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BEFORE THE
ILLINOIS COMMERCE COMMISSION

BENCH SESSION

February 5th, 2014
Chicago, Illinois

Met, pursuant to notice, at 10:30 o'clock a.m. At
160 North LaSalle Street, Chicago, Illinois 60601.

BEFORE:

- MR. DOUGLAS P. SCOTT, Chairman
- MR. JOHN T. COLGAN, Commissioner
- MS. ANN McCABE, Commissioner
- MR. MIGUEL del VALLE, Commissioner
- MS. SHERINA E. MAYE, Commissioner
- MR. JOHN T. COLGAN, Commissioner
(Via videoconference)

MIDWEST LITIGATION SERVICES, by
JOANNA VITALE,
Certified Shorthand Reporter
Illinois CSR No. 084-004323

1 CHAIRMAN SCOTT: Is everyone ready in
2 Springfield?

3 COMMISSIONER COLGAN: We're ready to go.

4 CHAIRMAN SCOTT: Pursuant to the provisions of the
5 Open Meetings Act, I now convene a regularly scheduled
6 Bench session of the Illinois Commerce Commission. With
7 me in Chicago are Commissioner McCabe, Commissioner del
8 Valle, and Commissioner Maye. In Springfield is
9 Commissioner Colgan. I am Chairman Scott. We have a
10 quorum.

11 Before moving into the agenda, according to
12 Section 1700.10 of Title 2 of the Administrative Code,
13 this is the time we allow members of the public to
14 address the Commission. Members of the public wishing
15 to address the Commission must notify the Chief Clerk's
16 Office at least 24 hours prior to Commission meetings.
17 According to the Chief Clerk's office, we have no
18 requests to speak at today's bench session.

19 Turning now to the electric portion of today's
20 agenda. Item E-1 is our motion to initiate a citation
21 proceeding against CRM Marketing for its failure to file
22 a Compliance Recertification Report as required by
23 83 Ill. Adm. Code Section 454.110 and for failure to
24 maintain corporate status. Staff recommends entry of an
25 Order initiating the citation proceeding.

1 Is there any discussion?

2 Is there a motion to initiate the citation
3 proceeding?

4 COMMISSIONER McCABE: So moved.

5 CHAIRMAN SCOTT: Moved by Commissioner McCabe.

6 Is there a second?

7 COMMISSIONER MAYE: Second.

8 CHAIRMAN SCOTT: Seconded by Commissioner Maye.

9 All in favor say aye.

10 (Ayes heard.)

11 CHAIRMAN SCOTT: Opposed?

12 (No response.)

13 CHAIRMAN SCOTT: The vote is 5-0 and the Order
14 initiating the proceeding is entered. We'll use this
15 5-0 vote for the remainder of today's public utility
16 agenda unless otherwise noted.

17 Item E-2 is Docket No. 11-0687. This is our
18 reconciliation of revenues collected under Rider EDR
19 with actual costs associated with Energy Efficiency and
20 Demand-Response Plans and under Rider GER with actual
21 costs associated with natural gas Energy Efficiency
22 Plans for Ameren. ALJ Albers recommends entry of an
23 Order approving the reconciliation.

24 Is there any discussion?

25 (No response.)

1 CHAIRMAN SCOTT: Are there any objections?

2 (No response.)

3 CHAIRMAN SCOTT: Hearing none, the Order is
4 entered.

5 Item E-3 is Docket No. 12-0598. This is
6 Ameren's Petition for a Certificate of Public
7 Convenience and Necessity, pursuant to Section 8-406.1
8 of the Illinois Public Utilities Act and an Order
9 pursuant to Section 8-503 of the Public Utilities Act to
10 construct, operate, and maintain a new high voltage
11 electric service line and related facilities in various
12 counties across Illinois. The Robinettes of Morgan
13 County filed an Application for Rehearing on the portion
14 of the line between Meredosia and Pawnee, which the
15 Commission granted on September 18th, 2013. ALJs Albers
16 and Yoder now recommend entry of a First Order on
17 Rehearing denying the Robinettes' requested relief.

18 Is there any discussion?

19 (No response.)

20 CHAIRMAN SCOTT: Any objections?

21 (No response.)

22 CHAIRMAN SCOTT: Hearing none, the First Order is
23 entered and the request is denied.

24 Item E-4 is Docket No. 13-0445. This is
25 Mohammed Nameer Abusharekh's complaint against ComEd as

1 to billing/charges in Chicago. The parties have
2 apparently settled their differences and have filed a
3 stipulation and Joint Motion to Dismiss, which ALJ Benn
4 recommends we grant.

5 Is there any discussion?

6 (No response.)

7 CHAIRMAN SCOTT: Any objections?

8 (No response.)

9 CHAIRMAN SCOTT: Hearing none, the Joint Motion to
10 Dismiss is granted.

11 Item E-5 is Docket Nos. 13-0501 and 13-0517
12 consolidated. This is the People of the State of
13 Illinois' complaint to suspend tariff changes submitted
14 by Ameren and to investigate Ameren's Rate MAP-P
15 pursuant to Sections 9-201, 9-250 and 16-108.5 of the
16 Public Utilities Act. It also concerns Ameren's
17 revisions to its formula rate structure and protocols.
18 ALJs Albers and Yoder recommend denying the AG's motion
19 to revisit conclusions in Interim Order.

20 Is there any discussion?

21 (No response.)

