects of Hurricane Sandy;

13           Whereas, on November 3rd, 2012, President  
14 Obama signed Major Disaster Declaration DR-4089  
15 declaring certain counties within the State of  
16 Rhode Island to be eligible for direct federal  
17 assistance as a result of the effects of Hurricane  
18 Sandy;

19           Whereas, on November 10th, 2012, the United  
20 States Postal Service Mail Service Disruption  
21 Report indicated that numerous post offices within  
22 Connecticut, New Jersey and New York had not yet  
23 resumed normal operations; and --

24           Whereas, on November 9th, 2012, the absentee  
25 ballot module of the statewide voter registration

1 system, in which all circuit court clerks must  
2 record certain necessary or advisable information  
3 concerning absentee ballots, pursuant to Indiana  
4 Code 3-11-4-17, indicated that the following number  
5 of absentee ballots had been sent by mail to  
6 individuals requesting ballots within the states  
7 listed below, and that these ballots had not been  
8 returned and received by the appropriate county  
9 election board as of election day on November 6,  
10 2012:

11 Connecticut - 11, New Jersey - 30, New York -  
12 184, Rhode Island - 3, for a total of 228 absentee  
13 ballots not received by county election boards  
14 throughout Indiana.

15 NOW, THEREFORE, BE IT ORDERED BY THE INDIANA  
16 ELECTION Commission:

17 SECTION 1. The Commission finds that a  
18 natural disaster has made it impossible or  
19 unreasonable for the United States Postal service  
20 to deliver envelopes containing voted absentee  
21 ballots from Indiana voters temporarily present  
22 within Connecticut, New Jersey, New York, and Rhode  
23 Island who mailed or attempted to mail those  
24 ballots in time for receipt by county election  
25 boards for processing on General Election Day,

1 November 6, 2012.

2 SECTION 2. The Commission finds that a  
3 natural disaster has made it impossible for  
4 precinct election boards throughout Indiana to  
5 receive absentee ballots mailed by the voters  
6 described in SECTION 1 in time to be processed  
7 before the closing of the polls on Election Day (6  
8 p.m. local time, November 6, 2012).

9 SECTION 3. The Commission finds that a  
10 natural disaster has made it impossible for county  
11 election boards and absentee ballot counters  
12 throughout Indiana to receive absentee ballots  
13 mailed by the voters described in SECTION 1 before  
14 the noon, November 6th, 2012 deadline applicable in  
15 central count absentee ballot counties.

16 SECTION 4. This Order applies throughout all  
17 of Indiana.

18 SECTION 5. This Order applies to each county  
19 election board, circuit court clerk, and the  
20 director of the Lake County Board of Elections and  
21 Registration.

22 SECTION 6. The time specified under Indiana  
23 Code 3-11-10-11, 3-11-10-12, and 3-11.5-4-10 for a  
24 circuit court clerk or county election board to  
25 receive an absentee ballot mailed by a voter

1 described in SECTION 1 is extended to noon, local  
2 time, November 16, 2012.

3 SECTION 7. As a result of the vacancies  
4 declared by law to currently exist in all precinct  
5 election boards, the duty specified under IC  
6 3-11-10 for a precinct election board to process  
7 absentee ballots received from a voter described in  
8 SECTION 1 is transferred to the respective county  
9 election board to fulfill its responsibilities for  
10 the administration of election laws under IC  
11 3-6-5-14.

12 SECTION 8. The time specified under IC  
13 3-12-4-6 for the canvassing of votes by a county  
14 election board is extended to 3 p.m., local time,  
15 November 16th, 2012.

16 SECTION 9. This Order expires December 14th,  
17 2012.

18 SO ORDERED THIS 14th DAY OF NOVEMBER, 2012,  
19 THE INDIANA ELECTION COMMISSION.

20 CHAIRMAN D. DUMEZICH: Do I hear a motion  
21 for discussion?

22 COMMISSION MEMBER B. BENNETT: So moved.

23 CHAIRMAN D. DUMEZICH: S there a second for  
24 discussion purposes -- I'll second it for  
25 discussion purposes. Mr. Simmons, Ms. Barnes,

1 Trent, Mr. King, Brad, guys, what are your  
2 thoughts on this?

3 MR. T. DECKARD: Do you want me to start?

4 CHAIRMAN D. DUMEZICH: Yeah, whoever.

5 Let's...

6 MR. T. DECKARD: Well, we certainly  
7 appreciate, Mr. Chairman, the ability to weigh  
8 on this before the Commission. I truly  
9 appreciate as a person here in the Division that  
10 is working with voters that are calling through  
11 many different cumbersome situations they  
12 encounter the remedy that is proposed.

