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ILLINOIS COMMERCE COMMISSION
160 NORTH LASALLE STREET, SUITE 800
CHICAGO, ILLINOIS 60601

SUPPLIER DIVERSITY SERVICES:
POLICY SESSION 1

Met pursuant for the Illinois Commerce Commission,
Supplier Diversity Services: Policy Session 1 held at
160 North Lasalle Street, Suite 800, Chicago, Illinois,
on the 22nd day of January, A.D., 2014, commencing at
the hour of 1:00 p.m.

1 APPEARANCES:

2

3 Chairman Doug Scott

4 Commissioner Miguel del Valle

5 Commissioner Sherina E. Maye

6 Commissioner John T. Colgan

7 Commissioner Ann McCabe

8 Mr. Dan Johnson

9 Representative William Davis

10 Ms. Beth Doria

11 Ms. Loren Henderson

12 Mr. Jonathan Feipel

13

14 ALSO PRESENT:

15

16 Various members of the public

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1 CHAIRMAN SCOTT: Pursuant to the provisions of the
2 Open Meeting Act I will convene this Policy Session to
3 discuss supplier diversity. This is the first in a
4 multiple series of meetings on this topic. We started
5 doing these policy meetings last year in greater numbers
6 to try to flush out some of the issues that are
7 important to our State. This was an issue that all of
8 us on the Commission thought was very important and we
9 know there are some legislative matters coming before us
10 too. We wanted to get the best information we could on
11 that. That was obviously a very important issue for the
12 Commission and very important issue for the regulatory
13 community and the State in general. I really appreciate
14 the work Commissioner del Valle and Commissioner Maye
15 and their offices have done to put this together. It's
16 a lot of work to put these sessions together and I
17 really appreciate the efforts that you have made. With
18 that I will turn this over to Commissioner del Valle and
19 Commissioner Maye for opening remarks.

20 COMMISSIONER MAYE: Thank you very much,
21 Chairman Scott. Thank you all for being here today.
22 Both Commissioner del Valle and I are very excited to
23 kick off the first of our supplier diversity forums. As
24 we mentioned before and we will mention throughout this

1 particular policy forum, this will be the first in a
2 series of discussions on this topic. First and foremost
3 I want to take this time to thank my fellow
4 Commissioners. It's nice when you're passionate about
5 something. And we all are actually equally passionate
6 about this subject, but it's very nice when you have the
7 support of your colleagues. And thank you for letting
8 us take the lead with this and run with it and for your
9 enduring support. That means a lot to all of us. I
10 would also like to thank our Staff. You know, I always
11 think about the institutional knowledge that we have
12 here at the Illinois Commerce Commission. We are just
13 truly, truly -- we are very fortunate to have the people
14 we do have. Our Executive Director Jonathan Feipel, who
15 is here and who you will hear from a little later on
16 this afternoon has done a lot. He's led our Staff. He
17 heads our Public Utilities Bureau. We had our External
18 Affairs Bureau working on this as well and he's done
19 quite a lot to set the scene for us today. So we hope
20 you enjoy yourselves. We hope you get an enormous
21 amount of information from today. I wanted to let you
22 know this is not something that the Illinois Commerce
23 Commission that we five Commissioners said, you know,
24 let's focus on supplier diversity. Yes, we do have a

1 passion and we realize it is important. However this is
2 being addressed on a national level. Many of you here
3 are familiar with NARUC, which is the National
4 Association of Regulatory Utility Commissioners and it
5 serves as the regulatory umbrella for all the
6 Commissioners throughout all the States. This is a
7 topic that is a priority for our current president of
8 NARUC, Colette Honorable, who is the Chairman in
9 Arkansas. This is a priority for many of Commissions
10 throughout the nation and we are all trying to get on
11 board. We have had some trailblazers such as
12 California, you know, New York is up there. But in my
13 mind Illinois needs to be first and foremost in
14 everything. So we need to jump on the bandwagon and
15 beat them at their game. So hopefully we will do just
16 that by teeing it up with conversation today.

17 I will pass the microphone on to my fellow
18 Commissioner.

19 COMMISSIONER DEL VALLE: Thank you,
20 Commissioner Maye. I agree with you wholeheartedly that
21 Illinois needs to be first. We want to be first in
22 every category. There's never been a better time for
23 adopting the good business practices of enhancing
24 shareholder value and managing rate bearer costs to

1 expand the competition and inclusion in utility
2 procurement and encouraging greater access for women,
3 minority, and veteran-owned businesses and employees is
4 not a social justice issue even though it does address
5 fairness by providing more opportunities to communities
6 who, in reality, it is a matter of good business
7 practice.

8 Assertions that women-, minority-, or
9 veteran-owned businesses would not offer competitive
10 prices and would be more expensive than their
11 counterparts are not substantiated. They are
12 questionable at best. The benefits from diverse utility
13 procurement, investment opening, opening new markets,
14 and encouraging innovation are supported by the data.
15 We cannot be distracted by claims that Illinois is
16 devoid of capable and competent women-, minority-, and
17 veteran-owned businesses. History shows us we can make
18 gains through greater inclusion. So today and going
19 forward we are not interested in these distorting
20 narratives nor are we interested in investigating their
21 origin. Rather I believe this Commission is solely
22 dedicated to working collaboratively with our utilities
23 to address diversity as the imperative it is. The ICC's
24 mission is to ensure an appropriate balance between the

1 interest of ratepayers and the companies serving them.
2 This includes making sure essential services are
3 available to ratepayers at reasonable rates. The
4 General Assembly has been a leader in opening our State
5 to retail competition to lower our State's utility costs
6 through increased competition and innovation.

7 As we will see through throughout these
8 forums, policy forums, supplier diversity is critical.
9 It is important. We have seen from best examples from
10 around the nation, as Commissioner Maye just indicated,
11 that these practices increase competition, reduce costs,
12 and drive innovation. Greater commitment to supplier
13 diversity represents an instance in which the interest
14 of ratepayers and the companies are perfectly aligned.
15 Here at the Commission we believe the utilities agree,
16 are engaged, and have already started to move forward in
17 making gains on this issue. I believe that greater
18 inclusion, competition, and utility procurement
19 investment will stimulate innovation and will also
20 provide a utility with the best possible product or
21 services at the lowest possible cost. But also greater
22 diversity enriches all of the communities served by
23 Illinois utilities, which means that working with the
24 utilities on these practices is not only good business

1 for them but good public policy for Illinois.

2 We are rightfully addressing these issues
3 through an ICC Policy Meeting. I ask that we keep in
4 mind the ways that the Commission itself can collaborate
5 directly with the utilities through our own processes to
6 promote a fertile environment for these important
7 practices. I hope this series of Policy Meetings draw
8 up the best role for the Commission in encouraging these
9 practices for the benefit of utilities, women-,
10 minority-, and veteran-owned businesses, and Illinois
11 ratepayers.

12 Thank you, Mr. Chairman.

13 CHAIRMAN SCOTT: Okay. Go ahead. Introduce them.

14 COMMISSIONER DEL VALLE: Oh, I am doing the first
15 introduction.

16 We have a panel here and I will introduce each
17 member as they are asked to speak. Our first speaker is
18 Dan Johnson. Originally we had Senator Sandoval on the
19 agenda, but he indicated that he couldn't be with us
20 today. He will be participating, we hope, in the next
21 Policy Meeting in the follow-up to this one. But today
22 we have Dan Johnson. And Dan Johnson is the president
23 of Progressive Public Affairs. He lobbies in Illinois
24 for nonprofit organizations, trade associations,

1 for-profit companies, and individuals. He is an
2 attorney, a registered State lobbyist, an entrepreneur.
3 He has a J.D. from University of Chicago Law School
4 where one of his professors was Barack Obama, President
5 Obama. He also has a BA in Economics and Political
6 Science from the University of Illinois Champaign. Dan
7 worked closely with Senator Sandoval and with
8 Representative Davis in the development of Senate Bill
9 2526 and House Bill 102. Dan, thank you for being with
10 us today. We appreciate it.

11 MR. JOHNSON: Thank you, Member del Valle. It's a
12 privilege and an honor to participate in this and a
13 delight to see two former members of the General
14 Assembly and this Commission. So thank you for the
15 opportunity to participate. I thought -- I thought I
16 would provide sort of a broad background as to how these
17 bills sort of came to be to provide some context to
18 members of the Commission as you -- my impression is you
19 would like to get a better understanding as to how we
20 came here today. If the story gets a little broad and
21 winding, please forgive me. I would like to give you
22 the board perspective as to how we came to be here.

23 Beth Doria is the president of the Federation
24 of Women Contractors and the client that I have been

1 working for on behalf of these issues for a number of
2 years now. Senator Sandoval and Representative Davis
3 have been early leaders in trying to craft public
4 policies to expand supplier diversity generally. Some
5 of the early moves that the Federation of Women
6 Contractors advocated for and Senator Sandoval and
7 Representative Davis championed were putting affirmative
8 action goals on the regulated gaming industry for the
9 first time. So existing licensees now because of new
10 legislation that passed, I think it was last year,
11 Representative Davis worked very hard on something like
12 seven or eight amendments until it finally came through.
13 Finally put goals for the first time on those licensees
14 and their procurements. An early bill as well was
15 Senate Bill 3249, which put similar affirmative action
16 goals on grants that the Department of Commerce and
17 Economic Opportunity made to nonprofit organizations and
18 local governments above \$250,000. And so the concept is
19 as the Federation of Women Contractors and legislative
20 leaders like Representative Davis and Senator Sandoval
21 sort of understand the value of supplier diversity on a
22 broad range of industries to strengthening and growing
23 the Illinois economy as they recognize growing these
24 businesses means growing our economy. They are in fact

1 synonymous.

2 So how did regulated utilities get into this
3 mix? Well, partially it was built from the experience
4 of seeing the successful MBE and WBE programs in the
5 public sector side. On the public sector side Beth
6 happens to be a leading voice on the Business Enterprise
7 Council in the State of Illinois and oversees many of
8 the implementation of affirmative action, supplier
9 diversity programs for MBEs and WBEs. And so
10 legislators have seen on the public sector side the
11 success of these programs. The wish more broadly felt
12 among more and more members of the General Assembly, I
13 would submit, is to expand the success of these public
14 sectors programs to as much of the private sector as we
15 can. Thus some of the grants that are made to
16 nonprofits, which are really hospitals that have got a
17 lot of capital grants, a lot of municipalities, there
18 ought to be some affirmative action goals tied to those.
19 On the casino and horse track side, there ought to be
20 affirmative action goals to those regulated industries.

21 In 2012 it came across the radar screen of
22 these leaders that California happens to do something
23 pretty innovative as it relates to public utilities. So
24 I was tasked with sniffing it out and seeing what does

1 California do that we don't do. As it turns out I got
2 to go to Oakland and watch -- I'm sorry -- Los Angeles
3 and watch the equivalent of the Illinois Commerce
4 Commission, the Public Utility Commission of California
5 hold an en banc hearing on supplier diversity. So I
6 would like to note the historic impact, you know, of
7 this day to have the sort of the first equivalent of an
8 en banc policy workshop discussion on supplier
9 diversity. I should note by the way Senator Sandoval,
10 he is in Mexico, sends his regrets. He is at the
11 Underground Contractors Association annual meeting. A
12 scheduling conflict just didn't allow him to be in both
13 places at the same time, but he sends his regrets.

14 But at this hearing in Los Angeles it was
15 fascinating that all of the CEOs of all of their
16 utilities, telecom, cable, and electric, and natural gas
17 participated. And the spirit was welcoming, warm,
18 collaborative, and almost -- there was almost a
19 cheerleading aspect to it where each CEO would have a
20 thick report they had to present by Rule. It's called
21 General Order 156, about 15 years old. It requires all
22 of the regulated utilities to submit a pretty thick
23 report on what their plans are for supplier diversity in
24 the future, short meeting, long term, what their numbers

1 are, how they are hitting them, if they are not what the
2 problems are.

3 Each company kind of attempted to sort of out
4 do each other. And as you know, electric and natural
5 gas utilities have been in corporate America some of the
6 best advocates and practitioners of supplier diversity
7 of any companies in corporate America. So it's sort of
8 part of their corporate culture to support it. But what
9 was fascinating about California was it was very
10 transparent. The actual numbers were -- the actual
11 spend was, the percentage of spend, the dollar spend, it
12 was all public, which was a refreshing change to what,
13 you know, as in most of the country that those numbers
14 aren't nearly as public particularly on the telecom
15 side.