22 CHAIRMAN SCOTT: Are there any objections?

23 (No response.)

24 CHAIRMAN SCOTT: Hearing none, the motion is
25 denied.

1 COMMISSIONER del VALLE: (inaudible)

2 CHAIRMAN SCOTT: We'll take a vote then. All in
3 favor say aye.

4 (Ayes heard.)

5 CHAIRMAN SCOTT: Opposed?

6 COMMISSIONER del VALLE: No.

7 CHAIRMAN SCOTT: The vote is 4-1 and the motion is
8 denied.

9 Item E-6 is Docket No. 13-0515. This is
10 Valerie Rodriguez-Hampton's complaint against ComEd as
11 to deposit request and payment agreement in Dixmoor.
12 ALJ Benn recommends entry of an Order dismissing the
13 complaint for want of prosecution.

14 Is there any discussion?

15 (No response.)

16 CHAIRMAN SCOTT: Are there any objections?

17 (No response.)

18 CHAIRMAN SCOTT: Hearing none, the Order is entered
19 and the complaint is dismissed.

20 Item E-7 is Docket No. 13-0552. This is
21 ComEd's submission of its Rider NAM, Non-AMI Metering
22 tariff. ALJ Haynes recommends entry of an Order
23 approving Rider NAM as amended.

24 Is there any discussion?

25 My office would like to propose edits to the

1 Order, which can be found on pages 17-18 of the PEPO.
2 These edits reverse the conclusion not to include the
3 sunset provision at this time. It is my opinion that
4 the sunset provision is necessary to inform customers
5 that their refusal of a meter is not a permanent
6 solution given the statute. I think it's important, and
7 only fair to be transparent and honest with the
8 customers, from the start, concerning the binding nature
9 of the General Assembly's language in the Act. With
10 that I would move for adoption of this edit.

11 Is there a second?

12 COMMISSIONER del VALLE: Second.

13 CHAIRMAN SCOTT: Seconded by Commissioner del
14 Valle.

15 Is there any discussion on the edit?

16 All in favor of the edit vote aye.

17 (Ayes heard.)

18 CHAIRMAN SCOTT: Opposed?

19 (No response.)

20 CHAIRMAN SCOTT: Vote is 5-0 and the edit is
21 approved. Commissioner del Valle, you have an edit on
22 this, as well.

23 COMMISSIONER del VALLE: Yes. Thank you,
24 Mr. Chairman. My proposed edit would be added to the
25 Commission and Analysis and Conclusion section on

1 page 13 of the proposed Order. It reads as follows:
2 Purpose of this charge is primarily to motivate
3 customers to switch while also avoiding the
4 socialization of costs incurred by customers' refusals.
5 In the interest of transparency and to insure that this
6 tariff has the desired effect, the Commission directs
7 ComEd to make this charge a separate line item in each
8 customer's bill and use language for that line item that
9 makes it absolutely clear that the charge is a penalty
10 assessed as a consequence of the customer's refusal.
11 The Commission recommends smart meter refusal charge as
12 the language.

13 CHAIRMAN SCOTT: Are you moving that amendment?

14 COMMISSIONER del VALLE: I move.

15 CHAIRMAN SCOTT: Is there a second?

16 COMMISSIONER McCABE: Second.

17 CHAIRMAN: Seconded by Commissioner McCabe.

18 Discussion on the proposed amendment, all in favor say
19 aye.

20 (Ayes heard.)

21 CHAIRMAN SCOTT: Any opposed?

22 (No response.)

23 CHAIRMAN SCOTT: The vote is 5-0 and the amendment
24 is adopted. Any further discussion.

25 I just want to make a couple quick comments on

1 this, we're going to -- obviously let the sunset
2 provision back in. I appreciate that. I think that's
3 important. Also, the provision is in here to revisit
4 these costs on a regular basis, which I really think
5 we're going to want to do for a lot of reasons. When
6 this was sold to the General Assembly, it was sold on
7 the basis that having all these meters in place means a
8 lot for the system. That was part of the reason behind
9 the hundred percent language in the statute are all
10 customers' language in the statute. And we really don't
11 know what efficiencies are lost if the subdivision on
12 chooses on un not to put the meters in and -- or what
13 happens to the efficiencies, not just the cost of
14 complying with that, what the meter readers then have to
15 do. So we're really kind of at a loss for a lot of
16 information that I think we're going to need as we
17 continue on this process over the period of time that
18 these meters are getting installed and refusals happen.

19 I also think we need to revisit the cost issue
20 itself. We've got tariffs for similar kinds of
21 operations that are a lot more expensive than this. I
22 understand not wanting to have rate shock on particular
23 customers; but the reality is whatever we don't charge
24 these customers, other customers are paying for. So
25 it's just as true that the well-to-do customer may be

1 getting subsidized by the person of moderate or low
2 means as well if they choose -- if the person of means
3 chooses to refuse in this case. And I don't think
4 that's what anybody wants either. So I agree with you
5 that the purpose here is to try to make sure we don't
6 have as many refusals. I think a cost does that, but I
7 really think we need to continue to revisit to make sure
8 that the cost is a correct one for a lot of different
9 reasons.

10 COMMISSIONER del VALLE: I fully agree.

11 CHAIRMAN SCOTT: I thought you might have.

12 Is there any other discussion on this issue?
13 I'm sure we'll see it again. We've had a motion to
14 approve the Order as amended and a second. Did we do
15 that yet? Let me make sure.

