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BEFORE THE
ILLINOIS COMMERCE COMMISSION

ILLINOIS COMMERCE COMMISSION) DOCKET NO.
On Its Own Motion) 03-0699
)
-vs-)
)
ILLINOIS POWER COMPANY)
)
Reconciliation of Revenues)
collected under gas adjustment)
charges with actual costs prudently)
incurred.)

Springfield, Illinois.
September 22, 2005.

Met, pursuant to notice at 9:00 A.M.

BEFORE:

MR. WALLACE, Administrative Law Judge

APPEARANCES:

MR. JOSEPH L. LAKSHMANAN
Attorney at Law
2828 North Monroe Street
Decatur, Illinois 62526

(Appearing on behalf of Dynegy, Inc.)

SULLIVAN REPORTING COMPANY, by
H. Lori Bernardy, Reporter
Ln. #084-004126

1 APPEARANCES

(CONT'D)

2 MR. OWEN MacBRIDE
3 SCHIFF HARDIN & WAITE
4 6600 Sears Tower
5 Chicago, Illinois 60606

6 (Appearing on behalf of Illinois Power Company
7 via telephonically)

8 MS. JANIS VonQUALEN
9 Illinois Commerce Commission
10 527 East Capitol Avenue
11 Springfield, Illinois 62701

12 (Appearing on behalf of the Staff of the
13 Illinois Commerce Commission)

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I N D E X

<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Mr. Eric Lounsberry				
By Ms. VonQualen	31			
By Mr. Lakshmanan		35		
ORAL RESPONSE				
By Ms. VonQualen			37	
ANSWER TO RESPONSE				
By Mr. Lakshmanan			38	

I N D E X

<u>EXHIBITS</u>	<u>MARKED</u>	<u>ADMITTED</u>
ICC Staff Exhibits 2.0-R and 4.0-R with attached Schedules		39
ICC Staff Exhibits 1.0 and 3.0 with attached Schedules		41
ICC Staff Cross-Exhibits 1, 2, and 3		42
ICC Staff Exhibit 3		49
IP Exhibits 1.0, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 2.0, 2.1-Revised, 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10, 2.11, 2.12, 2.13, 2.14, 2.15, 3.0, 3.11, 3.2-Revised, 3.3, 4.0, 4.1, 5.0, 5.1, 5.2, 5.3, 5.4, 5.5, 6.0, 6.1, 6.2, and IP Cross Exhibit 1		47

1 appearing on behalf of Dynegy, Inc.

2 JUDGE WALLACE: Thank you. Let the record
3 reflect there are no other appearances at today's
4 hearing.

5 I guess the only thing we're going to
6 do is have a few minutes cross of Mr. Lounsberry?

7 MS. VonQUALEN: That's correct.

8 JUDGE WALLACE: And then the other exhibits
9 will go in by affidavit or agreement?

10 MS. VonQUALEN: Yes.

11 JUDGE WALLACE: Okay. Miss VonQualen, why
12 don't you list the exhibits that you're going to
13 move.

14 MS. VonQUALEN: Okay. I have the Direct
15 Testimony of Burma C. Jones, which is ICC Staff
16 Exhibit 1.00 and was filed on e-Docket on February
17 15, 2005.

18 There are schedules attached to that
19 Exhibit: Schedule 1.01 and 1.02. From Miss Jones, I
20 also have Rebuttal Testimony which was filed on
21 August 4, 2005, and that is ICC Staff Exhibit 3.00
22 and it has attached to it Schedules 3.01 and 3.02.

1 JUDGE WALLACE: All right.

2 MS. VonQUALEN: I also have Eric Lounsberry.
3 Do you want me to list his?

4 JUDGE WALLACE: Okay, I'll tell you what, raise
5 your right hand.

6 (Whereupon the Witness was sworn
7 by the Administrative Law
8 Judge.)