16 So then the advocates took their turn and sort
17 of had a chance to look over the reports, had their
18 suggestions. You know, there was a lot of talk on
19 professional services, you know, needed to do a better
20 job on finance and legal and accounting trying to up
21 those numbers. There was a reception that night, but
22 there was this spirit of collaboration that infused the
23 entire day.

24 I reported back to the legislators and to Beth

1 and Pam McDonough of the Federation of Women Contractors
2 and they thought this is really something worth
3 exploring and thus Senator Sandoval filed in veto
4 session in 2011 what would ultimately become Senate Bill
5 2526. And through a lot of collaboration originally
6 included telecom and cable through some, you know,
7 negotiation where they were exempted out through a
8 wonderful spirit of collaboration with ComEd and Ameren,
9 who have been wonderful partners sort of shared their
10 concerns. We amended it five or six times. Commission
11 Staff was helpful as well in that process to get these
12 first reports in Senate Bill 2526.

13 And, you know, it's led then to an effort led
14 by Representative Davis in calendar year 2013 to try to
15 take this excess of this Senate Bill 2526 where for the
16 first time there would be a public report submitted to
17 the Commission by the regulated utilities, just natural
18 gas and electric at first, a product of legislation
19 compromise, just the, you know, above a certain level so
20 some of the smaller utilities aren't included. That
21 would sort of -- We attempted to say what are some
22 apples to apples benchmarks we can use without putting
23 too much of a burden on the companies? You know, part
24 of the collaborative process from Senator Sandoval and

1 Representative Davis is how do we not burden companies
2 with a report or regulation that doesn't actually
3 advance the ball when the purpose here is how do we help
4 the utilities be the champions of diversity that, you
5 know, they already embrace as part of their corporate
6 identities? You know, more so than any other part of
7 corporate America, utilities really seem to embrace the
8 value of cultural diversity and supplier diversity. So
9 how can we assist? How can reports and -- How can that
10 help?

11 And so that became the -- you can sort of see
12 it in the language of House Bill 102. And forgive me if
13 I am stealing any thunder. You can see through months
14 and months of negotiations with good faith efforts by
15 telecom and cable and electric and natural gas, there is
16 sort of shift. I think it was the third or fourth
17 amendment when we got to speak with a lot of the
18 supplier diversity people at the utilities that said
19 let's see if we can do something new. And let's see if
20 we can do something innovative. Where many of the
21 companies felt they wanted to avoid a sort of top-down
22 regulatory approach, perhaps we could craft something
23 that would be in the spirit of collaboration that I got
24 to witness in California that encouraged and inspired

1 and actually helped the companies hit their numbers and
2 hit the spend that they wanted to hit any way and
3 provide some value added to those companies.

4 One note, a representative of the Obama
5 administration came and said this program in California,
6 this is the most successful supplier diversity program
7 in the country. You know, they went something like an
8 aggregate of a billion and a half spend to a seven and a
9 half billion spend on just MBEs and WBEs and
10 veteran-owned businesses. And it's partly, you know,
11 responsible -- because of General Order 156. The
12 opportunity for such a significant uptick in actual
13 spend is enormous. It's one of our, you know -- some of
14 our biggest companies in helping them up those numbers
15 for veteran-owned, minority-owned and women-owned
16 businesses is potentially extraordinary.

17 So that's where things sort of ended up at the
18 end of session in calendar year 2013 with some filed
19 language. I think we did it in late May. It sort of
20 put sort of where we had gotten to try to find new
21 language and a new spirit of collaboration, it really
22 hit high numbers to help all parties achieve everyone's
23 shared goals of vibrant supplier diversity program. And
24 I think then the Commission, you know, admirably wanted

1 to take some initiative and learn some more about how we
2 came to be and the role that the Commission can play. I
3 think with that, I think that was my appointed role to
4 provide some of the broad background. Again I want to
5 thank you for the honor to testify before you and to
6 take about such an important topic.

7 COMMISSIONER MAYE: Thank you very much, Dan.
8 That was definitely a great overview. What we are going
9 to do is we're going to have a roundtable at the end.
10 So you will hear some of the thoughts from the
11 Commission as well as anyone else. I would like to turn
12 our attention now to the Honorable William Davis, who is
13 a State Representative. We do realize how important our
14 legislators are so we thank you for coming out and
15 spending your afternoon with us.

16 The Honorable William Davis is member of the
17 Illinois House of Representatives representing the 30th
18 District since 2002. Born in Harvey, Illinois he earned
19 his Bachelor of Arts degree of political science from
20 Southern Illinois University in just three years.
21 Representative Davis went on to earn a Masters of Public
22 Administration Degree from Governors State University.
23 He's a member of Kappa Alpha Psi fraternity and a
24 founding member for Better Funding for Better Schools

1 Coalition. Since taking office David's top legislative
2 priorities include education funding, increase
3 healthcare availability, and economic development.
4 Davis has been recognized as the legislator of the year
5 by the Illinois Association of Code Enforcement, the
6 Illinois Primary Healthcare Association, and the
7 Illinois Association of Park Districts. Thank you for
8 joining us and we look forward to hearing from you.

9 REPRESENTATIVE DAVIS: Thank you very much,
10 Commissioner Maye. I thank you very kindly. That was a
11 very thoughtful introduction. As well as to
12 Chairman Scott and the other Commissioners, thank you
13 for the opportunity to be here today to participate in
14 what I feel is a very, very important dialogue in
15 conversation. When I am out sometimes speaking to
16 groups and I get the feedback about, you know -- this is
17 just relative to the State, you know, how the State is
18 going through their financial difficulties and financial
19 challenges, I often indicate that, well, the State is
20 still going to spend money to do things. And to take
21 that kind of thought process into the private sector as
22 was mentioned earlier, you know, these companies are
23 going to be spending money. They have come through
24 either through a process through you as ICC or through a

1 legislative process to get permission to do things in
2 which they can upgrade infrastructures, rebuild the
3 companies, or whatever the case may be. In order to do
4 so they are going to be spending resources in order to
5 make those things happen. So for me it's just a simple
6 look and say, well, if you are going to be spending
7 dollars, you know, to rebuild and upgrade, you know,
8 what is wrong with asking or talking about how much of
9 that spend is with minority vendors, women-owned
10 businesses, minority-owned businesses, veterans?
11 Whatever those different categories that exist, what is
12 wrong with having those conversations and asking those
13 questions of these entities?

14 I want to take a step back here and really
15 thank Dan Johnson for all his efforts and his work. He
16 is by far the most progressive person I have known in
17 Springfield. He brings great ideas to us and says, hey,
18 I got an idea. We sit and we talk about it and
19 sometimes it manifests itself into some of what we are
20 discussing here today. So I really, really appreciate
21 all of his hard work. He talked a lot about how from
22 the original thought process we have kind of evolved
23 into House Bill 102 initially and then evolved a little
24 further into, I think, it's 3565. Yes, 3635. Excuse

1 me.

2 But the idea here is from not only from just
3 issuing reports about what is the spend is, but now
4 let's talk about, you know, based on those numbers can
5 they be improved? Can they be made better, the
6 establishment of goals? We know goals aren't, you know,
7 it's not a mandate per se. But at some point you got to
8 think about, you know, where you are and maybe let's
9 talk about where you can go in the future. Let's talk
10 about future of goals and establishment of goals. I
11 understand from just my short time in the legislature
12 that the establishment of goals always has to be a
13 well-thought-out process. So sometimes you can, as they
14 say, reach for the stars and you are not going to get
15 there. If you don't get there, are you a failure
16 necessarily? No, not always. But sometimes you just
17 have to be realistic about what those numbers could be,
18 you know, based on the areas in which companies or
19 utilities like the ones we are talking about today,
20 where they spend their money, sometimes there just isn't
21 any diversity in some of those categories. But that
22 allows itself to create an opportunity for companies,
23 for diversity in those areas where there isn't diversity
24 at that point. But in order to get there sometimes you

1 got to have some baseline stuff. You got to have some
2 baseline information to say this is, you know, where we
3 were before. This is what we spent before. Okay. Now
4 let's get together and see if that can be raised. Can
5 we shoot for something more than what you have and where
6 you have been?

7 And again when we started out with House Bill
8 102 and I will just read a small piece of a synopsis of
9 the legislation that says "Requires the Illinois
10 Commerce Commission to establish a procedure for
11 entities regulated by it and their Commission-regulated
12 subsidiaries and affiliates to submit annual detailed
13 and verified plans for increasing female, minority, and
14 disabled veteran business procurement in all
15 categories." That's essentially what we are attempting
16 to do here. And whether it's an establishment by, you
17 know, this body, the Commerce Commission, or the
18 legislature suggesting or maybe suggesting what those
19 goals should be, we are simply saying let's talk about
20 not only where you have been but let's look at where you
21 can go with this and let's talk about establishing some
22 goals. Let's talk about putting some numbers out there.
23 In some cases we may get some pushback on numbers being
24 too high, but sometimes we have to challenge ourselves a

1 little bit. We have to suggest that to the extent of
2 which you are going to be spending millions or, let's
3 say, hundreds of thousands, millions, let's say, tens of
4 millions in some cases, you are going to be spending a
5 lot of money and there has to be an opportunity for
6 diversity in that spend somewhere. Has to be.

7 There are some sectors that we haven't touched
8 before that I hope we can get to at some point relative
9 to the dollars they are spending. Not just in terms of
10 the actual construction but also the professional
11 services that these companies also spend money with as
12 well. We want to really take a really very
13 comprehensive and proactive look at where we are and
14 where we want to go. When we started these discussions
15 we got significant and great participation from many of
16 the companies that are represented here in the audience
17 today. Some decided to kind of sit back and just see
18 how the conversations evolve, but some were at the table
19 with us discussing and having good dialogue. And to
20 Dan's credit, our position, as he mentioned earlier, was
21 not to attempt to be punitive, not to overburden you.
22 So when the representatives from the companies came back
23 with ideas for amendments we were very welcoming, you
24 know, to take those in. Because again we wanted them to

1 feel as comfortable about what we were asking them to do
2 as we felt about asking them to do it. We wanted to
3 make sure that they were all in, so to speak, that they
4 had good buy in, and that they would be committed to
5 doing it. Again, not just saying here are our numbers,
6 but now let's talk about how we can get to increasing
7 those numbers.

8 And even after those initial conversations I
9 want to certainly give credit to Nicor Gas, who came to
10 me in my district office and said, you know what? I got
11 an idea. This was Dorothy Foster from the Government
12 Affairs. She said I got an idea. Let's host an event.
13 Let's put something out there where we can bring our
14 folks in to talk about supplier diversity and you can
15 invite businesses to come to the event and let's talk
16 about the challenges that they are experiencing, you
17 know, some other areas where we don't have
18 participation. And I would say for a first event, if
19 you will, we had tremendous success. I think we had
20 approximately 80, 80 representatives -- excuse me -- 40
21 companies who registered to come and then of course we
22 had a lot of the Nicor people, not only from Nicor here
23 in Illinois but their parent company who came in from
24 Atlanta to participate in this. So it was a great first

1 step to doing something so we are having the right
2 dialogue about increasing numbers and talking about what
3 it takes to participate in that space.

4 Now, that's obviously the gas space. There
5 are a couple other spaces that we are looking at. We
6 were fortunate enough that that event to have also
7 representatives from AT&T as well as ComEd, who came
8 just to observe. As a result of that observation, we're
9 talking to those companies about doing a very similar
10 event where we are reaching out and using all the tools
11 and resources available to us to reach out to the
12 breadth of companies that exist that might want to do
13 work in a space. Again, there are a lot of companies
14 that don't know they can do work in this space. We want
15 them to see what the opportunities are, see what the
16 availability is. And then again, as part of that
17 particularly where the numbers are smaller in some of
18 the areas, let's figure out how we can, you know, maybe
19 grow businesses or encourage them to diversify. You
20 know, if they do legal work, maybe there is a certain
21 particular type of legal work they can do to help play
22 in this space a little bit. We just wanted to put it
23 all on the table and say what do we want to do to
24 increase those numbers, to try to make, you know -- to

1 ask these companies, you know, to show some additional
2 corporate responsibility and community responsibility.
3 They already do a number of great things in terms of
4 their volunteer activities and they have foundations
5 that, you know, where they make contributions to
6 not-for-profit organizations. They do a number of great
7 things, but we want to make this be a part of kind of,
8 you know, that portfolio of things that they do where
9 they are actively engaged in making sure that when they
10 spend money that there is the diversity that exists and
11 that they are spending money with those companies.