13 I understand why the Order proposes what it  
14 does. My concern with this remedy is that at this  
15 point on the 14th after our election of last week,  
16 and this far after the disaster, that this remedy,  
17 Mr. Chairman, would not give ample notice to the  
18 public, including other affected voters that might  
19 fall under this provision or similar provisions, to  
20 immediately help inform the voters, and then of  
21 course, to county election officials that will have  
22 to answer questions to the public and carry out the  
23 remainder of this Order.

24 I'm also concerned, Mr. Chairman, that the  
25 remedy as proposed does not provide an equitable

1           remedy for all affected by the disaster. And by  
2           that, I mean the Hoosier Emergency Responders that  
3           went to the affected areas. I received numerous  
4           calls from those folks and concerns from their  
5           families that were back here, because of the timing  
6           of the disaster occurring between Sunday, Monday  
7           and partially on Tuesday, many of these folks were  
8           deployed around that Sunday/Monday period and  
9           unable to apply for an absentee ballot by mail  
10          which would never have been received by them or to  
11          vote early in person with no question.

12                 So those are a couple of the concerns that I  
13          have. One other concern that I have is that while  
14          we have a list of potential voters that are  
15          affected by this, it's not -- it's not necessarily  
16          a complete list of who we have, and I am concerned  
17          that from an election administration portion --  
18          we're on the 14th, and there's a list of voters  
19          that we can see, and it is public information on  
20          who can see who those folks are.

21                 That is a unique situation for an election  
22          that has occurred, and we are a bit past the  
23          election, we're close to certification as was noted  
24          in the Order, and we're also close to the time  
25          period by which most candidates have been



1           considering the recount contest portion of the  
2           election.

3                        So I truly understand the portions of the  
4           remedy that are trying to help these voters and I  
5           feel for them because this disaster has affected so  
6           many people. I think it's a remedy that doesn't  
7           extend far enough to all those affected, and my  
8           concern is, is that would not be an equitable  
9           solution, and I fear that we're past the point for  
10          that, Mr. Chairman, and with that, that's it.

11                      CHAIRMAN D. DUMEZICH: So I guess, just so  
12          I understand this, since it doesn't reach  
13          anybody, you'd rather reach nobody? That's  
14          the -- I mean, that's the long and short of it?

15                      MR. T. DECKARD: I don't believe it reaches  
16          everyone fairly.

17                      CHAIRMAN D. DUMEZICH: Anyone else,  
18          comments?

19                      VICE CHAIRMAN A. LONG: Can I ask a  
20          question?

21                      CHAIRMAN D. DUMEZICH: Certainly.

22                      VICE CHAIRMAN A. LONG: This is -- I had  
23          seen -- had the opportunity to read the proposal  
24          or the resolution earlier, and we've got our  
25          packets here just a few minutes ago, and I have

1 two questions. It seems No. 1, that the way  
2 this is worded that anybody in the states of --  
3 let's see, if I'm interpreting correctly --  
4 Connecticut, New Jersey, New York and Rhode  
5 Island who has received an absentee ballot  
6 application and has returned it postmarked on or  
7 before the election day can have it counted if  
8 it is received back here by the 14th or whatever  
9 day that is -- noon, I believe.

10 CHAIRMAN D. DUMEZICH: The 16th.

11 VICE CHAIRMAN A. LONG: The 16th, yeah --  
12 today is the 14th -- is that what I'm  
13 understanding that this does?

14 CHAIRMAN D. DUMEZICH: Yes, if it was  
15 timely mailed, timely stamped and postmarked.  
16 And it would miss some people, because  
17 apparently, in some areas they didn't put  
18 postmarks on it, they just processed them in, so  
19 that would be -- that would be, you know, an  
20 issue that...