9 JUDGE WALLACE: I guess we'll just do them in
10 order. Go ahead with Eric.

11 E R I C L O U N S B E R R Y,
12 having been first duly sworn by the Administrative
13 Law Judge, witnesseth and saith as follows:

14 DIRECT EXAMINATION

15 BY MS. VonQUALEN:

16 Q Good morning.

17 Please state your name for the record.

18 A Eric Lounsberry.

19 Q What is your employer and what is your
20 business address?

21 A I'm employed by the Illinois Commerce
22 Commission. My business address is 527 East Capitol

1 Avenue, Springfield, Illinois 62701.

2 Q What is your position at the Commission?

3 A I am the Supervisor of the Gas Section, of
4 the Incurring Department of the Energy Division.

5 Q Did you prepare written testimony and
6 exhibits for submission in this Docket?

7 A Yes, I did.

8 Q Do you have before you a document which is
9 identified as ICC Staff Exhibit 2.00-R, Revised
10 Direct Testimony of Eric Lounsberry?

11 A Yes.

12 Q And that revised testimony was filed
13 yesterday, September 21st?

14 A Yes.

15 Q It consists of sixty-two typewritten pages
16 and Schedules 2.01 through 2.03?

17 A There's an "R" on the schedules and then
18 that's correct.

19 Q Do you have any additions or corrections to
20 make to ICC Staff Exhibit 2.00-R?

21 A No.

22 Q If I were to ask you the same questions

1 today, would your answers be the same?

2 A Yes.

3 Q Do you also have before you a document
4 which is identified as ICC Staff Exhibit 4.00-R, the
5 Revised Rebuttal Testimony of Eric Lounsberry?

6 A Yes.

7 Q And was that also filed on e-Docket
8 yesterday, September 21st?

9 A Yes.

10 Q And does it have attached to it Schedules
11 4.01-R through 4.04-R?

12 A Yeah.

13 Q If I were to ask you those same questions
14 today, would your answers be the same?

15 A Yes.

16 Q And does it have forty-seven typewritten
17 pages?

18 A Yes.

19 Q Thank you. Is the information contained in
20 ICC Staff Exhibit 4.00-R and attached Schedules true
21 and correct to the best of your knowledge?

22 A Yes.

1 MS. VonQUALEN: Your Honor, at this time I move
2 for admission into evidence of Revised Direct
3 Testimony of Eric Lounsberry, ICC Staff
4 Exhibit 2.00-R with attached Schedules and Revised
5 Rebuttal Testimony of Eric Lounsberry, ICC Staff
6 Exhibit 4.00-R with attached Schedules.

7 JUDGE WALLACE: Any objections?

8 MR. LAKSHMANAN: Subject to cross, your Honor,
9 if that's acceptable.

10 JUDGE WALLACE: All right.

11 MR. MacBRIDE: Illinois Power has no questions.

12 JUDGE WALLACE: Okay. Go ahead, or is that all
13 the questions you have of Mr. Lounsberry?

14 MS. VonQUALEN: Yes, it is.

15 JUDGE WALLACE: All right, go ahead,

16 Mr. Lakshmanan.

17 MR. LAKSHMANAN: Thank you, your Honor. Good
18 morning, Mr. Lounsberry.

19 MR. LOUNSBERRY: Good morning.

20 MR. LAKSHMANAN: I now represent Dynegy, Inc.

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CROSS-EXAMINATION

BY MR. LAKSHMANAN:

Q I'd like to return to your Direct
Testimony, Revised Direct Testimony, lines 1259
through 1293.

A Okay.

Q Okay. That's on pages 61 and 62. Am I
correct that the topic that you address there that
you entitled "Dynergy, Inc. Indemnification" is not
addressed in your Rebuttal Testimony?

A That's correct.

Q And am I correct, you're not an attorney?

A That's correct.

Q Do you have any experience in negotiating
agreements, such as the stock purchase agreement
listed on lines 1265 through 1267?

A No.

Q Have you ever served as an expert witness
in interpreting such an agreement?

A No.

Q Did you take part in any of the
negotiations that led up to this stock purchase

1 agreement?

2 A No.

3 Q Were you privy to any parties negotiating
4 strategy during the time period when the stock
5 purchase agreement was being negotiated?

6 A No.

7 Q Were you privy to any party's views on
8 which clauses were acceptable or unacceptable when
9 taken together as a package during the negotiations
10 of that agreement?

11 A No.

12 Q Are you aware of any tradeoffs that any of
13 the parties may have made during the negotiations
14 that led up to that agreement?