12 Why, I think, we need to push this a little
13 bit and it's unfortunate that sometimes -- and people
14 will never say this publicly, but we often hear the back
15 conversations where we have nine minority companies who
16 will say, well, unless somebody makes me do this, why
17 would I spend money with minority companies? It's an
18 unfortunate thing to say, but it's often said unless we
19 are forced or pushed to do that. And to the extent in
20 which we are trying to push that envelope, then again I
21 am okay with doing that. You know, I am very much okay
22 with pushing to make sure that to the extent in which I
23 have some say in working with these companies, that they
24 are also doing business with diverse suppliers and

1 diverse vendors and we want to make all these things
2 happen. I appreciate all the efforts of Dan Johnson in
3 bringing these issues forward, my colleague Senator
4 Sandoval, as well as the Commission now deciding that,
5 you know, this is a really, really important so we want
6 to be a part of this discussion and use the tools that
7 they have to try to help push this along. And I am
8 looking forward to the subsequent discussions where we
9 start to dive into some of the more particulars about
10 how the data looks and again deciding what we can do to
11 try to increase those numbers and make this environment
12 better for diverse vendors. So again I appreciate this
13 opportunity to be here. I am looking forward to
14 continuing with this dialogue and working with you into
15 the future.

16 COMMISSIONER MAYE: Thank you very much,
17 Representative Davis. We definitely appreciate you
18 speaking to the current efforts that are underway. We
19 look forward to a bit more subsequent conversation later
20 on.

21 Next we move on to Beth Doria. Beth is the
22 president of Alliance Associates, Incorporated, an
23 association management firm. She also serves as
24 executive director of the Federation of Women

1 Contractors. In this role Beth is a tireless advocate
2 for the opportunities and rights of women- and
3 minority-owned business owners. An association partner
4 in the Alliance of Minority and Female Contractors she
5 is -- she often conveys critical issues to local, State,
6 and federal legislators serving as spokesperson for the
7 organization's combined membership of over 1,000
8 contractors. Prior to starting Alliance Associates in
9 2003 Doria served as a State Women's Business Advocate
10 with the Illinois Department of Commerce and Economic
11 Opportunity. Additionally she served as marketing
12 manager for the Illinois Bureau of Tourism and corporate
13 accounts manager for the Illinois Lottery. Doria is
14 active in several communities and advocacy organizations
15 including the Diversity Action Council, Women Impacting
16 Public Policy, and House of Hope in Illinois. Doria has
17 served on the Illinois Business Enterprise Account for
18 five terms and served as chair of its policy and
19 enforcement committee. She is the recipient of numerous
20 awards and recognitions including Crain's Who's Who in
21 Chicago Business 2012 and 2013, 2002 Women's Business
22 Advocate of the Year, and the SBA Women and Business
23 Champion Award for 2007. Doria also received a Lifetime
24 Achievement Honorary Doctorate of Philosophy in

1 Humanities from Ramah Institute of Theology for her
2 lifelong work for women and minorities. I'm sure after
3 that, you all can see we are excited to have her here
4 and her knowledge. Thank you.

5 MS. DORIA: Thank you for inviting me. I would
6 like to start by commending the Commerce Commission for
7 being very proactive on this initiative. Particularly
8 Director Feipel has just been wonderful to work with and
9 from the get go has been very energetic and very
10 involved in this process. While I represent the
11 Federation of Women Contractors, from the time I took on
12 that role I really broadened my scope to include
13 minorities as well. Because anyone who's familiar with
14 these MWDBE programs as well as the disabled veterans
15 programs, we are all facing the same challenges. Some
16 face more challenges than others, but it really is a
17 challenge every day to be able to work on, to be able to
18 be taken seriously in some cases, be able to prove
19 yourself, and really be able to do a great job on a
20 regular basis. And as Representative Davis pointed out,
21 all too often the mantra is that unless someone is
22 forced to do business with a woman or a person of color
23 they are not going to. And the statistics certainly do
24 bear that out.

1 We have -- our organization for now over ten
2 years since I have taken over, we have really looked
3 very hard at ways in which we can address these
4 disparities and recognizing in particular with utilities
5 that it's a unique segment in that, you know, these
6 contractors or the vendors must really have capacity and
7 capability to be able to work in that arena. One of the
8 things that we had talked about early on was this being
9 an opportunity for us to collaborate with the various
10 utilities to say where is that disparity. And perhaps
11 there is opportunities for us to put together more of a
12 mentorship type of a program where together we would be
13 able to identify some contractors who are very capable
14 of doing that work but have been unable to really find
15 the correct person to get in touch with or be able to
16 kind of break down that initial, get past the
17 gatekeeper, I guess is really the main thing. And that
18 was how we got involved in that I often get phone calls
19 from people saying, can you help me? You know, for
20 years I have been trying to get into do some work with
21 X, Y, and Z company. And I, you know, I call all these
22 people. I go to all these meetings. I can't ever get
23 anywhere.

24 So we really thought that through this process

1 we wanted to be able to work with the different
2 companies to do exactly that and build capacity and make
3 models, make a lot of great companies that are
4 sustainable, and that, you know, that the utility
5 companies are able to really point to with a sense of
6 pride and say we helped build this. That's a good thing
7 on both sides.

8 I want to express my appreciation to
9 Representative Davis and certainly Senator Sandoval for
10 taking on this because oftentimes in the General
11 Assembly, you know, some people are afraid to kind of
12 advance bills unless they know that they are going to
13 get passed. And so we -- I want to really commend them
14 for their work and I appreciate all their hard work and
15 their efforts toward this. But I also want to say a
16 word to the utility companies in that this really has
17 been a very pleasurable experience, if I can use that
18 word, that it was not met with a brick wall right away.
19 And I did find a lot of ability or, you know, genuine
20 wanting to make this work. And see how we can build a
21 great program that we can all point to with a sense of
22 pride and one in which the utility companies can also
23 kind of tout those numbers and have them be real
24 numbers. That's another thing that we really face. A

1 lot of companies can say, well, we do X amount of
2 dollars with diverse businesses; but what does that
3 really mean? If you have a company that let's just say
4 has a minority vendor that does investment and is doing
5 investments in their portfolio, are they just saying,
6 well, okay. We are doing, you know -- we are doing
7 two billion dollars in investments with one vendor,
8 that's not really what we are looking for. We are
9 wanting to really spread it across, maximize the
10 opportunities for as many contractors as we possibly
11 can, and again as I said, really build great sustainable
12 businesses that make it more competitive on both ends.
13 So I appreciate everybody's participation and
14 cooperation in this process and I look forward to truly
15 building a program that everybody can be very proud of.

16 COMMISSIONER DEL VALLE: Thank you. Once again,
17 after we have heard from all our panelists, we will have
18 lots of questions. I'm sure we will have a very good
19 discussion. Our last speaker before we begin the
20 questioning session is Loren Henderson. Loren, I
21 understand, does have a power point presentation, right?

22 MS. HENDERSON: Mm-hmm.

23 COMMISSIONER DEL VALLE: Loren is an assistant
24 professor in the Department of Sociology and

1 Anthropology at the University of Maryland, Baltimore
2 County. Professor Henderson's presentation was prepared
3 in collaboration with Dr. Cedric Herring, who
4 unfortunately could not be here today. Dr. Cedric
5 Herring is a professor in the Department of Sociology at
6 the University of Illinois Chicago and at the Institute
7 of Government and Public Affairs. Professor Henderson's
8 research interests include diversity issues,
9 stratification in equality, health disparities, race,
10 class, and gender, and sexuality issues. She is a
11 coauthor of a forthcoming book entitled Diversity in
12 Organizations: a Critical Examination. She is also an
13 author of several research articles on diversity. I'm
14 not going to list all the articles. There are quite a
15 few.

16 Thank you, Professor Henderson, for being with
17 us today.

18 MS. HENDERSON: Thank you. I just want to thank
19 the Commission for inviting me. I would like to thank
20 Martin for all his work in helping me get ready to
21 present today. I am just happy to be here. I am going
22 to switch sides now.

23 COMMISSIONER DEL VALLE: Could you plug in the
24 microphone, please?

1 MS. HENDERSON: Okay. So again I want to thank
2 you for inviting me here today. So today I would like
3 to share some of my research with Dr. Cedric Herring
4 about the business case for diversity. In doing so I
5 will discuss the impact of racial and gender diversity
6 on businesses. I will talk about the quantifiable
7 metrics that we have used to help identify these
8 benefits. I will also talk about why it is important to
9 have utilities file the kinds of reports that they are
10 currently required to file. My presentation will touch
11 on what we can determine from the reports that have
12 already been filed and what additional future reports
13 should include. Finally, I will talk about some of the
14 kinds of practices that have been found to be successful
15 in increasing opportunities for minority-owned,
16 women-owned, veteran-owned, and small business
17 enterprises. I will also share some of my thoughts
18 about what else could be done to strengthen diversity
19 efforts.

20 Most forward looking organizations are trying
21 to better understand their customers, clients, or
22 constituents so they can be selected over their
23 competitors. There are however competing claims about
24 diversity. Proponents of the business case for

1 diversity claimed that diversity pays. They claim it
2 represents a compelling interest that will help meet
3 customers' needs. It enriches understanding of the
4 pulse of the marketplace and proponents argue that it
5 improves the quality of products and services offered to
6 customers. They also argue that diversity offers the
7 promise of greater profits and earnings. Moreover
8 diversity enriches the workplace by broadening employee
9 perspectives, strengthening their teams, and offering
10 greater resources for problem resolution. The creative
11 conflict that may emerge as a result leads to closer
12 examination of the assumptions, a more complex learning
13 environment, and arguably better solutions to workplace
14 problems.

15 Because of such positive attributes it has
16 been argued that companies increasingly have relied upon
17 diversity in their work force to increase their profits
18 and their earnings. In contrast, skeptics of the
19 business case for diversity claim that diversity has
20 significant costs that are often overlooked. Some
21 critics for instance point out that racial and ethnic
22 diversity are linked with conflict especially emotional
23 conflict among coworkers. They claim that group
24 cohesiveness is diminished and as a result workplaces

1 witness increase employee absenteeism and turnover.
2 Greater diversity it is also suggested is also
3 associated with lower quality because it places
4 lower-performing people in positions for which they are
5 not well suited. It is for these reasons that skeptics
6 of the business case for diversity have questioned the
7 real impact of diversity programs on the bottom line of
8 business organizations.

9 Dr. Herring conducted research on business
10 organizations and published an article in 2009 entitled
11 Does Diversity Pay?: Race, Gender, and the Business
12 Case For Diversity in the leading sociological journal.
13 Building on this research he and I also studied the
14 impact of diversity in high risk cases. In the next
15 part of the presentation I will present some findings
16 from that work that highlight the business case for
17 diversity.

18 Dr. Herring used data from the national
19 organization survey, a nationally representative sample
20 of for-profit business organizations to test a
21 hypothesis. He wanted to look at whether racial and
22 gender diversity were related to business outcomes. He
23 used quantifiable metrics such as revenue, number of
24 customers, market share, and relative profits. In this

1 slide some of the various business outcomes of
2 establishments by their levels of racial and gender
3 diversity are displayed. It shows that those
4 corporations with higher levels of racial and gender
5 diversity have higher sales revenue suggesting that as
6 racial diversity within the organization increases,
7 sales revenue increases.

8 This slide shows that higher levels of racial
9 and gender diversity are also associated with greater
10 numbers of customers.

11 This slide shows that as racial and gender
12 diversity increase, market shares increase as well.

13 And this slide shows that as racial and gender
14 diversity increase, relative profits increase.

15 When we took other factors into consideration
16 like the size of the firm, the age of the company, the
17 legal form of incorporation, the region, the industrial
18 sector, et cetera, multivariant analysis offers support
19 for all of the hypotheses. Overall, diversity is
20 associated with increased sales revenue, more customers,
21 greater market share, and greater relative profits.