16 Is there a motion to approve the Order as
17 amended?

18 COMMISSIONER del VALLE: So moved.

19 CHAIRMAN SCOTT: Moved by Commissioner del Valle.

20 Is there a second?

21 COMMISSIONER McCABE: Second.

22 CHAIRMAN SCOTT: Seconded by Commissioner McCabe.

23 All in favor say aye.

24 (Ayes heard.)

25 CHAIRMAN SCOTT: Any opposed?

1 (No response.)

2 CHAIRMAN SCOTT: The vote is 5-0 on the Order, as
3 amended is approved.

4 Item E-8 is Docket No. 13-0575. This is IDOT,
5 on behalf of the People of the State of Illinois'
6 petition for approval of the taking or damaging of
7 certain properties owned by ComEd in Will County by
8 exercising the right of eminent domain. ALJ Hilliard
9 recommends entry of an Order granting the petition.

10 Is there any discussion?

11 (No response.)

12 CHAIRMAN SCOTT: Any objections?

13 (No response.)

14 CHAIRMAN SCOTT: Hearing none, the Order is
15 entered.

16 Items E-9 and E-10 can be taken together.
17 These items concern complaints against ComEd as to the
18 erroneous tampering and billing/charges. In both cases,
19 the parties have apparently settled their differences
20 and filed a Stipulation and Motion to Dismiss, which the
21 ALJ in each case recommends we grant.

22 Is there any discussion?

23 (No response.)

24 CHAIRMAN SCOTT: Any objections?

25 (No response.)

1 CHAIRMAN SCOTT: Hearing none, the Orders are
2 entered.

3 Item E-11 is Docket No. 13-0624. This is NRG
4 Kiosk's Application for Licensure as Agents, Brokers and
5 Consultants under Section 16-115C of the Public
6 Utilities Act. ALJ Kimbrel recommends entry of an Order
7 granting the requested certificate.

8 Is there any discussion?

9 (No response.)

10 CHAIRMAN SCOTT: Any objections?

11 (No response.)

12 CHAIRMAN SCOTT: Hearing none, the Order is
13 entered.

14 Items E-12 and E-13 can be taken together.
15 These items concern Applications for certificate of
16 service authority under Section 16-115 of the Public
17 Utilities Act. In both cases ALJ Von Qualen recommends
18 entry of an Order granting the requested certificate.

19 Is there any discussion?

20 (No response.)

21 CHAIRMAN SCOTT: Any objections?

22 (No response.)

23 CHAIRMAN SCOTT: Hearing none, the Orders are
24 entered.

25 Item E-14 is Docket No. 13-0638. This is

1 Ameren's petition for Approval of Commercial Customer
2 Release pursuant to Sections 2 and 6 of the Electric
3 Supplier Act. ALJ Yoder recommends entry of an Order
4 granting the requested relief.

5 Is there any discussion?

6 (No response.)

7 CHAIRMAN SCOTT: Any objections?

8 (No response.)

9 CHAIRMAN SCOTT: Hearing none, the Order is
10 entered.

11 Items E-15 through E-23 can be taken together.
12 These items concern Applications for Certification as an
13 Installer of Distributed Generation facilities under
14 Section 16-128A of the Public Utilities Act. In each
15 case ALJ Haloulos-Baker recommends entry of an Order
16 granting the certificate.

17 Is there any discussion?

18 COMMISSIONER COLGAN: I have a question.

19 CHAIRMAN SCOTT: Commissioner Colgan?

20 COMMISSIONER COLGAN: I think this is the second time we've
21 seen some of these Applications for Distributed
22 Generation, a certification to install distributed
23 generation. And I didn't find in the cover memo or the
24 Order that these people who were applying, I didn't see
25 any information about whether or not they had provided

1 this service in other jurisdictions. And if they had
2 provided that service, if there were any problems or
3 complaints that were pending against them. And I guess
4 my question is, is there a question like that on the
5 application?

6 JUDGE BAKER: No.

7 COMMISSIONER COLGAN: To be quite honest, it appeared all
8 these were going to be Illinois companies. I don't
9 think -- and Judge Baker can -- maybe she knows. I
10 believe they're all Illinois companies.

11 JUDGE BAKER: They are.

12 COMMISSIONER COLGAN: I don't think that we actually
13 anticipated, at least in the initial round, having to
14 check out of state or, you know, what consumer
15 complaints. I'm not even sure it would be a place where
16 consumer complaints would be registered for any of the
17 companies that had been doing installation prior to
18 our -- the new statute and the new rules. Judge Baker,
19 would you say they're mostly electrical contractors?

20 JUDGE BAKER: Yes. And this actually did come up
21 with counsel. And I don't think there is any way at
22 this point to fact check that. Or there's no way, at
23 least from our perspective, to determine that out of
24 state. If there's something going on out of state,
25 complaints.

1 JUDGE WALLACE: I was going to drop it off
2 on Eric, but he's not here. We can certainly add that
3 to the application to determine if they do operate in
4 other states or if they've had complaints in other
5 states.

6 COMMISSIONER COLGAN: Well, I, for one, would like to know.
7 And just because they're Illinois companies, doesn't
8 mean they don't work in Indiana, Michigan, Wisconsin,
9 Iowa. I mean, they could be working in many different
10 jurisdictions, and I'd like to know that if we're going
11 to certificate them to do these installations in
12 Illinois, that they're going to be a good player in
13 doing those installations.