15 A No.

16 MR. LAKSHMANAN: Those are all my questions,
17 your Honor; however, I move to strike lines 1259
18 through 1293. This witness is not competent to
19 testify to the information that is there.

20 He states, for instance, on line 1263,
21 that, in fact, Ameren was so concerned. He cannot
22 know that. He was not there.

1 Later, he offers an interpretation of
2 what this should mean, and he's not an expert in such
3 matters. He's not an attorney.

4 JUDGE WALLACE: All right. I will allow the
5 Staff to file a response to the Motion to Strike.

6 MS. VonQUALEN: Do you want a written response?

7 JUDGE WALLACE: If you like or do you want to
8 make an oral one?

9 MS. VonQUALEN: I think I'd take an oral one.

10 JUDGE WALLACE: Okay, go ahead, Miss VonQualen.

11 ORAL RESPONSE

12 BY MISS VonQUALEN:

13 This is information -- the words
14 from the Indemnification Agreement are what they are.
15 There's no reason for them to be stricken. They are
16 relevant to the issues in this case. And
17 Mr. Lounsberry's testimony about what the words say
18 are simply his opinion about what they say.

19 I think they should be allowed in.
20 They should be given the weight to which you think
21 they should be given, but he certainly, as an expert
22 witness, testifying about these issues can opine and

1 certainly can make the Commission aware about the
2 Indemnification Agreement.

3 I think the fact that there is an
4 Indemnification Agreement is relevant to the facts
5 that are at issue in this case.

6 JUDGE WALLACE: Okay.

7 ANSWER TO RESPONSE

8 BY MR. LAKSHMANAN:

9 Your Honor, with all due respect to
10 Miss VonQualen, Mr. Lounsberry has not been offered
11 and has no qualifications as an expert on the matters
12 that are opined upon on these lines.

13 Nor does he have factual information.
14 It's not a matter of according them weight, this
15 witness is simply not qualified to make the
16 statements made. He has no factual information or
17 basis upon which he's made them, and he has no
18 expertise on which to make these.

19 JUDGE WALLACE: Okay, thank you. At this time
20 I'm going to deny the Motion to Strike the lines 1259
21 to, I guess it goes to 1293 will be included, and
22 they will be given the weight that is appropriate.

1 With that, ICC Exhibits 2.0 and 4.0 --
2 2.0 Revised and 4.0 Revised with their attached
3 Schedules as filed on e-Docket -- was it yesterday?

4 MS. VonQUALEN: Yes.

5 JUDGE WALLACE: Nine twenty-one, are admitted
6 into the record.

7 (Whereupon ICC Staff Exhibit
8 Numbers 2.0 Revised and 4.0
9 Revised with Attached Schedules
10 as filed on e-Docket September
11 21, 2005 were admitted into the
12 record.)

13 JUDGE WALLACE: Also going back, ICC Staff
14 Exhibits 1.00 and 3.00 with attached Schedules, those
15 being the Direct and Rebuttal Testimony of Burma
16 Jones.

17 Are there any objections to those
18 exhibits?

19 MR. MacBRIDE: Not from Illinois Power.

20 JUDGE WALLACE: All right. Those exhibits are
21 also admitted into the record.

22

1 (Whereupon ICC Staff Exhibit
2 Number 1.0 and 3.0 with
3 Attached Schedules as filed on
4 e-Docket September 21, 2005
5 were admitted into the record.)

6 MS. VonQUALEN: In addition, I would also move
7 for admission of three Staff Cross Exhibits: ICC
8 Staff Cross Exhibits 1, 2, and 3. Those three cross
9 exhibits were filed electronically on e-Docket
10 yesterday, September 21st.

11 JUDGE WALLACE: Okay, I apparently overlooked
12 those. What are those three?

13 MS. VonQUALEN: Those are Staff Data Requests:
14 ENG 2.120 with the Response of Illinois Power; that's
15 Staff Cross Exhibit 1.

16 Staff Cross Exhibit 2 is Staff Data
17 Request: ENG 2.121 with the Response.

18 JUDGE WALLACE: Say the numbers again. I
19 can't --

20 MS. VonQUALEN: The first one was ENG 2.120.
21 The second one is ENG 2.121 with the Responses
22 provided by Illinois Power.

1 the Illinois Power Company's Exhibits that have been
2 previously filed and served, and which we intend to
3 offer into evidence.