22 Such results clearly run counter to the expectation of
23 skeptics who believe that diversity and its efforts to
24 achieve it would be harmful to business organizations.

1 These results, are consistent with arguments that
2 suggest that an diverse work force is good for business
3 and that diversity offers a direct return on investment
4 that promises greater profits and earnings.

5 Although I am here to speak about the business
6 case for diversity I recognize that the Public Act was
7 instituted to aid the inclusion of WMBE suppliers who
8 face significant barriers in the marketplace both
9 because of individual deficits and discrimination. In
10 some previous research on the City of Chicago's Minority
11 Women and Disadvantaged Business Enterprise Program
12 Dr. Herring and myself reported that while significant
13 progress had been made in integrating minorities into
14 public and private sector contracting activities,
15 meaning other variables remained. When subcontracting
16 vendors were asked about their working relationships
17 with prime contractors they usually felt that they were
18 outsiders. They suggested that as prime contractors
19 tended to prefer to work with network insiders, which
20 were most often established white-owned vendors.
21 Mandatory minority subcontracting requirements are often
22 used to assist minorities and women to overcome these
23 barriers.

24 In terms of access to borrowing, roughly

1 80 percent of African-American contractors stated that
2 they found it difficult to acquire working capital. We
3 also found that minority-owned businesses are being
4 discriminated against in the credit marketplace. When
5 we compared black- and white-owned companies with the
6 same work experience, the same amount of experience in
7 the industry, the same owner age, and the same level of
8 education, the black-white gap in credit scores for new
9 businesses actually widened. We also found they are
10 both racial and gender differences in access to credit
11 even when you compare businesses with the same credit
12 ratings. When credit scores were taken into account
13 racial and gender differences in access to credit
14 generally became more pronounced rather than less
15 pronounced among new firms. In other words, not only do
16 credit scores fail to explain racial and gender
17 differences in credit lines, they appear to mask the
18 size and significance of such differences. Although
19 barriers persist we believe such patterns are even worse
20 when there are no MWB goals in place.

21 The next part of the presentation will focus
22 on why it is important to have utilities file the kinds
23 of reports that they are currently required to file.
24 Research conducted by researchers from the University of

1 California at Berkeley and Harvard University show that
2 efforts to establish responsibility for diversity lead
3 to the broadest increases in diversity.

4 Moreover, organizations that establish
5 responsibility in reporting on their levels of diversity
6 see better effects from diversity training, and
7 evaluation, networking, and mentoring. So having
8 reporting requirements is not only good for letting us
9 assess the state of diversity in companies, it is also
10 good for increasing diversity and increasing the
11 benefits of diversity. Reporting also provides an
12 opportunity to demonstrate a commitment to increasing
13 supplier diversity.

14 Based on the reports that have already been
15 filed, the regulated utilities have made a commitment to
16 a hearing of the Public Act. The reports indicate that
17 the utilities participated in trade shows, conferences,
18 and joined affiliates with minority suppliers. Overall
19 no company set a goal of obtaining minority suppliers
20 above 5 percent and a goal of obtaining women suppliers
21 above 10 percent. However, most companies reported
22 meeting or exceeding their set goals.

23 While these efforts are in step and in the
24 right direction, there are limitations in the reports

1 that should be addressed. Overall these reports are
2 aimed at providing accountability of regulated utilities
3 such that they minimize cost, increase competition, and
4 more importantly they should lead to increases in the
5 use of WMBE suppliers. Overall the utility reports do
6 not provide a transparent explanation of how they
7 determine their supplier goals or how they are going to
8 address the various discussed by WMBEs. The reports
9 also lack demographic information about their client
10 base, overall revenues, their spending patterns, and
11 other quantifiable metrics. The inclusion of these
12 items would make it possible for the examination of
13 whether awarding contracts to WMBE suppliers actually
14 leads to quantifiable metrics discussed earlier.

15 Given that the playing field is not level,
16 what can be done to make things more even? There are
17 several changes in how regulated utilities do business
18 that would help minority businesses achieve procurement
19 from them. Supplier reports suggest that the primary
20 means of increasing supplier diversity involve
21 networking initiatives.

22 However, based on our research the most common
23 change that would help vendors get additional work is
24 the unbundling of large contracts. Clearly regulated

1 utilities can award large contracts that are beyond the
2 reach of most small firms. Such firms are
3 disproportionately owned by women and minorities.
4 Nearly half of minority vendors said that prompt payment
5 of invoices would help them get additional work. Also
6 capital constraints are limiting the ability of minority
7 vendors to take part in procurement. Prompt payment
8 disproportionately assists the undercapitalized vendors,
9 particularly those experiencing restricted access to
10 loans. Slow payment discourages participation by these
11 credit-restrained firms. Nearly four in ten minority
12 vendors stated that a waiver of lowering of bond
13 requirements would help them get additional work. A
14 longer bid lead time would also help almost three in ten
15 minority vendors get additional work. In order to
16 achieve greater supplier diversity in regulating
17 utilities in Illinois we believe that it is necessary to
18 target and redistribute goods and resources to people
19 and businesses who originate from traditionally included
20 disenfranchised or dis privileged groups that have
21 historically been victims of discrimination. Doing so
22 will allow for an expansive notion of diversity and it
23 leads to greater inclusion of minority-owned businesses.
24 There are several other things that will make

1 the realization of supplier diversity in regulated
2 utilities in Illinois more likely. First the Illinois
3 Commerce Commission needs to establish a consistent set
4 of guidelines with performance appraisals that will
5 transparently point out areas of success and areas in
6 need of improvement. This will need to be done in
7 conjunction with the regulated utilities and it may
8 require the assistance of external organizations and
9 consultants. Regulated utilities should develop written
10 supplier diversity policies that clearly define their
11 commitments in measurable and quantifiable ways. Such a
12 metric should be included in the annual performance
13 goals for the utilities and the policy should articulate
14 the rationale supporting the initiative.

15 All levels of management should be held
16 accountable for implementing supplier diversity policies
17 and for making progress towards diversifying those
18 throughout the supplier chain. Because corporate
19 purchasing organizations are involved in driving
20 supplier chain decisions, the supplier diversity program
21 should be linked of the company's procurement
22 department. Consistent with the Illinois House Bill 102
23 we believe the Illinois Commerce Commission should
24 develop a clearinghouse and database of WMBE suppliers

1 that regulated utilities could and should turn to expand
2 their efforts. This clearinghouse and database could be
3 funded by the utilities if necessary.

4 Finally, it is important to demonstrate to
5 organizational members that diversity is institutionally
6 beneficial. In the business world diversity produces
7 positive outcomes over homogeneity because of growth and
8 in the business and may depend on people from various
9 backgrounds working together to capitalize on their
10 differences. I would like to thank you again, thank the
11 Commission for allowing me to testify today. And I can
12 send any of these references that you need.

13 COMMISSIONER MAYE: Thank you very much, Loren.
14 Now that we have heard from each panelist we wanted to
15 have a moment with a liberal discussion. As I mentioned
16 earlier, Illinois does not want to just participate
17 because it seems like the right thing to do; but we want
18 to get involved because we know it's the right thing to
19 do.

20 We are hoping this discussion will allow us to
21 have some words and get some thoughts on how the
22 Illinois Commerce Commission can step in and what role
23 we should take and what role we can take in assisting
24 our utilities in their supplier diversity efforts.

1 Miguel, did you want to ...

2 COMMISSIONER DEL VALLE: We are going to start up
3 with some questions here. If you would like, you can
4 join the group.

5 MS. HENDERSON: I will just stay here.

6 COMMISSIONER DEL VALLE: Okay. Very good.

7 But thank you, thank you all once again for
8 your wonderful presentations. I want to go back to some
9 of the history here. We know that we have had one
10 report filed, the first report as a result of House Bill
11 102; right?

12 MR. JOHNSON: The 2526.

13 COMMISSIONER DEL VALLE: Section 5-115.

14 MR. JOHNSON: Yeah.

15 COMMISSIONER DEL VALLE: And the next report is
16 due February 1st. But back in October Senator Sandoval
17 sent a letter to the Commission, to the Chairman of the
18 Commission and I know that letter copied Beth Doria.
19 It's the October 31st letter. It indicated that -- Now
20 I am just working right off the letter if I may.

21 It says "Further all utility -- all utilities
22 shall submit the rules, regulations, and definitions
23 used for their procurement goals and their annual
24 report." This was a letter indicating that the language

1 in the Section was good, but he wanted to share what he
2 expected from the utilities to include in their report.
3 And he spells out a number of things here. For example,
4 he expects the annual report to include a summary of
5 MWBE purchases or contracts or breakdowns by ethnicity,
6 product, and service categories, an explanation of any
7 circumstances that may have caused the utility fall
8 short of its goals, a list of MBE, WBE complaints
9 received during the past year, a description of any
10 efforts made to recruit MBE, WBE suppliers, and
11 justification for the continued existence of any
12 excluded category of products or services, which has
13 been removed from the procurement dollar base used to
14 set goals because of the established unavailability of
15 MBE suppliers.

16 Then he goes on to say, "It has come to my
17 attention that representatives of the utility companies
18 may have incorrectly interpreted the scope of the law in
19 order to minimize their reporting requirements."

20 Of course, given that feedback, I anticipate
21 that the next report will contain more information than
22 the first report. But I have here a copy of one of the
23 reports. I am not going to mention the utility, but
24 this is it. This is one side and these are the numbers.

1 And in this report the MBE percentage is 1.8 percent.
2 1.8 percent. I don't want to get into a discussion
3 about what is the right percentage because we don't
4 know, but I think it's safe to say that 1.8 is low. 1.8
5 MBE given the huge minority population that we have in
6 the State of Illinois and certainly in the Chicago
7 metropolitan area.

8 So in your opinion, what has transpired?
9 Because one of the responses I saw to the efforts to
10 ensure that the report went beyond what the Section 115
11 says, one of the responses I saw in writing was
12 basically we are complying with what the Section says
13 and that's it. Which of course, in my mind, points to
14 the need of, Representative, your bill, which enhances
15 the current reporting requirement.

16 Just if you could expand on that?

17 MR. JOHNSON: Sure.

18 COMMISSIONER DEL VALLE: And maybe the
19 Representative can also answer that.

20 MR. JOHNSON: Thank you, Member del Valle. So you
21 are referring to a sentence that I will read to sort of
22 provide the context that there was a lot of discussion
23 about. It's a second paragraph of the law. "Each
24 regulated gas and electric utility with at least 100,000

1 customers shall submit the rules, regulations, and
2 definitions used for their procurement goals in their
3 annual report." As that language was drafted, that was
4 in the original bill and survived all the amendments to
5 the Public Act. That was thought of as, you know, an
6 all-encompassing sort of catchall so the utilities can
7 share how do they define an MBE. Is there a cap? What
8 certifications do they use? When you come up with your
9 numbers, what do the regulations use to come up with
10 those numbers? What are the rules that you use? You
11 know, they are a private company. Senator Sandoval is a
12 former procurement official with the federal government.
13 He spent 15 years in procurement with the feds. He is
14 sort of intimately familiar with how procurement works.
15 Knowing what the rules and regulations and definitions
16 used are sheds a whole lot of light into what these
17 numbers actually represent. There was some
18 discussion -- let me make sure I have got my calendar
19 right. The law was signed in August of 2012. The fall
20 of 2012 and the winter of 2012 brought a lot of
21 conversation and discussion about what that phrase
22 meant. You know, there was some talk that, well, maybe
23 a definition is, you know, this is our report. That's
24 how we define it. That's the definition we are using

1 for this report. So there was a feeling that that was
2 an incorrect interpretation of what that sentence in the
3 law means. So I think the first wave of reports. And,
4 you know, it's the first time. I should credit again
5 Commission Staff and utility representatives, who did
6 engage with it, I think, openly and there was some fair
7 discussion. But particularly Commission Staff worked
8 pretty hard on trying to figure out, you know, what that
9 means from the Commission's perspective and what sort of
10 guidance the Commission can provide the utility that is
11 needed to submit this report. For the first go round, I
12 guess, from my personal perspective, I think, you know,
13 it's a quick timeline between -- for government between
14 August and February 1st. So maybe it's fair that it
15 wasn't quite rolled out as aggressively as I think the
16 intent of the legislation probably clearly evinced.
17 Maybe for this coming -- now that there's been more
18 time, I think the, you know, the two-page report can get
19 a lot closer to a 10- or 15-page report to start sharing
20 what certifications do you accept when you say somebody
21 is an MBE or WBE? There is a lot of
22 certification-competing agencies. You know, how do you
23 define -- do you count a supplier as 100 percent or do
24 you count it like the State does, you know, at

1 70 percent or less? So when you say these are the
2 numbers, what exactly do you mean? That's sort of --
3 that was more what the intent of the legislation was, at
4 least from my perspective, as somebody was involved. I
5 can't speak directly for Senator Sandoval, of course.
6 But I can say as former procurement official, he is, you
7 know, intimately familiar about what procurement means
8 and I know he was concerned in the fall that the actual
9 reports may end up being thinner than what he was
10 anticipating receiving. But I will let him at the next
11 opportunity when he is back in town to have a direct
12 conversation on his views on that.