14 JUDGE WALLACE: I agree with that. I don't
15 know that we've looked into whether our surrounding
16 states have a similar statute that we do or not. We may
17 be in the forefront.

18 COMMISSIONER McCABE: Judge Baker, do you have any
19 sense of how many of the applicants have been doing this
20 kind of work?

21 JUDGE BAKER: No. I mean, there's a minimum
22 requirement that they've done it a few times. But
23 beyond that, no.

24 COMMISSIONER del VALLE: Is that the five
25 installations?

1 JUDGE BAKER: Yes.

2 CHAIRMAN SCOTT: It probably would be something
3 worthwhile to have -- add that into the form.

4 JUDGE BAKER: Not a problem.

5 CHAIRMAN SCOTT: Thank you. Further discussion?

6 Is there any objections to granting -- or
7 approving the Orders?

8 Hearing none, the Orders are entered.

9 Item E-24 is Docket No. 14-0025. This is Corn
10 Belt Energy Corporation and American Illinois' Joint
11 Petition for Approval of Amendment No. 14 to the service
12 area agreements between the two companies. ALJ Jones
13 recommends entry of an Order granting the Joint
14 Petition.

15 Is there any discussion?

16 (No response.)

17 CHAIRMAN SCOTT: Any objections?

18 (No response.)

19 CHAIRMAN SCOTT: Hearing none, the Order is
20 entered.

21 Turning now to Natural Gas, Items G-1 through
22 G-4 can be taken together. These items concern
23 complaints against Peoples Gas as to billing/charges and
24 service. In each case, ALJ Benn recommends entry of an
25 Order dismissing the proceeding.

1 Is there any discussion?

2 (No response.)

3 CHAIRMAN SCOTT: Any objections?

4 (No response.)

5 CHAIRMAN SCOTT: Hearing none, the Orders are
6 entered.

7 Item G-5 is Docket No. 12-0657. This is our
8 reconciliation of revenues collected under gas
9 adjustment charges with actual costs prudently incurred
10 for Mt. Carmel Public Utility Co. ALJ Jones recommends
11 an entry of an Order approving the reconciliation.

12 Is there any discussion?

13 (No response.)

14 CHAIRMAN SCOTT: Any objections?

15 (No response.)

16 CHAIRMAN SCOTT: Hearing none, the Order is
17 entered.

18 Item G-6 is Docket No. 14-0019. This is
19 Integrys Energy Services' Petition for Relief to Protect
20 Confidential and Proprietary Information in TEGE LLC's
21 financial reporting requirements from disclosure for not
22 less than two years. ALJ Albers recommends entry of an
23 Order granting the requested relief.

24 Is there any discussion?

25 (No response.)

1 CHAIRMAN SCOTT: Any objections?

2 (No response.)

3 CHAIRMAN SCOTT: Hearing none, the Order is
4 entered.

5 On to telecommunications, Item T-1 is Docket
6 No. 12-0680. This is American broadband and
7 Telecommunications Company's Petition for Limited
8 Designation as a Wireless Eligible Telecommunications
9 Carrier. ALJ Riley recommends entry of an Order
10 granting the Petition.

11 Is there any discussion?

12 (No response.)

13 CHAIRMAN SCOTT: Any objections?

14 Yes, Commissioner del Valle?

15 COMMISSIONER del VALLE: This is for the lifeline
16 service, right?

17 CHAIRMAN SCOTT: Judge Riley?

18 COMMISSIONER del VALLE: I have the same question
19 regarding this telecommunications company that
20 Commissioner Colgan had just a couple minutes ago. The
21 process for review does not look into whether or not the
22 company has had complaints filed against it in other
23 states for this type of service.

24 JUDGE RILEY: Well, actually the staff is bound by
25 nothing. The Commission staff is bound by absolutely

1 nothing. That's something they would look into. They
2 would check with other states.

3 COMMISSIONER del VALLE: They do?

4 JUDGE RILEY: Yes.

5 COMMISSIONER del VALLE: But there's no mention in
6 the Order of --unlike with the ABCs, for example, where
7 there's always a mention that there are no complaints.

8 JUDGE RILEY: The Order itself does not
9 specifically address that, no.

10 COMMISSIONER del VALLE: Why not?

11 JUDGE RILEY: I really don't know.

12 COMMISSIONER del VALLE: Let's explore that.

13 JUDGE RILEY: Okay.

14 COMMISSIONER del VALLE: Because there have been
15 problems in the past.

16 JUDGE RILEY: Right.

17 COMMISSIONER del VALLE: With the provision of the
18 service, and we're on record as saying we're very
19 supportive of the lifeline program, but you have these
20 folks sometimes setting up tents in neighborhoods and
21 just passing these things out like hotcakes. So I think
22 it's important that we do everything to make sure that
23 those that are providing the service are doing so in a
24 correct manner.

25 JUDGE RILEY: Right. I understand that. The best

1 answer I can give you is that if there were problems in
2 other states, that would appear in the Order. If there
3 were no problems in other states, then it wouldn't be
4 addressed. But it would definitely be brought up by
5 staff and be part of our -- certainly be part of the
6 record.

7 CHAIRMAN SCOTT: Maybe just add a line to the
8 Orders; because I know that's something Commissioners
9 look for in other cases. So it's probably worthwhile to
10 do that. Thank you, Judge.