4 I'll go witness by witness. We have a
5 total of six witnesses. First, Gary J. Murphy, IP
6 Exhibit 1.0 which is his Direct Testimony.

7 IP Exhibits 1.2, 1.3, 1.4 and 1.5
8 which are exhibits to his Direct Testimony.

9 And then in addition, I will be filing
10 an Affidavit from Mr. Murphy which we will identify
11 as IP Exhibit 1.7, and that's out of number sequence
12 because we also have an exhibit identified IP
13 Exhibit 1.6, which was filed on e-Docket some time
14 ago, which is the verification of Peggy Carter, who
15 at the time was Illinois Power's Chief Financial
16 Officer.

17 And that is the verification for the
18 Company's reconciliation filings which is required by
19 the Company's PGA reconciliation -- or PGA
20 Regulation, excuse me.

21 Next, we have the exhibits sponsored
22 by Kevin D. Shipp, S-H-I-P-P. First, IP Exhibit 2.0.

1 This was originally filed as the Direct Testimony of
2 Mark Peters, and as stated in Mr. Shipp's Rebuttal
3 Testimony, Mr. Shipp is adopting Mr. Peters' Direct
4 Testimony.

5 Next, Revised IP Exhibit 2.1 which is
6 the Rebuttal Testimony of Mr. Shipp. And this has
7 been filed in public and confidential versions. This
8 Revised Testimony was filed on e-Docket yesterday
9 evening and served on the parties.

10 There were a total of three minor
11 corrections in the Revised Testimony as compared to
12 the originally filed testimony. I detailed those in
13 my e-mail when I served the parties.

14 Would you like me to state those for
15 the record?

16 JUDGE WALLACE: Do you have those?

17 MS. VonQUALEN: Yes.

18 JUDGE WALLACE: No, that's fine, thank you.

19 MR. MacBRIDE: All right. Additionally,
20 Mr. Shipp has IP Exhibits 2.2 through 2.10 which are
21 Exhibits to his Rebuttal Testimony.

22 Then, IP Exhibit 2.11 is Mr. Shipp's

1 Surrebuttal Testimony. And IP Exhibits 2.12, 2.13,
2 and 2.14 are Exhibits attached to Mr. Shipp's
3 Surrebuttal Testimony.

4 And finally, we will be filing an
5 Affidavit by Mr. Shipp which we will identify as IP
6 Exhibit 2.15.

7 The next witness is Nancy Gudeman,
8 G-U-D-E-M-A-N, and she has Direct Testimony
9 identified as IP Exhibit 3.0, also IP Exhibit 3.1 and
10 IP Exhibit 3. -- excuse me, Revised IP Exhibit 3.2.

11 That Revised Exhibit was also filed
12 and served yesterday. That Revised Exhibit consists
13 of the copies of the actual newspaper certificate of
14 publication for the public notice that was published
15 by the Company relating to this filing.

16 And those certifications of
17 publication were not available at the time IP
18 Exhibit 3.3 was originally filed -- excuse me, IP
19 Exhibit 3.2 was originally filed.

20 And then I also will be filing an
21 Affidavit of Ms. Gudeman which will be identified as
22 IP Exhibit 3.3.

1 Our next witness in sequence is Scott
2 Glaeser, G-L-A-E-S-E-R. Mr. Glaeser has Rebuttal
3 Testimony identified as IP Exhibit 4.0 that was filed
4 in public and confidential versions. And we will
5 also be filing Mr. Glaeser's Affidavit that will be
6 identified as IP Exhibit 4.1.

7 Next, we have the two pieces of
8 testimony filed by Wayne Hood, H-O-O-D, and Curtis
9 Kemppainen, K-E-M-P-P-A-I-N-E-N. These witnesses
10 have IP Exhibit 5.0 which is their Rebuttal Testimony
11 and IP Exhibits 5.1 and 5.2 accompanying their
12 Rebuttal Testimony.

13 They also have IP Exhibit 5.3 which is
14 their Surrebuttal Testimony. And I will be filing an
15 Affidavit for Mr. Hood which will be identified as IP
16 Exhibit 5.4, and an Affidavit from Mr. Kemppainen
17 that will be identified as IP Exhibit 5.5.