13 COMMISSIONER MAYE: Representative Davis, I want
14 to add something to Commissioner del Valle's question.
15 Perhaps you can expound on this.

16 That letter, actually when I read it, I was
17 quite shocked because the letter was drafted or it was
18 sent out on October 1 of 2012, I believe, which was
19 about two months after the Bill was enacted. And so my
20 first question, I believe, I asked Jonathan, I said, are
21 we sure the utilities saw this? And upon receiving an
22 answer of yes, I was quite shocked because I did review
23 all of the reports that were filed in 2013. And it
24 wasn't clear to me from reading the reports that the

1 utilities were aware of what was expected, you know, to
2 be in the reports. I do understand that was the first
3 reporting requirement cycle. And so we are now going
4 into a new year. Hopefully in two weeks on the new
5 deadline we will see some better reports. But as a
6 member of NARUC's Utility Market Access Committee I have
7 seen reports from all over the nation and have been
8 floored at how phenomenal some of these reports are and
9 seeing what some of these utilities are submitting and
10 just seeing really the level that, I guess, they are
11 taking it. I would just wish that we can take it as
12 seriously as some of the other states because it is
13 clear which states obviously have a lot more supplier
14 diversity initiatives than we do. I was again quite
15 shocked when I looked at the reports for our State.

16 REPRESENTATIVE DAVIS: Well, I am obviously just
17 hearing about the letter. But I can appreciate what
18 Senator Sandoval was doing in terms he was trying to
19 clarify in some respects. You know, sometimes, I guess,
20 one way to look at what Commissioner del Valle said in
21 terms of looking at particular numbers being low, again,
22 you know, that to me presents an opportunity as well.
23 Because if that is truly the number, I guess, in its
24 purest form, you know, we can figure out how to build

1 upon that number. When you ask for information, again,
2 that's why -- From House Bill 102, you know, all the
3 different amendments of it that Dan and I were
4 entertaining because, you know, we want to get to a
5 point where the information that's being provided is the
6 purest information available. Whether we like it or
7 not, it is what it is. But again, where do we go from
8 there? If that -- if 1.8 in that particular category
9 becomes the benchmark; then if that information we
10 receive through disparities studies, whatever the tools
11 are show that there is an opportunity to do more, say,
12 in that particular category, then we are going to put a
13 goal out there that speaks to really what can be
14 accomplished in that area. And we are going to put that
15 goal out there and we are going to push and encourage
16 these companies to do it. As a legislator I am going to
17 do everything I can, which means that I am going to --
18 you know, here are some businesses for you to look at.
19 Here are the complaints you are getting from businesses
20 as was mentioned earlier. I want to cover the complete
21 spectrum of whatever information is needed or can be
22 obtained to make sure that, you know, we are get to go,
23 you know, a point where, you know, the opportunities are
24 there and that people have the ability to go after the

1 opportunities. Now, if they choose not to, that's
2 obviously their choice. But let's not make it so that
3 they can't get to where they are trying to go if it is
4 indeed their desire.

5 When we talk about legislation we have to talk
6 about training wheels, as Commissioner del Valle and
7 Commissioner Scott will understand. Trailer bills are
8 how we try something and maybe it didn't quite get to
9 where we wanted to or wasn't quite defined appropriately
10 so we subsequently do other things so that we can, you
11 know, really get to where we are trying to go. So
12 whether that's through a legislative act or an act of
13 the Commission, you know, clearly, you know, we want
14 companies to do better than what Commissioner del Valle
15 just said. We definitely want that. And the question
16 is, how do we get there? And it encourages that
17 participation from the government side as well as the
18 private sector side. Hopefully they walk in the door
19 recognizing that we are not doing very well. That's
20 important for them to recognize if they are not doing
21 very well because that now creates, we want to do
22 better. If nothing else, we don't want to be put in
23 front of someone and have this put in front of us that
24 we are not doing good. We want to be proactive and make

1 sure we are doing everything possible; and as the
2 reporting opportunities come, that you see those numbers
3 going up.

4 COMMISSIONER DEL VALLE: So Representative Davis,
5 I agree with you wholeheartedly. But in looking at
6 Section 5-115 and then comparing it to House Bill 3635,
7 that's the Bill that was filed in May, that Bill
8 contains the very last language that you worked on?

9 REPRESENTATIVE DAVIS: That's where we are at this
10 point.

11 COMMISSIONER DEL VALLE: So in looking at that
12 Bill, that House Bill 3635 does address a number of the
13 issues that were raised in the letter. It's not
14 identical but it does address one of the issues. For
15 example, asking for a list of the certifications the
16 company recognizes, explanation of the challenges faced
17 in finding quality members, and offering any suggestions
18 for what the Commission could do to be helpful to
19 identify those vendors, an outline of the plan to alert
20 and encourage potential vendors in the area to seek
21 business from the company, an explanation of the plan
22 for the next year to increase participation. And this
23 is for the annual report. These are required items. So
24 if this is enacted, it would be impossible to cover that

1 with one page.

2 REPRESENTATIVE DAVIS: I'm sure.

3 COMMISSIONER DEL VALLE: So my question is -- and
4 for Dan also because I know you worked with the
5 Representative, what is the status of this Bill and was
6 this language negotiated with the utilities? Because I
7 know this Bill includes telecommunications and it
8 includes water. So it does increase a number of folks
9 who were asked to report.

10 REPRESENTATIVE DAVIS: Well, again, thank you for
11 acknowledging the Bill. It is -- we are still --
12 Honestly, I will say we are still negotiating. Again,
13 our objective all along was not to be punitive in any
14 way, but to continue to encourage the dialogue and
15 encourage the participation from all sectors. So
16 whether or not this is the completely finished product,
17 I couldn't say for sure at this point. But certainly
18 this represents conversations in Springfield over the
19 summer. Unfortunately as the fall came around, we
20 weren't able to have -- we were trying to have another
21 conference call, which we have yet to have. Every time
22 we put something out there we wanted make sure the
23 companies had a opportunity to vet it, to take it to all
24 the entities, the departments that would otherwise have

1 something to do with this, and come back with their
2 suggestions and their concerns.

3 Honestly, Commissioner, a few of the companies
4 have said they are okay with this. Some have yet to say
5 they are okay with it, but quite a few have said they
6 are okay with this. Again, they understand what we are
7 trying to say. As I look out in the audience here, you
8 know, and see the diversity of people who are
9 representing these companies, they clearly understand
10 what we are attempting to do and where we want to go
11 with this. They are working very hard to try to get us
12 a product or work with us to get to a product that
13 everyone can embrace and that helps us accomplish, you
14 know, the goals we have set forth.

15 COMMISSIONER DEL VALLE: Representative, I want to
16 commend you. I think -- Well, I think you are an
17 excellent State Representative and I have said that to
18 you before in dealing with you on other issues. But
19 it's obvious here that you wanted to build on what you
20 did before.

21 REPRESENTATIVE DAVIS: Of course.

22 COMMISSIONER DEL VALLE: And improve. So I am
23 very, really pleased to hear you say there are some
24 utilities who have agreed.

1 REPRESENTATIVE DAVIS: Absolutely.

2 COMMISSIONER DEL VALLE: To the language in this
3 Bill because it really ensures that the quality of the
4 reporting will increase dramatically. I commend you for
5 that.

6 REPRESENTATIVE DAVIS: Thank you very much,
7 Commissioner. I will say that is our intent. The
8 reporting will indeed improve. Once this will be passed
9 and signed into law, what that first report looks like,
10 we will all be interested to see. And then we will
11 figure out where to go from there. As Beth has already
12 done, let me thank Executive Director Feipel. He has
13 truly, truly been a tremendous asset to us in this
14 process. I don't have to tell you exactly how smart he
15 is and what he brings to the table in this conversation,
16 but he's been very encouraging in terms of trying to
17 help us to get to where we are trying to go and I really
18 appreciate his efforts in this as well.

19 COMMISSIONER COLGAN: I appreciate this
20 discussion. And I think, you know, we are bringing
21 together here a body, which is basically quasi judicial
22 in terms of our task is mainly to enforce laws that are
23 established through a process of stakeholders who want
24 certain things and there is other people who resist that

1 and there is a lot of back and forth there. And I
2 understand that legislation process and I know that it
3 takes time for issues like this to evolve. And I'm
4 assuming that we have on one end a California model,
5 which is pretty mature. And on the other end we have
6 the Illinois model, which is very, very new. And I
7 understand the legislation process where you want
8 something, but to get that you have to negotiate with
9 the stakeholders. If you want that to pass out of the
10 General Assembly you have to have certain people on
11 board with that process. I am familiar with that.

12 I know that that change doesn't just come out
13 of the clear blue. I mean, you can't just pull the
14 California model down and put it out there and say we
15 want a mature process and we want it now. It's
16 incremental. It takes time. So my understanding is
17 that we have a firm step and it might not be what some
18 people wanted and I'm sure there is going to be a
19 resistance to maturing that model as it's developed
20 further.

21 But, I guess, I have a question in terms of I
22 heard mention of General Order 156 out of California.
23 Is that a Public Utility Commission Order or is that a
24 sta- -- you know, I'm sure there is a statute in place

1 that has been amended over time. And so General Order
2 156, what is that?

3 MR. JOHNSON: Sure. It's a great question,
4 Commissioner. It was an action of the Public Utility
5 Commission. So 15 years ago or so the Chairman and the
6 Members of the Board just decided they were going to
7 issue on their own authority under the general statutory
8 authority what became General Order 156. So there
9 hasn't been an authorizing statute to specifically
10 empower or direct or authorize the California Public
11 Utilities Commission to implement their supplier
12 diversity program. They really took the lead and did it
13 on their own accord under their regular existing
14 statutory authority to do so. But there was no
15 legislation initiative to direct them to do that.

16 COMMISSIONER COLGAN: Okay. So they -- In this
17 case here in Illinois we have a general statute and I
18 think the requirement that we have in the statute is to
19 file reports on our website.

20 MR. JOHNSON: Yes.

21 COMMISSIONER COLGAN: And so what you are saying
22 is the California Commission took on a proactive role.
23 They went beyond the quasi judicial function so much as
24 I outlined just a little bit ago, but more stepped out

1 in front in terms of a quasi legislation role and
2 defined what they thought would be appropriate. And so
3 there is -- The General Assembly, there was no pushback
4 from the General Assembly on that or are you familiar
5 with how that process went?

6 MR. JOHNSON: You know, I asked a similar
7 question, you know, from Illinois. They -- I should
8 start by saying some of the folks in California I have
9 connected with some of the Staff of the Commissioners so
10 you can hear the story from them hopefully at a later
11 date. My impression is the California General Assembly,
12 that there wasn't any sort of attempt to repeal their
13 authority. There wasn't a lot of pushback and that it's
14 really been sort of a Public Utility Commission-led
15 effort including sort of a renewal and an expansion of
16 their reporting five, six years ago or so without a lot
17 of resistance either. You know, the stories they sort
18 of told of the early days were for the establishing the
19 Beachhead when they were really the only State of the
20 union to do anything like that. And that a decade in or
21 so, they had built enough consensus with their
22 stakeholders that they could expand the program and
23 build on their success. But there hadn't been -- there
24 was a State Senator who was sort of involved, sort of

1 one of the sort of -- she was sort of the patron saint
2 of the program, but it wasn't through a legislative
3 initiative. It was sorts of the stakeholders who cared
4 about it happened to be on the PUC at the time.