11 COMMISSIONER Colgan: I think that's a good point. I
12 remember back when we first -- we were proving ARES
13 and AGs and ABCs in the Orders,
14 there was no mention of if they provided service in
15 another state or if there had been problems. And I
16 remember this was a few years ago we asked for that to
17 start showing up in the Order. And I remember at the
18 time Jim Zolnierek , I believe it was Jim, said
19 they had done that from the beginning for these Telecom
20 Orders. And so we saw that as a best practice. Since
21 then, the AGS, the AREs and the ABCs have --
22 you know, when those come through, I always look for
23 that. I find that in there to find out if -- you know,
24 it's one thing to say I'm going to comply with all the
25 rules and regulations for how to operate this service in

1 the State of Illinois. But it's quite another thing to
2 see that they've provided this service in other states
3 and have or have not followed those rules and
4 regulations. I think that that's a really good thing
5 for us to -- you know, it's just to add one sentence in
6 an Order that makes that clear.

7 CHAIRMAN SCOTT: Absolutely.

8 Any further discussion?

9 (No response.)

10 CHAIRMAN SCOTT: Are there any objections?

11 (No response.)

12 CHAIRMAN SCOTT: Hearing none, the Order is
13 entered.

14 Items T-2 and T-3 can be taken together.
15 These items are Petitions for Withdrawal or cancellation
16 of service authority. In both cases, ALJ Haloulos-Baker
17 recommends entry of an Order granting the petition.

18 Is there any discussion?

19 (No response.)

20 CHAIRMAN SCOTT: Are there any objections?

21 (No response.)

22 CHAIRMAN SCOTT: Hearing none, the Orders are
23 entered.

24 Items T-4 through T-9 can be taken together.

25 These are our motions to amend 83 Ill. Adm. Code

1 Sections 210, 220, 710, 711, 712, and 715. In each
2 case, the ALJ recommends entry of an Order authorizing
3 the submission of the Second Notice of Proposed
4 Amendments to the Joint Committee on Administrative
5 Rules.

6 Is there any discussion?

7 (No response.)

8 CHAIRMAN SCOTT: Are there any objections?

9 (No response.)

10 CHAIRMAN SCOTT: Hearing none, the Orders are
11 entered.

12 Item T-10 is Docket No. 13-0570. This is Sage
13 Telecom's application to Cancel Certificates of Local
14 and Interexchange Authority to operate as a reseller and
15 facilities-based carrier of telecommunications services,
16 and resold wireless services in Illinois. ALJ
17 Haloulos-Baker recommends entry of an Order granting the
18 Petition to Withdraw.

19 Are there any discussions?

20 (No response.)

21 CHAIRMAN SCOTT: Are there any objections?

22 (No response.)

23 CHAIRMAN SCOTT: Hearing none, the Order is
24 entered.

25 Items T-11 and T-12 can be taken together.

1 These are Joint Petitions for Approval of a Negotiated
2 Interconnection Agreement, or an Amendment to the
3 Interconnection Agreement, pursuant to 47 U.S.C. Section
4 252. In both cases, ALJ recommends entry of an Order
5 approving the Agreement.

6 Is there any discussions?

7 (No response.)

8 CHAIRMAN SCOTT: Are there any objections?

9 (No response.)

10 CHAIRMAN SCOTT: Hearing none, the Orders are
11 entered.

12 Item T-13 is Docket No. 13-0667. This is
13 Granite Telecommunication's Application for a
14 Certificate of Wireless Authority to operate as a
15 reseller of commercial mobile radio service in Illinois.
16 ALJ Riley recommends entry of an Order granting the
17 certificate.

18 Is there any discussion?

19 (No response.)

20 CHAIRMAN SCOTT: Are there any objections?

21 (No response.)

22 CHAIRMAN SCOTT: Hearing none, the Order is
23 entered.

24 Items T-14 and T-15 can be taken together.
25 These items are Petitions for cancellation certificates

1 to provide service. In both cases, ALJ Riley recommends
2 entry of an Order cancelling the certificates.

3 Are there any discussions?

4 (No response.)

5 CHAIRMAN SCOTT: Are there any objections?

6 (No response.)

7 CHAIRMAN SCOTT: Hearing none, the Orders are
8 entered.

9 Items T-16 through T-26 can be taken together.
10 These items concern Petitions for relief to protect
11 highly proprietary information in the Petitioner's
12 annual report from disclosure for not less than two
13 years. In each case, ALJ Benn recommends entry of an
14 Order granting the requested relief.

15 Is there any discussion?

16 (No response.)

17 CHAIRMAN SCOTT: Are there any objections?

18 (No response.)

19 CHAIRMAN SCOTT: Hearing none, the Orders are
20 entered.

21 We have one miscellaneous item on today's
22 agenda, Item M-1 is Docket No. 11-0711. This is our
23 development and adoption of rules concerning rate case
24 expense. ALJ Sainsot recommends entry of a First Notice
25 Order.

1 Is there any discussion?

2 Commissioner McCabe ...

3 COMMISSIONER McCABE: Good morning. Two
4 questions -- or two sets of questions, if the Commission
5 decides to exclude in-house or affiliate expenses from
6 9-229 scope, what happens to those expenses in a rate
7 case? Are they simply added to your operating expenses
8 or are they separated out since the proposed rules does
9 provide some reporting for in-house expenses?

