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PROCEEDINGS

CHAIRMAN SCOTT: Pursuant to the provisions of the Open Meetings Act, I now convene a Regular Open Meeting of the Illinois Commerce Commission. With me in Springfield are Commissioner Ford, Commissioner O'Connell-Diaz, Commissioner Colgan and Commissioner McCabe. I am Chairman Scott. We have a quorum.

Before moving into the agenda, according to Section 1700.10 of Title II of the Administrative Code, this is the time we allow members of the public to address the Commission. Members of the public wishing to address the Commission must notify the Chief Clerk's Office at least 24 hours prior to the Commission meetings. According to the Chief Clerk's Office, we have no requests to speak at today's meeting.

Moving on to the agenda for today, Item 1 concerns the approval of minutes from our August 15 Bench Session. I understand amendments have been forwarded. Is there a motion to amend the minutes?

COMMISSIONER O'CONNELL-DIAZ: So moved.

1 CHAIRMAN SCOTT: Is there a second?

2 COMMISSIONER McCABE: Second.

3 CHAIRMAN SCOTT: It's been moved and seconded.

4 All in favor say aye.

5 COMMISSIONERS: Aye.

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

8 Is there a motion to approve the  
9 August 15 minutes as amended?

10 COMMISSIONER COLGAN: So moved.

11 CHAIRMAN SCOTT: Is there a second?

12 COMMISSIONER McCABE: Second.

13 CHAIRMAN SCOTT: It's been moved and seconded.

14 All in favor say aye.

15 COMMISSIONERS: Aye.

16 CHAIRMAN SCOTT: Any opposed?

17 (No response.)

18 The vote is five to nothing, and the  
19 August 15 Bench Session minutes as amended are  
20 approved.

21 We will use this five to nothing vote  
22 for the rest of today's Regular Open Meeting, unless

1 otherwise noted.

2 Item 2 is Docket Number 11-0558. This  
3 is Danny Dawson's complaint against Ameren. ALJ  
4 Jones recommends entry of an Order denying the  
5 complaint.

6 Is there any discussion?

7 (No response.)

8 Are there any objections?

9 (No response.)

10 Hearing none, the Motion to Dismiss is  
11 granted.

12 Item 3 is Docket Number 12-0001. This  
13 is Ameren's rate case under Section 16-108.5 of the  
14 Public Utilities Act. We will be holding final  
15 disposition of this item as we will be having oral  
16 argument at 1:30 today on this matter. I believe  
17 ALJs Albers and Yoder are available should there be  
18 any questions on this item.

19 Are there any questions or an update  
20 on public comments?

21 COMMISSIONER O'CONNELL-DIAZ: Mr. Chairman, I  
22 have a question for the ALJs.

1           CHAIRMAN SCOTT:    Sure.

2                            Good morning, gentlemen.

3           JUDGE ALBERS:    Good morning.

4           CHAIRMAN SCOTT:   Commissioner?

5           COMMISSIONER O'CONNELL-DIAZ:   Yes.    Could you  
6    just run through the determinations you made relative  
7    to charitable contributions in this proceeding?

8           JUDGE ALBERS:    Yes.    If memory serves me,  
9    basically, it dealt with whether or not certain  
10   expenses fell under the category of allowable  
11   charitable contributions which were for the public  
12   welfare, scientific, educational or -- I forget the  
13   other criteria.   But there were certain expenses that  
14   Staff and others did not feel fell under the  
15   categories of any of those categories, and the  
16   argument was whether or not -- I believe it was two  
17   certain chambers of commerce primarily -- whether or  
18   not they were public welfare expenses.

19                           And looking at the ComEd Order entered  
20   in 11-0721, there was some discussion as to what  
21   constituted public welfare.   And one of the  
22   conclusions I recall from the ComEd Order was that

1 some of the Staff and Intervenor petitions lacked any  
2 certainty, again if I recall correctly.

3 And in this case Staff has suggested  
4 using a test, for lack of a better word, whether or  
5 not it was a 501(c)(3) corporation. And given that  
6 501(c)(3) corporations are restricted from lobbying,  
7 Staff felt that was an appropriate test to use. And  
8 the Company -- or, rather, the chambers of commerce  
9 that were in question were not 501(c)(3). Instead,  
10 they were 501(c)(6), I believe, organizations which  
11 are allowed to do some lobbying.

12 And so to me that appeared that Staff  
13 had taken seriously the Commission's direction to  
14 provide more certainty or clarity as to what the  
15 standard would be. So that was basically how I got  
16 to that recommendation.

17 COMMISSIONER O'CONNELL-DIAZ: What does the law  
18 say about that? Does it suggest that there should be  
19 a screen with regards to whether or not it is a  
20 501(c)(3) corporation?

21 JUDGE ALBERS: That statute references public  
22 welfare, and it is just not terribly clear what

1 public welfare constitutes.

2 COMMISSIONER O'CONNELL-DIAZ: So it does not  
3 have a restriction relative to only those entities  
4 that are registered as 501(c)(3), is that correct?