5 COMMISSIONER COLGAN: Well, we appreciate
6 California because we learn a lot how do things and
7 sometimes how not to do things from California. But
8 that informs the process and we move forward.

9 So, you know, between California and Illinois,
10 are there in between? I mean, are there states that
11 are in the midst of a process that is bringing it one
12 way or the other or are you aware?

13 MR. JOHNSON: I wouldn't say we're -- I wouldn't
14 put us at one edge, you know, just a state like Indiana
15 perhaps or a state like, you know, North Dakota where
16 there is absolutely nothing, I would put us in the
17 middle already. Particularly given the initiative of
18 the Commission to take a hard look at the new program
19 and to engage with some of the nuances of this, I would
20 say I am not aware of another State Commission, who is
21 actively looking at this issue as aggressively as the
22 Commission is starting today. So I give Illinois and
23 the Commission a bit more credit perhaps than putting it
24 at one end of the spectrum. I am aware that Maryland is

1 somewhere in the middle. I am tad fuzzy on the specific
2 details, but my impression is that it is a not -- it is
3 the equivalent of their Public Utilities Commission had
4 made an attempt and they have an understanding and
5 agreement that utilities will participate with reports,
6 but it doesn't rise to the same level as General Order
7 156, which is sort of, I think, the strongest State
8 level regulatory regime in the country. Maryland is
9 sort of out there, and I would put us in the middle now
10 that something exists.

11 COMMISSIONER COLGAN: I think just in that regard
12 that --

13 And, Representative, I think -- I'm really
14 glad to see a member of the General Assembly here
15 because I think it's important for the General Assembly
16 and I know you have talked quite a few times about our
17 Executive Director Jonathan Feipel working with the
18 General Assembly. Because I think that's how it works,
19 you know. If the Illinois Commerce Commission wants to
20 jump out in front of this and take control of it and do
21 something, you know, like Order 156 without having some
22 sort of coordination with the General Assembly, which,
23 you know, clearly has the statutory authority to create
24 legislative policy in Illinois, I think it's important

1 for us to discuss and work closely together as we move
2 forward down the road.

3 MR. JOHNSON: If I may, Commissioner, I just
4 wanted to acknowledge, you know, Director Feipel as well
5 has been an exceptionally helpful resource but
6 particularly helpful in that would provide language when
7 asked and was always exceptionally differential to
8 Senator Sandoval and particularly Representative Davis.
9 To say if we can be a resource, we are happy to be one;
10 but was always extremely differential that wasn't sort
11 of pushing his ideas or an agenda or trying to sort of
12 force his will or anything, but he was extremely helpful
13 and differential in that way. So again I know it was
14 appreciated.

15 COMMISSIONER COLGAN: Thank you.

16 MR. JOHNSON: Thank you.

17 CHAIRMAN SCOTT: Thank you very much, everybody,
18 for being here today and working on this issue. I know
19 we have had a chance to talk about it in the past, Dan
20 and Representative Davis, I appreciate it as well as
21 Ms. Doria and Professor Henderson.

22 I want to ask Dan and Representative Davis a
23 couple of things about the two different bills just so I
24 have a better handle on -- actually three different

1 bills now so I have a better handle on kind of the
2 devolution of where this is coming from and where it is
3 now. But then I want to ask a couple of questions, if I
4 may, of both Ms. Doria and Professor Henderson as well
5 as it pertains to this.

6 So when the original 102 got filed so that was
7 almost right after the 2526 had been signed and taken
8 effect and was before the first reports came in.

9 MR. JOHNSON: Mm-hmm.

10 CHAIRMAN SCOTT: So the purpose obviously in 102
11 pretty closely mirrors California's statute right down
12 to the --

13 MR. JOHNSON: Right.

14 CHAIRMAN SCOTT: -- letter almost. I realize
15 there are some things that don't necessarily work
16 between the two states in terms of how we define things
17 and all that. So there was some changes from the
18 original 102 that needed to be made based on that, is
19 that a fair statement?

20 MR. JOHNSON: That's accurate, yes.

21 CHAIRMAN SCOTT: But beyond that, you know, there
22 is a lot in 102 that has dropped out. And I certainly
23 understand and appreciate the legislative process as
24 everybody has talked about. But the original purpose

1 for introducing 102, are both of you satisfied that they
2 are still -- I realize that it's important to get things
3 out of the legislative process. And so the latest 102
4 or 3635 that, you know, represents more than what was in
5 2526. Again, bog down these numbers. But are the
6 original purposes of why 102 got introduced, are those
7 still present or have some of those things you think
8 would be really important? I don't want to put you in a
9 bad spot because I realize there is a give and take.
10 But are the purposes for introducing them in the first
11 place still there?

12 REPRESENTATIVE DAVIS: Overall intent still is.
13 Again, as I looked at the progress from 2526 to where we
14 are now, you know, it was actually asking them to issue
15 a report in the category. Now we are moving toward,
16 well, instead of just issuing a report, let's talk about
17 the goals. What is achievable in respect to what goals
18 are? Again, you saw how 102 evolved. It was just the
19 back and forth dialogue with the utility companies.
20 Those that agreed to participate with us or wanted to
21 participate with us and trying to again come up with at
22 the very least something that was palatable. I think
23 the overall intent is. Because again if we look at
24 California kind of being the standard bearer in this

1 respect, sometimes you can't get to the -- you can't get
2 there in the first try, so to speak.

3 CHAIRMAN SCOTT: Sure.

4 REPRESENTATIVE DAVIS: It's going to take some
5 time. I think even to the extent in which, you know, if
6 we are successful in passing some version of this and we
7 start that process, you know, maybe it just takes the
8 participating utility company to say, oh, I guess this
9 really isn't that bad. Then we move a little further.
10 We take another step or another couple of steps, if you
11 will, towards possibly getting to, say, a complete House
12 Bill 102. But it may just take a little time to do so.
13 But I think -- and I don't know if Dan would agree, but
14 I think our intent is still there. You know, but now we
15 are just trying to figure out the nuances of trying to
16 move something. Then we will figure out once we are
17 able to where we go from there.

18 MR. JOHNSON: I would echo Representative Davis's
19 comments. I think if it was one member of the General
20 Assembly, I think, Representative Davis would be
21 delighted to pass HB 102 as is and Senator Sandoval
22 would be delighted.

23 CHAIRMAN SCOTT: We are working on that. We just
24 haven't gotten there yet.

1 MR. JOHNSON: It's going to be on the ballot, I
2 hear. I think Representative Davis's direction has been
3 very clear that he is setting an ambitious course but
4 looking for an agreement particularly expanding the
5 industries that are covered.

6 CHAIRMAN SCOTT: Right.

7 MR. JOHNSON: That's been part of the challenge is
8 industries that currently aren't reporting are having a
9 longer time sort of coming to terms with an agreed Bill.

10 CHAIRMAN SCOTT: So if the first Public Act 2526
11 had passed was more about baselining as somebody
12 mentioned earlier in trying to figure out where we are
13 at through the reports. Fair to say now that the Bill
14 that we have got in front of us, the latest edition of
15 it in terms of adding reporters, the clearinghouse
16 concept that's there, and strengthening the definition
17 so that we take away maybe of the ambiguity that was
18 there, is that fair to say what the improvements are of
19 this Bill building on the last one or am I missing
20 something?

21 MR. JOHNSON: Yeah.

22 REPRESENTATIVE DAVIS: Yeah, absolutely, Chairman.
23 I would agree with that.

24 CHAIRMAN SCOTT: Thanks for that. I appreciate

1 that.

2 Let me ask Ms. Doria and Professor Henderson a
3 couple things, if I can.

4 COMMISSIONER MAYE: Of course you can.

5 CHAIRMAN SCOTT: Thanks.

6 Obviously as a business owner yourself or
7 running a business in addition to the association work
8 you do, where do you see the gaps in this, specifically
9 as we talk about utilities, where do you see -- not
10 talking about any particular utility, but just in
11 general where do you see some of the gaps are that maybe
12 shedding some light through these bills could help to
13 alleviate.

14 MS. DORIA: Recognizing again that utility
15 companies are somewhat unique in what it is they would
16 require of vendors, I think that probably the biggest
17 perhaps misconception, I think, might be in the men at
18 that time that there aren't capable vendors out there
19 that have the capacity to do the work. So that
20 certainly is one thing that I think this reporting will
21 help us identify. And certainly the areas
22 geographically where that is happening as well. That
23 was a very important aspect of what we were trying to
24 get at was, you know, really where are we missing good

1 qualified vendors to be able to do some of this work?

2 As far as other gaps go, I would have to think
3 that, you know, again, it's tough within the utility
4 arena for companies who have generally not worked in
5 that arena before or at least haven't had an
6 opportunity. Let's just -- I will just take an
7 electrician as a good example. You know, perhaps they
8 have done a lot of different private work as well as
9 public construction. But they just haven't been able to
10 break through to do any type of -- to get any work with
11 any utility companies. And that, I think, is probably
12 the biggest barrier and one that I hope that, you know,
13 we are able to address through this reporting.

14 CHAIRMAN SCOTT: A couple of things anecdotally I
15 heard and they showed Professor Henderson's slides were
16 the kind of things that get mentioned to us a lot and
17 they are really not that much different than what you
18 hear in other procurement -- I used to work for a
19 municipality. We did a lot of procurement there too. I
20 am really hearing here again, but it's probably even
21 amplified because of the nature of the utility work.
22 But the size of the procurements that are involved and
23 maybe a lot of contractors can't meet some of these
24 requirements to do all of the work that's there, the

1 bundling or unbundling as it was phrased earlier. And
2 then the long-term relationship issues because we are
3 talking about private entities getting contracts for the
4 public side who have been doing procurements for years
5 and years. But are those two -- I mean, you hear those
6 anecdotally. I am curious of your experience here in
7 Illinois, are those two issues that especially in the
8 utility sector, is that something that's --

9 MS. DORIA: Absolutely. You know, everyone likes
10 when they have a relationship with someone. You know,
11 you have a comfort level obviously that, you know, if
12 there is something wrong you are able to pick up the
13 phone and contact that person and get it fixed. When
14 you bring in a new contractor you don't know what that
15 relationship is going to be so there is some hesitancy
16 to kind of break out of your comfort level and, you
17 know, and try someone new. But I hear that all of the
18 time. And that's a difficult one to, you know, to
19 really overcome when you don't have a commitment from
20 the top on down.

21 Again, you know, Commissioner del Valle, when
22 you talk about 1.8 participation rate, one of the things
23 probably the biggest advantage to the reporting is that
24 it is going to shed some light on it. And, you know,

1 echoing Representative Davis, we don't want it to be a
2 punitive process; but I think for the utility companies
3 as well when they start seeing what others are doing,
4 then they are liable to say or talk amongst themselves.
5 Well, you are doing so well. What is it you are doing
6 and we are not doing and what can we do? The Nicor Gas
7 outreach event that happened was great and at the event
8 I told Representative Davis, I said, if this was the
9 only thing that came out of this, it's a good thing.
10 Because at least, you know, it got them very -- thinking
11 about it. We need to do more. Make them take a little
12 proactive stance on it and looking at how they can
13 better improve the process. That's really all we are
14 trying to do. Let's improve the process. Let's make it
15 more competitive for them. The companies will see a
16 much greater benefit as the data bore out that, that one
17 of the things about hiring minority companies that
18 those -- there is a trickle-down effect. Minority
19 companies tend to hire other minorities. So it's not
20 just your first -- it's not just your first hit. It's
21 not just the first company or the subcontractor that you
22 are hiring. It's all of the people that go on down the
23 line.

24 One of the other things that you will

1 generally hear anecdotally -- and I participated in a
2 number of disparity studies. The other thing that we
3 hear from the prime contractors is it always costs us
4 more to do business with minority contractors. There is
5 a little truth in that smaller companies, we do not get
6 the benefit of the, say, the discounts that a lot of the
7 large companies get. Walsh Construction can pretty much
8 call up any vendor that they have and they get a much,
9 much reduced rate on anything that they purchase. In
10 addition, they are -- you know, any type of bonding --
11 Let's talk about the bonding because that really is a
12 huge issue. The bonding rate that they get is
13 significantly less than any bonding rate that even
14 well-established women- or minority-owned companies get.
15 The bulk of my members, the women contractors, the
16 average time in business is 25 years or more. So these
17 women have been around for a long time,
18 well-established, very solid business people, have been
19 able to ride those ups and downs of the construction
20 industry. They still have a hard time getting a good
21 bonding rate. So if somebody could explain that to me,
22 I would be more than happy to listen to it.