10 JUDGE SAINSON: They would be separated out and
11 looked at with scrutiny just to make -- if for no other
12 reason than to make sure that there's no double billing,
13 that in-house counsel isn't duplicating or in-house
14 expert isn't duplicating what an outside person is
15 doing. If they were approved, ultimately they would be
16 considered an operating expense, but they would receive
17 heightened scrutiny.

18 COMMISSIONER McCABE: Several parties including
19 the AG and People's North Shore have argued that the
20 Madigan Decision merely provides guidance to the
21 Commission regarding the factors used in civil cases for
22 attorneys' fees. Is the Commission bound by the factors
23 outlined in the Kieser cases or is there flexibility
24 given that a case is different in some respects to a
25 civil case?

1 JUDGE SAINSOT: Well, on a very, very technical
2 level, People Madigan did not absolutely
3 require this Commission to be bound by that body of law.
4 However, at this point, given the language in that
5 opinion, if the Commission doesn't follow that body of
6 law and doesn't explain on an evidentiary basis why it's
7 not doing that, it could open the flood gates to
8 reversal on appeal which creates a tremendous amount of
9 uncertainty for the Commission and for the utilities and
10 for other groups as well. Having said that, the Kieser
11 line of case law is extremely flexible. In a nutshell,
12 all it requires is verified evidence as to what these
13 experts or attorneys do and quantifiable evidence.
14 That's pretty standard in the legal community, and it's
15 pretty standard in most service industries. So I hope
16 that answered your question.

17 CHAIRMAN SCOTT: Commissioner del Valle ...

18 COMMISSIONER del VALLE: Two quick questions, first
19 one is a general rate case filing a regular annual
20 occurrence such that it should be considered a general
21 operating expense or is a rate case a regular occurrence
22 that can be considered extraordinary?

23 JUDGE SAINSOT: Are you asking that in terms of the
24 employee expenses?

25 COMMISSIONER del VALLE: Right.

1 JUDGE SAINSOT: The employees get paid whether they
2 work on a rate case or not. So they wouldn't -- it
3 wouldn't be an extraordinary expense. They'd be doing
4 something else.

5 COMMISSIONER del VALLE: The second question is
6 does Section 9-229 with the Madigan appellate decision
7 expressly define attorney or technical expert as
8 excluding in-house employees?

9 JUDGE SAINSOT: It doesn't exclude them, but if you
10 look at the language, it talks -- it speaks of an
11 expenditure. There's no real expenditure involved in
12 paying an employee you would be paying anyway.

13 COMMISSIONER del VALLE: Okay.

14 CHAIRMAN SCOTT: Further questions? Thank you,
15 Judge. This item will be held for disposition at a
16 future Commission proceeding.

17 On to Petitions for Rehearing, Item PR-1 is
18 Docket No. 13-0318. This is ComEd's annual formula rate
19 update and revenue requirement reconciliation under
20 Section 16-108.5 of the Public Utilities Act. ComEd,
21 the Citizens Utility Board, and the AG have filed
22 applications for rehearing which ALJs Dolan and Kimbrel
23 recommend we deny.

24 Commissioner Maye ...

25 COMMISSIONER MAYE: Good morning, Mr. Dolan. In

1 your memo regarding CUBs Petition for Rehearing on the
2 issue of the definition of rate year and reconciliation
3 cycle, you stated that if there's a need to amend the
4 Final Order and add more detail, it would be presented
5 at the next Bench session. Can you give us an update on
6 whether you will be presenting an Amended Order?

7 JUDGE DOLAN: Yes, Commissioner. After reviewing
8 that section, I -- the information is in the record and
9 it is just a matter of providing more details. So, yes,
10 Judge Kimbrel and myself are actually working on it and
11 we will have it ready for you for the next bench
12 session.

13 COMMISSIONER MAYE: Thank you.

14 CHAIRMAN SCOTT: Anything further for Judge Dolan?
15 The recommendation again is to deny rehearing.

16 Is there any objection to denying rehearing?

17 (No response.)

18 CHAIRMAN SCOTT: Hearing none, the Applications for
19 Rehearing are denied.

20 Item PR-2 is Docket No. 13-0387. This is
21 ComEd's filing concerning revenue-neutral tariff changes
22 related to rate design. ComEd and REACT filed
23 Applications for Rehearing, which ALJs Hilliard and
24 Jorgenson recommend we deny. ComEd also filed a Motion
25 for Clarification of the Commission's final Order in

1 this proceeding, which we will address here first.

2 By way of discussion, I agree with the Staff
3 and ComEd regarding the need for further clarification
4 as to the Commission's Order. This is the second time
5 that the Commission has directed ComEd to provide
6 evidence regarding cost of service for low use customers
7 and/or explore how it defines the low use customer
8 subclass. The first time being in Docket No. 10-0467 in
9 the context of a SFV rate design. In this Order, we
10 alluded to the fact that the evidence should be
11 presented in the next proceeding, though we were not as
12 clear as we should have been. It is my position that
13 the most appropriate next proceeding would be a separate
14 Section 9-250 investigation to further analyze how the
15 SFV rate design impacts low use residential customers.
16 Therefore, I would move to grant the Motion for
17 Clarification, direct Staff to open a Section 9-250
18 proceeding to investigate the impact of an SFV rate
19 design on low use residential customers and direct ComEd
20 to provide the evidence regarding cost of service for
21 low use customers in that proceeding.

