

1 APPEARANCES: (Continued)

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8 (Appearing on behalf of
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11 MR. JAMES OLIVERO
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15 -and-

16 MS. JESSICA CARDONI
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20 (Appearing on behalf of Staff
21 witnesses of the Illinois
22 Commerce Commission)

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I N D E X

WITNESS

DIRECT

CROSS

REDIRECT

RECROSS

(None)

EXHIBITS

MARKED

ADMITTED

(None)

1 Street, Bloomington, Illinois 61701, phone number is
2 (309) 310-4884.

3 JUDGE TAPIA: Thank you, Ms. Lenox. Let the
4 record reflect that there are no others wishing to
5 enter an appearance.

6 Prior to going on the record we
7 discussed some preliminary matters. There was a
8 motion pending, Respondent's Amended Motion for Leave
9 to File Rebuttal Testimony. Is there any objection
10 for the Company to file late rebuttal testimony from
11 Staff?

12 MR. OLIVERO: No, Your Honor. I think you have
13 indicated, Mr. Davis, that you can file that or you
14 will be filing it?

15 MR. DAVIS: If I haven't already filed the
16 rebuttal testimony refiled as rebuttal as opposed to
17 surrebuttal testimony, I will today. But I believe I
18 have filed it already on the e-Docket.

19 JUDGE TAPIA: Thank you. Ms. Lenox, any
20 objection?

21 MS. LENOX: No.

22 JUDGE TAPIA: Thank you. Hearing no objection,

1 Respondent's Motion to File or Motion for Leave to
2 File Rebuttal Testimony is granted.

3 The Staff and the Complainant will
4 have an opportunity to file surrebuttal. That will
5 be due on May 25, on or before May 25.

6 We also discussed scheduling the
7 evidentiary hearing. The evidentiary hearing date
8 that the parties have agreed is June 29. That's
9 Tuesday, at 10:00 a.m.

10 Anything that any party would like to
11 be part of the record here today before we adjourn to
12 June 29?

13 MR. DAVIS: I have nothing further, Your Honor.

14 MR. OLIVERO: Your Honor, I just would like to
15 make sure, Ms. Lenox had indicated that she had sent
16 in the signed stipulation via mail, so within the
17 next, I presume, week or so. And I will give
18 Mr. Davis a copy with Staff's signature on that
19 stipulation for that to be filed, hopefully within
20 the next week to ten days.

21 JUDGE TAPIA: Thank you very much, Mr. Olivero.

22 MR. OLIVERO: And then the only other thing I

1 guess I would ask is, Ms. Lenox, you had indicated
2 the other day in an e-mail about procedurally what
3 goes on at the evidentiary hearing, and I didn't know
4 if you had any questions you wanted to ask the ALJ or
5 the parties.

6 MS. LENOX: I am not sure of the procedure.
7 That's my whole thing. I know I assume that I will
8 be questioning at this time, questioning the
9 evidence?

10 JUDGE TAPIA: Let me explain it briefly and if
11 the parties feel that they need to add to it, Mr.
12 Davis, Mr. Olivero and Ms. Cardoni, feel free to add.

13 The evidentiary hearing, at that time
14 I will ask or -- yes, I will ask you whether or not
15 your testimony, your direct testimony, is what you
16 filed on e-Docket and whether there are any changes
17 and if you were to testify on that day, would you
18 testify the same. You can make any changes at that
19 time, you know, any typographical errors that you
20 want to for the record to reflect as changed. If
21 not, then we go ahead and enter into the record your
22 testimony.

1 Basically, what the evidentiary
2 hearing is, is for testimony to be admitted into the
3 record on the record. So basically if you file on
4 e-Docket, it is filed but it is not in the record
5 until we do it with the court reporter. So we do
6 that at that time. I will ask you then if your
7 rebuttal testimony is the testimony that if you were
8 to testify on that day, is it the same. And then
9 once you confirm that, Mr. Davis will have the
10 opportunity to cross-examine you.

11 MS. LENOX: Okay.

12 JUDGE TAPIA: Now, you will have the
13 opportunity to --

14 MS. LENOX: Will I have the opportunity to
15 question them? Or do I get my rebuttal?

16 JUDGE TAPIA: Yes. The same opportunity you
17 will have. Actually, you will go first.

18 MS. LENOX: Okay.

19 JUDGE TAPIA: And everything -- the evidentiary
20 hearing is not the time to have new evidence. In
21 other words, it is not the time to pull out a
22 document that no one has seen. Everyone should know

1 where everyone is at, at that point.

2 Mr. Davis, do you want to add? Or,
3 Mr. Olivero or Ms. Cardoni, do you want to add
4 anything in explaining the procedure?

5 MR. OLIVERO: I guess shortly before the
6 hearing what we typically do is, if any of the
7 parties do have cross examination questions, to sort
8 of give the other side an opportunity to know who in
9 terms of the witnesses they might like to be there
10 and then how long the cross examination might last.
11 So we could sort of get an idea of how long the
12 hearing may last. So maybe shortly before that, a
13 week or so before, we will either send e-mails or
14 make a conference call just to see where we are at to
15 help expedite the hearing.

16 And it usually helps out, and again
17 this is just a personal preference, if you have
18 questions, you may want to write those out in advance
19 so that you can proceed along, you know, fairly
20 expeditiously.

21 JUDGE TAPIA: And by that point everyone knows
22 who the witnesses are and what kind of questions you

1 are going to want to dive into at that point.

2 MS. LENOX: Okay.

3 JUDGE TAPIA: Anything else?

4 MR. DAVIS: I have nothing further.

5 MR. OLIVERO: Nothing from Staff.

6 JUDGE TAPIA: Okay. Then I will continue this
7 case to the evidentiary hearing on June 29. That's
8 Tuesday, at 10:00 a.m.

9 (Whereupon the hearing in this
10 matter was continued until June
11 29, 2010, at 10:00 a.m. in
12 Springfield, Illinois.)

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