21 VICE CHAIRMAN A. LONG: The designation of  
22 disaster area, it seems -- and again, I've just  
23 seen these, and I'm trying to listen and absorb  
24 them, but at the same time, in the State of  
25 Rhode Island, there's one county -- one county

1           that's been declared a public assistance area  
2           and no designation in two counties. In New York  
3           it seems --

4                   COMMISSION MEMBER S. OVERHOLT: If I could  
5           jump in. There's a good example, I think,  
6           that -- New Jersey, because I happen to know,  
7           because New Jersey, the declaration affects 8  
8           counties. There are 22 counties in the State of  
9           New Jersey. I found that out from fourth  
10          grade -- I grew up there so it was a fourth  
11          grade history class.

12                   And going through -- I just -- I just went  
13          through this list quickly, and for example, Mercer  
14          County is not designated a disaster county from the  
15          Executive Order, but just going through this list  
16          that you all just gave us, just quickly, and I then  
17          I know, too, because I grew up in Mercer County,  
18          New Jersey, I know that Princeton is in Mercer  
19          County, New Jersey, and 3, 5, 7, 8, 10 of the folks  
20          on this list are in Mercer County, New Jersey, 10  
21          of -- so 10 of the 30, I guess, that were  
22          identified or in a county that wasn't -- you know  
23          that isn't part of the disaster area.

24                   And then flipping through New York, I don't  
25          know New York counties very well, but I saw there

1 are a couple of people from Ithaca, and I know -- I  
2 doubt -- I don't think Ithaca is in a county that  
3 part of the disaster.

4 VICE CHAIRMAN A. LONG: That's Upstate New  
5 York.

6 COMMISSION MEMBER S. OVERHOLT: Right. I  
7 mean that's where Cornell is.

8 VICE CHAIRMAN A. LONG: That was the thrust  
9 of my observations, that there are multiple  
10 counties that are not declared disaster areas  
11 that are covered by the Order.

12 And lastly, I've read twice the -- and maybe  
13 it's just a copying process, but my Postal report,  
14 I got two pages, and it says Page -- I've got 1 of  
15 6 and 2 of 6. I don't see anything in what I've  
16 got that says that the Postal, or the Order makes a  
17 finding that the United States made it impossible  
18 and unreasonable for the United States Postal  
19 Service to deliver envelopes containing those  
20 ballots from Indiana voters temporarily present --  
21 Connecticut, New Jersey and Rhode Island.

22 I don't -- have I not been given the whole  
23 U.S. Postal Service? I don't see anything in here  
24 that says that their service was interrupted at  
25 all. It says as of the 10th all processing

1 facilities have reassumed normal drop shipment  
2 schedules. At this time there are no redirect or  
3 restricted condition. All -- delivery of all areas  
4 are effecting 100 percent delivery through normal  
5 or alternative modes -- that was as of  
6 November 10th, and I don't see any reference in  
7 here to what I have.

8 The only state that's mentioned at all, unless  
9 I'm missing something, is New Jersey. And I may  
10 be -- I may not have -- well, there's some other  
11 things -- it mentions Louisiana, but I'm sure  
12 that's just a general report. I'd ask that whoever  
13 printed this off, if I've been given less than a  
14 full copy of the report, and if I've got the full  
15 report, where does it say in here that there's been  
16 any disruption of the mail delivery?

17 CHAIRMAN D. DUMEZICH: Can you speak to  
18 that, Brad?

19 MR. B. KING: Yes, Mr. Chairman and Mr.  
20 Vice Chairman, the first two pages were the only  
21 parts of the mail disruption report that  
22 concerned Hurricane Sandy.

23 VICE CHAIRMAN A. LONG: I thought that was  
24 probably true because it goes to international  
25 mail service and on and on, and Britain and...

1 MR. B. KING: And this is hard to read  
2 because it's in such small print. The actual  
3 mail disruption -- Mail Service Disruption  
4 Report follows that, and the areas that are  
5 shaded lightly are post offices in Connecticut,  
6 New Jersey, etc., who resumed operations on  
7 11/10 of 2012.