22 Is there a second to that motion?

23 COMMISSIONER MAYE: Second.

24 CHAIRMAN SCOTT: Seconded by Commissioner Maye.

25 Discussion on the motion? All in favor of the motion

1 say aye.

2 (Ayes heard.)

3 CHAIRMAN SCOTT: Opposed?

4 (No response.)

5 CHAIRMAN SCOTT: The vote is 5-0 and the Motion for
6 Clarification is granted.

7 Now we will address the Applications for
8 Rehearing. Is there a motion to deny the requests for
9 rehearing?

10 COMMISSIONER COLGAN: So moved.

11 CHAIRMAN SCOTT: Moved by Commissioner Colgan. Is
12 there a second?

13 COMMISSIONER McCABE: Second.

14 CHAIRMAN SCOTT: Seconded by Commissioner McCabe.

15 Is there any discussion?

16 All in favor say aye.

17 (Ayes heard.)

18 CHAIRMAN SCOTT: Any opposed?

19 (No response.)

20 CHAIRMAN SCOTT: The vote is 5-0 the Petitions for
21 Rehearing are denied.

22 Item PR-3 is Docket No. 13-0192. This is
23 Ameren's tariff filing concerning a proposed general
24 increase in gas rates. Ameren; the Retail Gas Suppliers
25 together with the Retail Energy Supply Association and

1 the Illinois Competitive Energy Association; the
2 Citizens Utility Board; and the Illinois Industrial
3 Energy Consumers filed Applications for Rehearing. ALJ
4 Jones recommends entry of an Order denying the
5 applications.

6 We will first address Ameren, CUB, and the
7 IIEC's Applications for Rehearing.

8 Is there any objection to denying rehearing?

9 (No response.)

10 CHAIRMAN SCOTT: Hearing none, the Applications for
11 Rehearing are denied.

12 Next, with regard to RGS, RESA, and ICEA's
13 Petition for Rehearing, I have some comments. I still
14 believe the Commission's decision to include these
15 consumer protections and reporting requirements in its
16 Order regarding the SVT program are reasonable and
17 appropriate supplements to the existing statutory
18 requirements and will benefit consumers who choose to
19 participate in retail gas choice program. However,
20 these parties raised some interesting issues that
21 surround the practical implementation of those
22 additional requirements. Although the Order notes that
23 we will not relitigate the issues decided in this
24 proceeding, I would encourage the parties to continue
25 the discussion of how best to implement the additional

1 requirements in the future tariff proceeding. With
2 that, I would move to deny RGS, RESA and ICEA's Petition
3 for Rehearing.

4 Is there a second?

5 COMMISSIONER COLGAN: Aye.

6 CHAIRMAN SCOTT: Seconded by Commission Colgan.

7 Any discussion on that?

8 COMMISSIONER MAYE: Yes.

9 CHAIRMAN SCOTT: Commissioner Maye ...

10 COMMISSIONER MAYE: I respectfully descent from my
11 colleagues. I believe the Commission should grant the
12 RGS, RESA Petition for Rehearing on the issue of
13 Commission's approval of CUB's approval three consumer
14 protection proposal. The petition raises some valid
15 concerns. From a legal perspective, the most
16 appropriate way to handle the questions raised is to
17 grant the petition. Page 246 of the final Order states,
18 The Commission hereby Orders AIC to promptly hold a
19 workshop following the issuance of this Order focusing
20 on the issues that are not resolved by this Order. AIC
21 is also directed to file a petition, tariffs, and
22 testimony in support of the SVT's program within 45 days
23 of the date of this Order. The Commission reminds the
24 parties that the purpose of a separate proceeding shall
25 be to resolve the remaining issue not decided in this

1 Order. To the extent a resolution of them is not
2 reached in the workshop. In my opinion, the final Order
3 makes clear that the tariff proceeding is to be limited
4 to issues not resolved by the Order. While I understand
5 that some of my colleagues would prefer to adjudicate
6 the issues as part of the upcoming tariff proceeding,
7 I'm of the opinion that because the Commission
8 previously decided this issue when it voted to adopt the
9 proposal to include CUBs three consumer protection in
10 the final Order, it would be procedurally improper to
11 state that this issue has not been fully resolved and
12 adjudicated.

13 CHAIRMAN SCOTT: Commissioner, any further
14 discussion?

15 COMMISSIONER COLGAN: Well, I agree that it is -- that it
16 has been decided that if we're going to do the consumer
17 protections and your recommendation, Chairman, is to
18 discuss that in the workshop setting, we're not
19 discussing whether or not that would happen. We're
20 discussing how that won't happen. That's what I
21 support. And I appreciate your comments, Commissioner
22 Maye.

23 CHAIRMAN SCOTT: Further discussion?

24 The motion to deny the RJS, RESA, and ICEA's
25 Petition for Rehearing. All in favor say aye.

1 (Ayes heard.)

2 CHAIRMAN SCOTT: Opposed?

3 COMMISSIONER MAYE: No.

4 CHAIRMAN SCOTT: The vote is 4-1 and the Petition
5 for Rehearing is denied.

6 Item PR-4 is Docket No. 13-0546. This is the
7 Illinois Power Agency's Petition for Approval of the
8 2014 IPA Procurement Plan pursuant to Section 16-111.5
9 (d)(4) of the Public Utilities Act. The Renewable
10 Suppliers filed an Application for Rehearing, which ALJ
11 Wallace recommends we deny.