5 JUDGE ALBERS: There is no express restriction  
6 in that sense, no.

7 COMMISSIONER O'CONNELL-DIAZ: But this type of  
8 designation would disallow other groups that are not  
9 chambers of commerce but other entities that are in,  
10 for lack of a better word, the endeavor, the  
11 provision of services that are in the public welfare  
12 which is incorporated under that statute, correct?

13 JUDGE ALBERS: Well, only if they also did not  
14 meet any of the other criteria, scientific or  
15 educational. I remember there was a fourth -- or, I  
16 am sorry, a third. I just can't --

17 CHAIRMAN SCOTT: Religious.

18 JUDGE ALBERS: Religious, thank you. Only if  
19 they didn't meet any of the other ones as well. If  
20 you are like a 501(c) -- I am sorry, I'm not going to  
21 blame it on the tax law exemption. But, in short, if  
22 you are not a 501(c)(3) corporation but you do

1 provide scientific, religious, or educational  
2 services, you could still qualify for an allowable  
3 pass-through to ratepayers. So a school, for  
4 example.

5 COMMISSIONER O'CONNELL-DIAZ: Does the Company  
6 provide a list of some of those groups that would be  
7 included -- would be excluded due to the screen that  
8 you have now proposed in the Order, in -- I believe  
9 it is one of your briefs which, I mean, there was  
10 lodges, Shriners, different types of what I would  
11 consider folks that are out there doing service that  
12 is in the general public welfare.

13 JUDGE ALBERS: There may be organizations that  
14 would not -- that contributions to would not be  
15 allowable under such a standard, but I am suggesting  
16 if they don't also meet the other criteria of the  
17 statute.

18 COMMISSIONER O'CONNELL-DIAZ: And isn't there a  
19 rulemaking going on now to elicit --

20 JUDGE ALBERS: Yes.

21 COMMISSIONER O'CONNELL-DIAZ: I am just  
22 concerned that we are setting up a vote that won't

1 keep the good works of many of the organizations that  
2 are out there. And, again, I think the numbers that  
3 we are talking about here, the last time around it  
4 was like 50 cents on an annual amount on someone's  
5 bill. So I am just concerned that we are setting up  
6 something that the statute doesn't contemplate and,  
7 in fact, talks about that we should not be setting up  
8 any rule or presumption. And so I think we are --  
9 that the outcome that you have suggested kind of gets  
10 into that alley which I think is probably in that  
11 area. I understand the direction now.

12 CHAIRMAN SCOTT: Any other questions for the  
13 Judges?

14 (No response.)

15 Any update on the public comments  
16 received?

17 JUDGE ALBERS: I think we are still at two that  
18 don't like the rate increase.

19 CHAIRMAN SCOTT: Very good. Thank you, John.

20 Item 4 is Docket Number 12-0396. This  
21 is FTR Energy Service's application for a certificate  
22 to operate as an alternative gas supplier under

1 Section 19-110 of the Public Utilities Act. The  
2 deadline for consideration of this item has been  
3 extended, so we won't be making a final decision on  
4 this item today.

5 I understand Commissioner Colgan had a  
6 couple of comments on this. Commissioner?

7 COMMISSIONER COLGAN: Yeah, I just wanted to  
8 take a closer look at this as a result of violations  
9 that an affiliate of FTR, Viridian, had in the state  
10 of Maryland to determine the -- yeah, sorry -- to  
11 determine if we should be granting a certificate to  
12 FTR in Illinois, and so I will extend the deadline  
13 pursuant to Section 19-110(f).

14 CHAIRMAN SCOTT: Okay. Thank you,  
15 Commissioner.

16 Item 5 is Docket Number 09-0151. This  
17 is Illinois-American Water Company's reconciliation  
18 case for purchased water and purchased sewage  
19 treatment surcharges from 2008 and a petition for  
20 rehearing filed by the Attorney General for  
21 consideration today. ALJ Jones recommends denying  
22 that petition.

1                   Is there any discussion?

2                                 (No response.)

3                   Are there any objections to denying  
4 the petition for rehearing?

5                                 (No response.)

6                   Hearing none, the petition for  
7 rehearing is denied.

8                   Item 6 (12-0518) concerns the adoption  
9 of changes to the Commission's Title II, Section  
10 1700.20, rules concerning public comments received  
11 through the Commission's website, something we  
12 addressed in Docket Number 12-0378. After  
13 communication between our Office of General Counsel  
14 and JCAR staff, Commission Staff recommends entry of  
15 an Order adopting a couple of amendments to our  
16 recent public comment rule changes with an effective  
17 date of October 1, 2012.

18                   Is there any discussion?

19                                 (No response.)

20                   Are there any objections?

21                                 (No response.)

22                   Hearing none, the Order is entered.



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CONTINUATION OF PROCEEDINGS

CHAIRMAN SCOTT: In Closed Session the Commission discussed making a filing in FERC Docket Number ER11-4081-002. Is there a motion to make the filing with FERC?

COMMISSIONER COLGAN: So moved.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER FORD: Second.