8 The post offices in white, one in Connecticut  
9 and then others in New Jersey, have an indication  
10 that the resumption of service is still to be  
11 determined. So it is hard to --

12 VICE CHAIRMAN A. LONG: And I thought -- I  
13 thought that was a list of voters, Brad, to be  
14 honest with you. I can't read it at all.

15 MR. B. KING: That was the best we could  
16 do with --

17 VICE CHAIRMAN A. LONG: And I take my  
18 glasses off and I still can't read it.

19 MR. B. KING: That was the best we could do  
20 with the Postal Service site, I'm afraid.

21 VICE CHAIRMAN A. LONG: Well, they're  
22 not -- unless they've been de-governized...

23 COMMISSION MEMBER S. OVERHOLT: But do we  
24 know -- for these post offices that say resumed  
25 all operations by 11/10/12, do we know what the

1 status was prior to 11/10/12?

2 MR. B. KING: No, Commissioner, we don't.

3 CHAIRMAN D. DUMEZICH: You have to assume  
4 it's like an off and on switch. They turned it  
5 on and they weren't operating before.

6 COMMISSION MEMBER S. OVERHOLT: Well, it  
7 doesn't say that they resumed on the 10th,  
8 that's why I'm asking that?

9 CHAIRMAN D. DUMEZICH: When I looked at it,  
10 I made that assumption.

11 VICE CHAIRMAN A. LONG: I don't have  
12 anything -- thank you very much. I don't have  
13 any other questions.

14 CHAIRMAN D. DUMEZICH: Does anyone else  
15 have any comments or questions about the Order?

16 (No response.)

17 CHAIRMAN D. DUMEZICH: You know, my theory  
18 with the thing is is it perfect, no, but it's  
19 something that we can do to make sure that  
20 people that intended to vote and went through  
21 the process, that their votes are counted.

22 For those people that are First Responders  
23 that we don't have a mechanism for, I'm truly  
24 sorry, but there's -- there was nothing we could  
25 have done at that time that would have allowed us

1 to come to the aid of those First Responders by  
2 allowing them to vote and keeping things like  
3 ballot secrecy, which is paramount to what -- to  
4 the concept.

5 So with that in mind, although there are  
6 deficiencies, I think this is better than -- better  
7 than letting these people get disenfranchised, and  
8 with that, all in favor of the motion, please  
9 indicate by saying aye -- aye.

10 COMMISSION MEMBER B. BENNETT: Aye.

11 CHAIRMAN D. DUMEZICH: All opposed?

12 COMMISSION MEMBER S. OVERHOLT: Nay.

13 VICE CHAIRMAN A. LONG: Nay.

14 CHAIRMAN D. DUMEZICH: 2-2, motion fails.

15 Okay, motion to adjourn?

16 COMMISSION MEMBER B. BENNETT: So moved.

17 VICE CHAIRMAN A. LONG: Second.

18 CHAIRMAN D. DUMEZICH: All in favor, say

19 aye?

20 THE COMMISSION: Aye.

21 CHAIRMAN D. DUMEZICH: All opposed?

22 (No response.)

23 CHAIRMAN D. DUMEZICH: 4-0, the ayes have

24 it. This meeting is adjourned.

25 (At this time the proceedings were adjourned.)



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(Time noted: 2:13 p.m.)

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1 STATE OF INDIANA )  
 ) SS:  
 2 COUNTY OF MARION )

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4 I, Rhonda J. Hobbs, RPR, and a Notary Public  
 5 and Stenographic Reporter within and for the County  
 6 of Hendricks, State of Indiana at large, do hereby  
 7 certify that on the 14th day of November, 2012, I  
 8 took down in stenograph notes the foregoing  
 9 proceedings;

10 That the transcript is a full, true and  
 11 correct transcript made from my stenograph notes.

12 IN WITNESS WHEREOF, I have hereunto set  
 13 my hand and affixed my notarial seal this \_\_\_\_\_  
 14 day of November, 2012.

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\_\_\_\_\_  
 N O T A R Y P U B L I C

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19 My Commission Expires:  
 August 24, 2017  
 20 County of Residence:  
 Hendricks County

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