12 I would like to move to grant rehearing on
13 this issue. In the final Order, the Commission
14 expressly stated that if the Renewable Suppliers were to
15 provide sufficient evidence to prove that the proposals
16 would be in the public interest, we would be inclined to
17 revisit the issue. I feel that the testimony provided
18 by the Renewable Suppliers has the potential to provide
19 much needed clarification on the ramifications of
20 implementing either of the group's proposal concerning
21 Long Term Power Purchase Agreements. Additionally, I
22 find merit in the argument that there was not adequate
23 opportunity for submission of this evidence in the
24 original proceedings, which supports the need for
25 rehearing at this time.

1 So I would move to grant rehearing in this
2 case. Is there a second?

3 COMMISSIONER del VALLE: Second.

4 CHAIRMAN SCOTT: Seconded by Commissioner del
5 Valle.

6 Is there discussion on that issue?

7 All if favor say aye.

8 (Ayes heard.)

9 CHAIRMAN SCOTT: Any opposed?

10 COMMISSIONER MAYE: No.

11 CHAIRMAN SCOTT: The vote is 4-1 and the
12 Application for Rehearing is granted. We have one other
13 item of business on today's agenda. This is a FERC
14 matter concerning pending litigation, so we will go into
15 closed session to address it. Is there a motion to go
16 into closed session?

17 COMMISSIONER McCABE: So moved.

18 CHAIRMAN SCOTT: Is there a second?

19 COMMISSIONER del VALLE: Second.

20 CHAIRMAN SCOTT: Seconded by Commissioner del
21 Valle. All in favor say aye.

22 (Ayes heard.)

23 CHAIRMAN SCOTT: Any opposed?

24 (No response.)

25 CHAIRMAN SCOTT: The vote is 5-0. The Commission

1 will now go into closed session. Please let me know
2 when the room is ready in Springfield.

3 (At this point pages 37 - 42 of the
4 proceedings are contained in a
5 separate closed transcript.)

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CONTINUATION OF PROCEEDING

COMMISSIONER COLGAN: I think we're ready here. As we go back into session, I would like to make a comment on PR-4.

CHAIRMAN SCOTT: Okay. Let me take care of the closed session item first. In closed session the Commission discussed FERC Docket No. ER14-972-000 concerning comments on PJM's January 10th, 2014 filing regarding cost allocation for projects included in PJM's December 11th, 2013 regional transmission expansion plan. Is there a motion to file the comments with FERC?

COMMISSIONER McCABE: So moved.

CHAIRMAN SCOTT: Moved by Commission McCabe. Is there a second?

COMMISSIONER MAYE: Second by Commissioner Maye. All in favor say aye.

(Ayes heard.)

CHAIRMAN SCOTT: Any opposed?

(No response.)

CHAIRMAN SCOTT: The vote is 5-0. The filing will be made with FERC.

Commissioner Colgan, you wanted to make a comment?

COMMISSIONER COLGAN: Yeah. On the Petition for Rehearing

1 on the IPA Act, Procurement Plan, I think that there
2 could be a case for arguing that, whether we grant that
3 in both directions. I think that our rules are pretty
4 clear that we grant rehearing for cases where there's
5 clarification of facts or if there's new facts or if
6 there's a change in the law. And I think this case was
7 fully briefed and argued in the proceeding on the issues
8 that we granted rehearing on. And I think that the
9 reasons that you cited, Chairman, are probably reasons
10 enough to grant rehearing. And certainly we can grant
11 rehearing if we want to grant rehearing. But at the
12 same time, I think we need to be clear that we're going
13 to try to stick to those rules as much as we possibly
14 can because rehearing is another costly issue, and I
15 think we should take the time to make our decisions
16 clear and without doubt in the Orders that we issue.
17 This is an area which is new and evolving and I think we
18 could benefit from discussion. I actually think maybe
19 the discussion might be more appropriately handled in a
20 policy meeting and discussion rather than rehearing.
21 But, again, I voted in favor of rehearing on this and
22 I'm going to stick with that in this case, that, you
23 know, that I think it was debatable as to whether or not
24 it kind of met that test.

25 CHAIRMAN SCOTT: I appreciate the comments. Thank

1 you. Judge Wallace, is there anything further to come
2 before the Commission today?

3 JUDGE WALLACE: That's all, Mr. Chairman. Thank
4 you.

5 CHAIRMAN SCOTT: If there's nothing else to come
6 before the Commission, this meeting stands adjourned.

7 Thank you everyone.

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19 STATE OF ILLINOIS)

20) SS.

21 COUNTY OF COOK)

22 Joanna Vitale, being first duly sworn, on oath
23 says that she is a Certified Shorthand reporter doing
24 business in the City of Chicago, County of Cook and the
25 State of Illinois;

1 That she reported in shorthand the proceedings
2 had at the foregoing meeting;

3 And that the foregoing is a true and correct
4 transcript of her shorthand notes so taken as aforesaid
5 and contains all of the proceedings had at the said
6 meeting.

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Joanna Vitale, CSR

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13 C.S.R. No. 084-004323
14 SUBSCRIBED AND SWORN TO
15 before me this 11th day of
16 February, A.D., 2014.

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19 NOTARY PUBLIC

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