CHAIRMAN SCOTT: It's been moved and seconded.

All in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN SCOTT: Any opposed?

(No response.)

The vote is five to nothing, and the filing will be made with FERC.

We have one additional item just to talk about briefly this morning. Our Executive Director, Mr. Feipel, is here to brief us on the issue that arose in the media recently concerning the meters that cause either elevated heat or fire in certain places where meters were changed out. I asked Mr. Feipel to give us an update briefly today

1 and then a longer process next week about what's been  
2 done with the process and what's been done since that  
3 came to light.

4 MR. FEIPEL: Thank you, Mr. Chairman,  
5 Commissioners.

6 First, as soon as this was brought to  
7 our attention two weeks ago as a result of those  
8 press inquiries, we had started working with ComEd to  
9 request additional information and an initial meeting  
10 to brief us on the situation with those meters. At  
11 that point we asked for all kinds of incident reports  
12 that would relate to any kind of meter overheating at  
13 all and then also to receive additional information  
14 to brief us more fully on the scope of the issue.

15 Because the way we are looking at this  
16 is there are actually two issues here. One is to  
17 look at the meters that are already installed as part  
18 of the ComEd pilot program a number of years ago.  
19 There are roughly 135,000 meters that are installed  
20 in the Chicago area. That's separate from the mass  
21 deployment of Smart Meters as a result of the new law  
22 that was passed about a year ago.

1                   So remember that the mass deployment  
2                   is on hold currently. There is no scheduled  
3                   deployment until 2013, at least, for Smart Meters in  
4                   addition to those that are already installed in the  
5                   pilot. So we have got a little bit more time to look  
6                   at what those proper installation procedures should  
7                   be going forward. So the real focus at this point in  
8                   time, at least as we see it in terms of a public  
9                   safety issue, is those meters that are already  
10                  installed as part of the pilot.

11                  That said, the other issue that we are  
12                  looking at is to not be too utility or technology  
13                  specific and make sure that this is not an issue  
14                  either with other utilities or other technologies  
15                  across the state.

16                  So from here we are receiving  
17                  additional information. As we receive that, we will  
18                  review it, brief you accordingly, and then bring a  
19                  recommendation, when we are ready to, whether we need  
20                  more formal action or whether we can handle this in  
21                  the process we are using currently.

22                  CHAIRMAN SCOTT: So when you say, just for

1 clarification, not technology or utility specific, so  
2 obviously other utilities are changing out meters.  
3 And because you have got incidents of this which  
4 aren't related solely to Smart Meters but in changing  
5 out other meters, you want to explore all of that,  
6 right?

7 MR. FEIPEL: Exactly correct.

8 CHAIRMAN SCOTT: And with all the companies  
9 that are doing it.

10 MR. FEIPEL: That is correct.

11 CHAIRMAN SCOTT: Commissioner?

12 COMMISSIONER O'CONNELL-DIAZ: I just want to  
13 clarify that I think we are all aware that there were  
14 some newspaper articles that somehow suggested that  
15 the Commission was not on top of this situation, when  
16 in fact, as Mr. Feipel has just noted to us, as per  
17 usual and as business as usual for the Commission, we  
18 have been on top of this issue as soon as we became  
19 aware of it. Our engineers, Mr. Feipel, is that  
20 correct, are looking and talking with the company,  
21 collecting appropriate data, and doing the analysis  
22 that is required by our experts. And only with that

1 information and that foundation can we assess the  
2 situation properly. And we certainly have been doing  
3 business as usual at the Commission and reporting on  
4 that to us.

5 And so standing up for our experts  
6 that are on Staff in the usual way we attack these  
7 situations, that's what we have been doing.

8 MR. FEIPEL: That's exactly right.

9 COMMISSIONER O'CONNELL-DIAZ: We have not been  
10 sitting on our hands.

11 COMMISSIONER FORD: Just one follow-up comment.  
12 Mr. Feipel, isn't it true that it is only three homes  
13 that have had a fire out of 130,000?

14 MR. FEIPEL: That's what ComEd reported to us  
15 so far.

16 CHAIRMAN SCOTT: Further comments, questions?

17 (No response.)

18 We appreciate the update and look  
19 forward to when you amass more data. I know you are  
20 collecting that from the Company now. And as that  
21 comes up, I am sure next week we will have some  
22 further discussion. So I really appreciate that.

1           MR. FEIPEL: We will keep you posted.

2           CHAIRMAN SCOTT: Thank you very much.

3                   Mr. Wallace, is there anything further  
4 to come before the Commission?

5           JUDGE WALLACE: No, you have time for a break.

6           CHAIRMAN SCOTT: Thanks. Hearing none, this  
7 meeting stands adjourned. We will reconvene in about  
8 nine minutes for oral argument in the  
9 Illinois-American Water Company rate case and then  
10 once again at 1:30 for oral argument in Ameren's  
11 formula rate case.

12                   The meeting stands adjourned. Thanks,  
13 everyone.

14                   OPEN MEETING ADJOURNED

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