18 Finally, in terms of witnesses, we
19 have Timothy L. Hower, H-O-W-E-R. Mr. Hower has
20 Rebuttal Testimony identified as IP Exhibit 6.0 and
21 Surrebuttal Testimony identified as IP Exhibit 6.1.

22 And I will be filing an Affidavit for

1 Mr. Hower identified as IP Exhibit 6.2. I don't have
2 all the signed affidavits back in hand yet from all
3 these witnesses, so when I get a complete set, I'll
4 file them and serve them all at the same time.

5 Finally, Illinois Power is also
6 offering IP Cross Exhibit Number 1, which is a copy
7 of Staff's Response to Illinois Power Data Request
8 2-3. That exhibit was filed on e-Docket yesterday
9 evening and also served on the parties yesterday
10 evening.

11 So Illinois Power would offer all of
12 the exhibits that I have identified into evidence.

13 JUDGE WALLACE: Are there any objections?

14 MS. VonQUALEN: No objection.

15 JUDGE WALLACE: Dynegey has none?

16 MR. LAKSHMANAN: None, your Honor. Thank you.

17 JUDGE WALLACE: All right. Hearing no
18 objections, IP Exhibits 1.0, 1.2, 1.3, 1.4, 1.5, and
19 I'm going to go ahead and admit the Affidavits: 1.7,
20 and then the verification of Peggy Carter, it has
21 been filed as an exhibit?

22 MR. MacBRIDE: Yes.

1 JUDGE WALLACE: All right. Does IP have
2 anything further to put in?

3 MR. MacBRIDE: No, sir.

4 MS. VonQUALEN: Judge?

5 JUDGE WALLACE: Yes.

6 MS. VonQUALEN: I neglected to say that I will
7 be filing the Affidavit of Burma Jones later today
8 and that will be identified as ICC Staff
9 Exhibit 3.03.

10 JUDGE WALLACE: All right.

11 Ms. VonQUALEN: And I also didn't mention, but
12 the testimonies of Mr. Lounsberry and the Direct
13 Testimony of Ms. Jones were filed in redacted and
14 un-redacted form on the Docket.

15 JUDGE WALLACE: All right. ICC Staff Exhibit 3
16 is admitted, and the record is noted that
17 Mr. Lounsberry, Mr. Shipp and --

18 MR. MacBRIDE: -- Mr. Glaeser.

19 JUDGE WALLACE: Mr. Glaeser have filed both
20 public and confidential versions of their testimony,
21 and as so marked on their testimony, those will be
22 kept confidential.

1 MS. VonQUALEN: And Miss Jones.

2 JUDGE WALLACE: Oh, and Miss Jones, okay --
3 (continuing) and Miss Burma Jones' testimony so
4 marked confidential shall be kept confidential by the
5 Clerk's Office.

6 (Whereupon ICC Staff Exhibit
7 Number 3 was admitted into the
8 record.)

9 JUDGE WALLACE: Does Dynege have anything to
10 present?

11 MR. LAKSHMANAN: No, your Honor.

12 JUDGE WALLACE: All right. And does anyone
13 want to write a brief on this?

14 MS. VonQUALEN: Yes, that sounds like a
15 wonderful thing.

16 JUDGE WALLACE: All right. Let's go off the
17 record.

18 (Whereupon an off-the-record
19 discussion was held.)

20 JUDGE WALLACE: The briefing schedule is set as
21 follows: The Initial Briefs are due October 27th and
22 the Reply Brief are due November 16th.

1 That was agreeable to everyone off the
2 record. It would be helpful if parties could supply
3 those to me in "Word" version also.

4 MR. MacBRIDE: Yes.

5 JUDGE WALLACE: And sending them to me by
6 e-mail is fine.

7 Does anyone have anything else they
8 need to bring up today?

9 MS. VonQUALEN: No.

10 MR. MacBRIDE: No, sir.

11 JUDGE WALLACE: All right, then, thank you,
12 very much. We will mark this record heard and taken.

13 (Whereupon Initial Briefs are
14 due October 27, 2005 and Reply
15 Briefs are due November 16,
16 2005.)

17 (Which was all the proceedings
18 had in this cause.)

19 HEARD AND TAKEN

20

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22