23 But that is another issue that I think, you
24 know, perhaps when they talk about it costing more,

1 well, that has to be reflected in their bid. On top of
2 that, let's go to the slow pay because the contractors,
3 like the prime contractors, the smaller contractors or
4 smaller prime contractors, they are still required to
5 pay all their labor. They are still required to pay
6 their suppliers. They are still required to make their
7 IRS payments as well as their union dues payments. And
8 when you are left out without getting paid on a job for
9 significantly longer periods of time, sometimes in some
10 cases it can go out to 120 days or greater, that, you
11 know, that makes it much tougher for those companies to
12 be able to survive where, you know, larger companies are
13 able to kind of spread their costs out and do some
14 creative financing.

15 CHAIRMAN SCOTT: Professor, kind of the same
16 question to you and then add a little bit to it. Is
17 there anything inherently different about utilities you
18 see as opposed to the same procurement issues whether
19 it's in construction or other things that you are maybe
20 more familiar with?

21 MS. HENDERSON: Well, when Dr. Cedric Herring and
22 I did our research with the minority, women businesses
23 in Chicago these were the kinds of issues that they
24 brought up in terms of unbundling, bond rates, getting

1 payments on time. I don't really think that those are
2 necessarily the utility's problem in a certain way that
3 they have to deal with it legally. Like you said, they
4 want to go to people -- companies that they are most
5 comfortable with. They want the best price. But I
6 think if we can convince companies that through the
7 reporting that they could see that in the end they
8 really will benefit from having an diverse supplier base
9 because they will be able to get some more competitive
10 rates if they can do some of those things like
11 implementing the unbundling or even waiving some of the
12 requirements that some of the companies talked about. I
13 think it's there that the commitment will be shown. So
14 a lot of the commitment, I think, has been in the
15 networking, which is about bringing the suppliers to the
16 utilities. Let's meet up.

17 But it's not that the suppliers don't know
18 that the utilities exist, right? They do know that.
19 And they want to participate, but they cannot no matter
20 how much they network, navigate these barriers that keep
21 them out. And so by just investing in networking, I
22 don't think -- I think that's where a big gap is that a
23 lot of the investment. And if you look at the
24 reporting, which is great, most of the companies said

1 that they invest a lot in joining organizations and
2 doing a lot of networking and meeting with interested
3 companies. But there was one particular utility that
4 reported. But the suppliers have these barriers and
5 it's not our job to deal with it. So I think that we
6 have to figure out a way. Maybe that's where the
7 Commission can come in is to help the companies to see
8 the benefit in the end of what unbundling these large
9 contracts and making it more possible to navigate some
10 of these barriers or even putting in -- putting in place
11 just not just networking but people who can actually
12 help the companies to navigate some of the things. So
13 if there is an upcoming contract they know is coming
14 out, they can work with companies to getting in place
15 all the paperwork because a lot of the companies are
16 very small so they are working. They don't have a lot
17 of time for --

18 I'm sure you can testify to that.

19 So I think some of that more investment is
20 there instead of just the large investment in the
21 networking.

22 REPRESENTATIVE DAVIS: I just want to add some of
23 the irony in what I'm hearing and it's great when she is
24 talking about unbundling and trying to figure out how to

1 help smaller entities. The State government is
2 generally looked as this huge behemoth that takes a long
3 time to turn. The irony is that particularly in road
4 construction, you know, we are pushing in State
5 government unbundling contracts. We have recently
6 passed a piece of legislation, myself and Senator Hunter
7 passed a revolving loan Bill for companies who want to
8 work with IDOT where they can get access to some
9 resources to help some of their upfront costs and it's
10 paid back as the contract is paid out. So the irony is
11 that where you expect the private sector to be
12 innovative and to have the flexibility to do a lot of
13 things, State government is in this case leading the way
14 in doing some of these things. Hopefully some of the
15 examples we have put forward the private sector will be
16 able to look and say, well, State government can do it.
17 Obviously we must be able to do it as well.

18 CHAIRMAN SCOTT: Dan?

19 MR. JOHNSON: Thank you, Mr. Chairman. Just one
20 quick follow-up. On the bonding front, we have been
21 trying to tackle that on the State government side as
22 well. It's worth looking into. The performance bond
23 requirement, which is essentially requiring a contractor
24 to buy insurance at a higher rate if you are small,

1 cheap if you are big that if you default or go bankrupt
2 there will be money for the State, the customer, to
3 cover the cost of this thing if it goes south. Well,
4 taxpayers pay for it ultimately because it's built into
5 the cost of the contract. And so we wanted to see --
6 We asked IDOT, well, we are buying this insurance.
7 Anybody cashing out? What is the rate of default? It's
8 next to nothing. I think, it was one or two over six or
9 seven years. And so we are simply buying very expensive
10 insurance that we never cash out because contractors
11 just don't -- they don't go bankrupt. They do the job,
12 right? So similarly on the -- on the regulated utility
13 side it's worth thinking about when utilities impose
14 this expensive insurance on their vendors that's
15 ultimately passed to the ratepayers and this insurance
16 that we require vendors to buy, there is never any
17 real -- there is no real instances where the vendor goes
18 belly up. And so the insurance company pays out or
19 the surety pays out. It's worth taking a very hard look
20 from the ratepayer perspective as to whether utilities
21 ought to be imposing these bonding requirements on
22 their vendors because they are buying an expensive
23 financial product and we're not getting much of a return
24 for it.

1 CHAIRMAN SCOTT: That's an interesting point. And
2 depending on the type of work that's involved too.

3 MR. JOHNSON: Yeah.

4 CHAIRMAN SCOTT: You get safety and reliability
5 issues, which, you know, obviously come before us all
6 the time that we have to necessarily pay attention to.
7 So obviously that's -- it's a balancing act with
8 everything else, but I appreciate the point that you
9 have made.

10 MR. JOHNSON: Thank you.

11 CHAIRMAN SCOTT: Let me just ask too because it
12 goes what we have been discussing the last couple of
13 minutes. I know it was State government and I
14 appreciate what you said, Representative Davis, about
15 the steps that the states have done and lot of other
16 units of government have been doing the same thing
17 because they are trying to achieve similar goals. I
18 know the State also has resources to not just
19 monitor resources, but to help businesses navigate the
20 paperwork and other things that are out there. Are
21 there any utility -- This is a question obviously we
22 will raise with them. But are there any utilities that
23 you know of that have that kind of program? I was at
24 similar event the one you described Nicor did with

1 Ameren in St. Louis where they -- very similar kind of
2 things. Here is the kind of work we have got coming up.
3 Here is the kind of contracting we are going to need to
4 do. Here is people who can talk with you. It's a nice
5 process from that standpoint. But are there people that
6 you know of within the companies are dedicated to kind
7 of helping perhaps some of the minority and small
8 businesses get through some of these hurdles that are
9 out there?

10 REPRESENTATIVE DAVIS: I can't say that I am. I
11 think based on their own particular knowledge and
12 expertise and knowing what it takes in order to do
13 business with them, they probably have the information
14 to refer. You know, you need to get certified this way
15 or that way so here is some people you can talk to. We
16 tried to be proactive with our event with Nicor to try
17 to bring some of that information out to individuals
18 where we even had a company that did some a venture
19 capital work as well. You know, just trying to provide
20 those kinds of resources. But I can't say with any
21 degree of certainty that that is within the companies we
22 are talking about necessarily. But certainly I am sure
23 when they are approached by vendors who want to do
24 business with them and they ask that question, you know,

1 are you? And if not, here is where you can go to.

2 MR. JOHNSON: I think every company that, you
3 know, we were working with, they all had a supplier
4 diversity contact that they sort of ran the language up
5 to. We got to talk directly to some of them and get
6 some feedback. I think one of the things that came
7 out of the latest version is, it would be nice if there
8 was one database where any vendor could see any contact
9 and all the companies lined up. That doesn't really
10 exist. So I think every company in the regulated space
11 has a supplier diversity or diversity person or
12 department. We were just hoping to try to make it a
13 little bit easier for new vendors to access who those
14 folks are.

15 CHAIRMAN SCOTT: Thank you very much. Appreciate
16 all your time and your answers and being here.

17 COMMISSIONER MAYE: Thank you, Chairman. I wanted
18 express a consistent sentiment. Obviously Executive
19 Director Feipel has been very involved in this process,
20 but I wanted to allow him the opportunity speak and talk
21 about the Commission's involvement in any future steps.
22 Did you want to do that?

23 EXECUTIVE DIRECTOR FEIPEL: Sure. Thank you much.
24 I think just the overall as far as how we got here

1 today, we have heard lots and lots about all the
2 different processes and evolution to this. Clearly it
3 started a year ago with working with the utilities,
4 working with the energy associations that come with the
5 reports that got filed last year. We have been working
6 again with the same groups, utilities, energy
7 associations to beef up the reports. We definitely have
8 the benefit of the fantastic process that went on last
9 year that gave some more inclusion that we could push to
10 say look at this place to find good information to again
11 flush out those reports that are due here next week.

12 So we will see. I think that's been our
13 role so far as to work with what we have got and of
14 course to support any questions or support the meeting
15 to do so.

16 COMMISSIONER MAYE: Since Executive
17 Director Feipel has now spoken, I want to know from each
18 you if -- and I know you, Professor Henderson, you
19 briefly mentioned it -- but exactly what the
20 Commission's next steps, recommendations for the
21 Commission's next steps in this process. I know you
22 mentioned, Professor Henderson, allowing or getting the
23 companies to see the value in diversity. But
24 specifically what is it that you are advising our role

1 to be in this process, particularly the implementation
2 of the proposed Bill?

3 MS. HENDERSON: Well, again, so establishing a
4 database that all the regulated utilities can access at
5 one time and a way to allow new vendors to maybe even
6 upload or to state that they have their certifications
7 are up to date or something like that where -- and then
8 accountability, right? A part of this is about
9 accountability. It's hard to say that because we don't
10 want to be punitive. We want to be using positive
11 reinforcement, but this is about making sure that
12 companies see the value in accessing supplier diversity
13 along with accountability. And so expanding the
14 reports, I think, are important in putting in as much
15 detailed information as possible. I thought the
16 California report was really a good model and maybe to
17 use that as a model someone can go through and highlight
18 the most important things that should be there. So I
19 think that's fairly easy for companies to do.

20 Also I do think that the companies should look
21 at whether the supplier diversity does make a
22 difference. I think it's important to have empirical
23 evidence that demonstrates that, right, especially if we
24 are moving beyond just the moral case but we want to go

1 for the business case and we can't do that without
2 having data. So the regulated utilities should be
3 committed to providing the best, the most accurate
4 up-to-date information in their reports that allow for
5 tracking. So that's what I would suggest.

6 COMMISSIONER MAYE: Thank you.

7 REPRESENTATIVE DAVIS: I obviously certainly
8 agree. And I guess because I have not -- other than
9 speaking to Director Feipel -- obviously not having this
10 conversation with the Commissioners, one of the comments
11 came up when we were walking through this process last
12 year was whether or not the Commission was actually the
13 best place for this information to be versus maybe one
14 of the other State agencies, if you will. For me, you
15 know, I thought naturally just because of the nexus
16 between regulating utilities and the ICC that it was
17 appropriate to have the information here. But I think
18 walking away from this conversation, I believe that the
19 Commission would like to have this information, you
20 know, at your disposal, you know, and that those reports
21 be filed with the Commission and this is actually the
22 best place for them to be. And what it requires is that
23 it requires that people understand that the reports are
24 just the reports. They allow us to talk about, you

1 know, some aspect of the work that's done or lack
2 thereof, if you will. And that they are not to be used
3 outside of just for what they are for, reporting
4 numbers. While the Commission has a broader role as it
5 relates to dealing with these entities we are talking
6 about, that's something different in terms of how you
7 deal with their rates and all those other things with
8 them. But this information is just about looking at how
9 they do business and are there opportunities for them to
10 do business in more diverse areas or do more business in
11 more diverse areas? And that's it. So I am very
12 comfortable with this information being housed here with
13 the Commission and certainly that this is where indeed
14 this information should be.

15 MR. JOHNSON: Thank you, Commissioner. I would
16 suggest, you know, my personal view is that, you know, I
17 think the initiative, Commissioners, to take a day and
18 look into it. It is admirable and I would encourage to
19 you do so. I think given your existing statutory
20 authority, I think in your independent judgment to the
21 extent that you find the reports lacking and your
22 interpretation of the existing language doesn't match up
23 with what your independent judgment as to what those
24 reports ought to be, I would encourage you to exercise

1 whatever judgment you find appropriate and providing
2 whatever guidance under whatever authority you currently
3 have under existing statute to the regulated industries
4 to do what you may consider to be a more, you know, more
5 compliant job.

6 There is no prohibition on other industries
7 voluntarily participating. And I think to the extent,
8 you know, you can say that you would be happy to welcome
9 other reports from entities that aren't required under
10 existing law to submit those in other industries, I
11 would encourage you to consider whether that's a
12 position the Commission might want to take. But I think
13 particularly, you know, having an opportunity where the
14 regulated utilities, both those that are under reporting
15 obligations and those that aren't to have a chance to
16 come before you in a, you know, not a sort of formal
17 hearing but something like this to flush out the issues
18 and to talk about as, you know, the legislation calls
19 for to have an annual workshop to say let's let the
20 companies come and talk about what they are facing, what
21 their goals are, whether they are legally required to or
22 not. And have an opportunity for the advocates to
23 participate as well, I think, would be extraordinarily
24 helpful in providing that collaborative value-added

1 venue. I can't think of another entity off the top of
2 my head that's more appropriate to convene those
3 stakeholders and drive that conversation. So I would
4 encourage you to continue to look at your existing
5 statutory authority and drive this conversation in
6 forming some new policies and practices.

7 REPRESENTATIVE DAVIS: May I add one thing? In
8 terms of the role of the Commission as the professor
9 indicated, she indicated in one of her earlier slides
10 that some people felt that by doing business with, say,
11 smaller businesses that there are increased costs to
12 this. Now, this may be where I am a little bit naive in
13 terms of the role of the Commission as it relates to
14 regulating utilities. But I often hear that costs or if
15 there are increased costs, those costs will be passed
16 down to the consumers. I think -- What I think the
17 Commission has to be willing to embrace, if I could say
18 it that way, is that if we are talking about doing
19 business with small businesses and if there is indeed
20 increased cost associated with that, is that an
21 acceptable cost as it relates to passing it down to the
22 consumer if that's the way it has to be paid for? Maybe
23 there are other ways in which it can be paid for. But I
24 have heard on more than one occasion that when we do do

1 business with small businesses, that other cog in the
2 wheel, that's an added one cent, two cents to our
3 overall cost. And that's going to be passed down to the
4 consumer. And the ICC is going to slap our hands for
5 doing that. I have heard that on several occasions. So
6 whether or not there are increased costs or as the
7 professor indicated that on the back end that there are
8 benefits to doing business with small businesses, maybe
9 that's something on the front end of this conversation
10 the Commission can state having either studied or
11 whatever the case may be to say that it's okay to do
12 business with small businesses. That may be a way to
13 kind of open this up a little bit versus there is always
14 the fear -- at least maybe perceived fear that if we do
15 that business and that increased costs if there are any
16 that come along with, we would have to pass those down.
17 That's not what the Commission wants us to do in terms
18 of passing increased costs down to the consumers. So
19 maybe on the front end of this, you know, to look at
20 this cost issue in a serious way and really find out if
21 that's how it actually works. I say that from my
22 perspective because I don't obviously deal exactly with
23 this the way you deal with it. But is that really how
24 it works? Or is that just smoke and mirrors, as they

1 say.

2 COMMISSIONER COLGAN: I think it can work in a lot
3 of different ways, but part of our requirement is low
4 cost, least cost service. And in the Public Utility Act
5 it doesn't say we are supposed to be doing economic
6 development or development of small business. And, you
7 know, if -- And there's been testimony here today that
8 people do things when they are required to do them. And
9 so if the Commission is required to do certain things,
10 the Commission will do certain things. But then I'm
11 really glad you brought up the issue of cost because
12 then it becomes an issue of how do you reconstruct or
13 reconfigure your staff, reassign people to do different
14 issues, and maybe the need for resources to bring people
15 in who have that kind of expertise, which may not be
16 present in the current staff. So those are all -- this
17 is very much a partnership that needs to be worked
18 through with all the stakeholders that are involved in
19 the process. Because usually when it comes to adding on
20 any kind of new sort of way of doing business, there is
21 usually some cost involved there. It's really important
22 that those be dealt with up front, like you just said,
23 just up front deal with that.

24 And then, I think, the Commission works best

1 when, you know, sometimes we can interpret what the
2 statute means. But if the statute doesn't open the
3 door, we are probably not that likely to just jump
4 over in there unless we feel there is a really
5 important reason for doing that. But the statute at
6 least has to, you know, put the little piece in there
7 that says we shall do this or we shall do that and then
8 we have to figure out in coordination with others on how
9 that did actually come about. But if it doesn't say --
10 like if it says -- You know this language better than
11 me.

12 If it says the Commission should consider, you
13 know, that's a lot different than the Commission shall.
14 And so -- But then again, that goes hand in hand with
15 new resources, new people, new expertise to get the job
16 done, and to do it appropriately.

17 COMMISSIONER DEL VALLE: Quick question for Dan
18 Johnson relative to the last comments.

19 Before I do that, Representative Davis, I
20 think it's also important to remind people that
21 ratepayers are paying a whole lot more today for the
22 purpose of modernizing the system. It's coming out of
23 their pockets increased cost, a huge cost and we
24 approve -- as a Commission we approve those costs

1 because modernization is good. It's necessary. It
2 benefits everyone. So keep that in mind when you are
3 responding to folks who may raise that issue. And I
4 think that, to me, it's a nonissue, but you are
5 absolutely right that it's something that needs to be
6 talked about.

7 Going back to your point, the California model
8 as a clearinghouse, I understand that the Commission
9 helped set up that clearinghouse in California?

10 MR. JOHNSON: So --

11 COMMISSIONER DEL VALLE: House Bill 3635 does call
12 for an annual workshop. So if it's in the law,
13 Commissioner Colgan, we would do it.

14 Is that something you feel the Commission can
15 do even if it's not in statute?

16 MR. JOHNSON: I --

17 COMMISSIONER DEL VALLE: And the clearinghouse
18 issue also, if you could address that?

19 MR. JOHNSON: So the clearinghouse in California
20 is, it's an entity that the utilities fund. They
21 contract out to a provider that administers it. I think
22 it's something like a 2 and a half million dollar
23 budget. Their role is to say any vendor that wants to
24 be registered to do business with the utilities, they go

1 to that one clearinghouse. They get certified quickly,
2 something like three days, as an MBE or WBE or
3 veteran-owned businesses. And then the utilities have
4 access to this clearinghouse of all the vendors out
5 there and whatever services they provide.

6 You know, it was thought to be potentially
7 helpful, but ultimately it's a decision for the
8 utilities to make whether that would be helpful to them
9 or not. Word we got back was we don't really see the
10 value of that, which is why it didn't make into the
11 latest version. You know, maybe if they take a second
12 look, maybe over the winter they would find it would be
13 helpful. But it was just because it seems to be met
14 with such a claim in California, perhaps there would be
15 value here in Illinois. I think that's the one where we
16 probably defer the most to the companies as to whether
17 they would see value in having a centralized
18 clearinghouse or not. Certainly a narrower function --
19 the clearinghouse that lists these are the
20 certifications that the utilities accept and these are
21 the ways you can register with the utilities. Even if
22 do you it four or five times with each company, that
23 centralized clearinghouse is something that I think the
24 vendors would like to see, which is a far narrower scope

1 than what the clearinghouse which serves the utilities
2 as well in California. But we -- I think, if I can -- I
3 think Representative Davis felt, you know, and we felt
4 that if the utilities felt it wasn't that helpful, then
5 no need to push it right now.

6 To your other question I probably can't answer
7 well the scope of your existing statutory authority to
8 convene; but I would suspect if you can convene a
9 meeting like this to discuss, I would imagine you could
10 certainly convene all the other industry folks to come
11 and talk about supplier diversity. I want to thank all
12 of you for doing this because, as you know, simply
13 convening and discussing helps move an issue and move an
14 agenda along. I think continuing to do so will
15 certainly help bring attention and move the process and
16 finding consensus faster than would otherwise occur.
17 Thank for convening this discussion today.

18 COMMISSIONER DEL VALLE: But there is support for
19 an annual workshop?

20 MR. JOHNSON: I can't say. I certainly believe an
21 annual workshop would be helpful, but I can't say for
22 sure if you have the legal authority to do so. If you
23 do, it would be great to have an annual workshop. I
24 just think having a day when all the companies are

1 there, everyone knows it's coming, people can --
2 companies can sort of compete with each other.
3 Advocates get a chance to think about and talk to their
4 members and hear among members what other problems are.
5 It's a great chance to know that it's on the calendar
6 every year. This is the day we tackle supplier
7 diversity and we make progress on that issue. It's
8 something that I think we feel very strongly about.

9 COMMISSIONER DEL VALLE: Thank you.

10 COMMISSIONER MAYE: Thank you very much. I didn't
11 know if any of my other colleagues had any other
12 questions? No.

13 Well, in closing, I definitely wanted to thank
14 all the panelists. Thank you so very much for your
15 time. Thank you for everyone who came out today. As we
16 mentioned, this is the first of a series of policy forum
17 workshops. We will be hosting another one. The date is
18 tentative. We are looking at the month of March. As
19 soon as we confirm that date we will definitely make
20 sure to get that out to you. We will be asking the
21 different companies that we do regulate to speak on
22 their supplier diversity initiatives and things that are
23 going on. We definitely know there are many supplier
24 diversity initiatives at your respective companies. We

1 just want to hear about it. For example, the Nicor
2 Supplier Diversity Outreach Initiative that was held a
3 few months ago, which we heard was fantastic. We were
4 actually all at a conference so we could not attend, but
5 we did hear that it was great. So we want to hear about
6 things like that. Another thing to note, which was
7 mentioned about 17 times today but just in case you
8 didn't hear, the reporting deadline is February 1st.
9 It's coming up next week so we are looking forward to
10 receiving those reports. And of course if there are any
11 questions -- I don't know -- If there are any questions,
12 just let any of our offices know or any of our advisers.
13 Of course Executive Director Feipel is always here to
14 answer questions and assist you with anything you do
15 need. At this time I would like to pass this back over
16 to our Chairman Scott.

17 CHAIRMAN SCOTT: Is there anything else that needs
18 addressed? Thank you to everyone for being here today.
19 We really appreciate it. Speaking for myself, looking
20 forward to helping making these issues better as we go
21 forward and as Commissioner Maye said talking to the
22 companies and others who are interested. And this is a
23 nice framework for doing that. We really appreciate you
24 spending your time with us this afternoon.

1 Nothing else. The meeting stands adjourned.

2 Thank you.

3 Commissioner Maye, thank you.

4 Commissioner del Valle, I thank you for you
5 and your advisers for putting this together.

6 (Whereupon the meeting of the
7 Illinois Commerce Commission,
8 Supplier Diversity Services: Policy
9 Session 1 was adjourned.)

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1 STATE OF ILLINOIS)
2 COUNTY OF COOK) SS

3 Jessica L. Maro, being first duly sworn, on
4 oath says that she is a Certified Shorthand Reporter,
5 doing business in the City of Chicago, County of Cook
6 and the State of Illinois;

7 That she reported in shorthand the proceedings
8 had at the foregoing meeting of the Illinois Commerce
9 Commission, Supplier Diversity Services: Policy
10 Session 1;

11 And that the foregoing is a true and correct
12 transcript of her shorthand notes so taken as aforesaid
13 and contains all the proceedings had at the said meeting
14 of the Illinois Commerce Commission, Supplier Diversity
15 Services: Policy Session 1.

16

17

JESSICA L. MARO, CSR

18

CSR No. 084-004746

19

20 SUBSCRIBED AND SWORN TO
21 before me this 29th day of
22 January, A.D., 2014.

22

23

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