

BEFORE THE
ILLINOIS COMMERCE COMMISSION

ILLINOIS COMMERCE COMMISSION)	DOCKET NO.
On Its Own Motion)	12-0213
)	
)	
Implementation of Section)	
16-128A(a) of the Public Utilities)	
Act.)	

Springfield, Illinois
Thursday, August 2, 2012

Met, pursuant to notice, at 10:00 a.m.

BEFORE:

MR. JOHN ALBERS, Administrative Law Judge

APPEARANCES:

MR. JOHN L. SAGONE
MS. KELLY ARMSTRONG
Office of General Counsel
Illinois Commerce Commission
160 North LaSalle Street, Suite C-800
Chicago, Illinois 60601

(Appearing via teleconference on
behalf of Staff witnesses of the
Illinois Commerce Commission)

By Carla J. Boehl, Reporter
CSR #084-002710

1 APPEARANCES: (Continued)

2 MR. EDWARD C. FITZHENRY
3 Managing Associate General Counsel
4 Ameren Illinois Company
5 d/b/a Ameren Illinois
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8 St. Louis, Missouri 63166-6149

9 (Appearing via teleconference on
10 behalf of Ameren Illinois
11 Company)

12 MR. JOHN ROONEY
13 ROONEY, RIPPIE & RATNASWAMY, L.L.P.
14 350 West Hubbard Street, Suite 600
15 Chicago, Illinois 60654

16 (Appearing via teleconference on
17 behalf of Commonwealth Edison
18 Company)

19 MR. BRADLEY D. KLEIN
20 Senior Attorney
21 Environmental Law & Policy Center
22 35 East Wacker Drive, Suite 1600
Chicago, Illinois 60601

(Appearing via teleconference on
behalf of the Environmental Law
& Policy Center

MS. ROCHELLE G. SKOLNICK
SCHUCHAT, COOK & WERNER
1221 Locust Street, 2nd Floor
St. Louis, Missouri 63103

(Appearing via teleconference on
behalf of IBEW Local 51)

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1 APPEARANCES: (Continued)

2 MR. MICHAEL R. STRONG
3 Chief Legal Officer
4 Illinois Power Agency
5 160 North LaSalle Street, Suite C-504
6 Chicago, Illinois 60601

7 (Appearing via teleconference on
8 behalf of the Illinois Power
9 Agency)

10 MS. CATHY C. YU
11 Public Utilities Bureau
12 Illinois Attorney General's Office
13 100 West Randolph Street, 11th Floor
14 Chicago, Illinois 60601

15 (Appearing via teleconference on
16 behalf of the People of the
17 State of Illinois)

18 MR. THEODORE T. EIDUKAS
19 FOLEY & LARDNER, LLP
20 321 North Clark Street, Suite 2800
21 Chicago, Illinois 60654

22 (Appearing via teleconference on
23 behalf of the Electronic
24 Technicians International
25 Association)

26 MS. JENNIFER MOORE
27 Corporate Counsel
28 106 East Second Street
29 Davenport, Iowa 52801

30 (Appearing via teleconference on
31 behalf of MidAmerican Energy
32 Company)

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I N D E X

WITNESS
(None)

DIRECT CROSS REDIRECT RECROSS

EXHIBITS

(None)

MARKED ADMITTED

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PROCEEDINGS

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JUDGE ALBERS: By the authority vested in me by the Illinois Commerce Commission, I now call Docket Number 12-0213. This docket was initiated on its own motion for the purpose of implementing Section 16-128A(a) of the Public Utilities Act.

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May I have the appearances for the record, please?

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MR. SAGONE: Yes. On behalf of the Staff witnesses of the Illinois Commerce Commission, John Sagone and Kelly Armstrong, 160 North LaSalle Street, Suite C-800, Chicago 60601.

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MR. FITZHENRY: On behalf of Ameren Illinois Company, my name is Edward Fitzhenry, 1901 Chouteau Avenue, St. Louis, Missouri 63103.

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MR. ROONEY: On behalf of Commonwealth Edison Company, John Rooney of Rooney, Rippie and Ratnaswamy, L.L.P., 350 West Hubbard Street, Suite 600, Chicago, Illinois 60654.

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MR. STRONG: On behalf of the Illinois Power Agency, Michael Strong, 160 North LaSalle, Suite C-504, which is a change from last time, Chicago,

1 Illinois 60601.

2 MS. YU: On behalf of the Office of the
3 Illinois Attorney General, Cathy Yu, 100 West
4 Randolph Street, Chicago, Illinois 60601.

5 MR. KLEIN: And on behalf of the Environmental
6 Law and Policy Center, Brad Klein, 35 East Wacker
7 Drive, Suite 1600, Chicago, Illinois 60601.

8 MR. EIDUKAS: On behalf of Electronic
9 Technicians Association International, Theodore
10 Eidukas of Foley and Lardner, LLP, 321 North Clark
11 Street, Suite 2800, Chicago, Illinois 60654.

12 MS. SKOLNICK: On behalf of the International
13 Brotherhood of Electrical Workers Local 51, Rochelle
14 Skolnick, Schuchat, Cook and Werner, 1221 Locust
15 Street, Second Floor, St. Louis, Missouri 63103.

16 MS. MOORE: Appearing on behalf of MidAmerican
17 Energy, Jennifer Moore, 106 East Second Street,
18 Davenport, Iowa 52801.

19 JUDGE ALBERS: Any others wishing to enter an
20 appearance?

21 (No response.)

22 Let the record show no response.

1 I do not have any preliminary matters.
2 Does anyone have anything they would like to raise of
3 a preliminary nature?

4 (No response.)

5 Moving on then, I trust that you had
6 your third workshop on July 30. So if anybody wants
7 to update me on the parties' progress, I would
8 appreciate that.

9 MR. SAGONE: Yes, Judge, this is John Sagone.
10 We held the workshop and made some pretty good
11 progress. I think at the end of that the consensus
12 was that no further workshops -- there would be no
13 purpose served by having any further workshops. But
14 I think we wanted to go ahead and move forward.

15 There also seemed to be, and I don't
16 want to speak for all the parties, but I think there
17 was sort of a general agreement that verified
18 comments would probably be acceptable. But, you
19 know, I don't know if all the parties were actually
20 present on the last workshop so I can't actually
21 confirm that all the parties have agreed to that.

22 JUDGE ALBERS: When you say verified comments,

1 were you contemplating entry of some kind of First
2 Notice Rule first for parties to comment on?

3 MR. SAGONE: Well, here is one of the things
4 that Staff was contemplating. They would like to put
5 one more sort of informal draft rule out for parties
6 to look at, and we were thinking August, the week of
7 August 20. So probably August 23. And then have
8 parties sort of comment on that by August 30. And
9 then we would be targeting the week of, I think it
10 is, September 10, actually September 13, to file
11 something formal on e-Docket, so sort of the first
12 rule with sort of supporting comments.

13 JUDGE ALBERS: What was that date again?

14 MR. SAGONE: September 13. And then we would
15 propose somewhere around October 4 for initial
16 comments from the parties, and then somewhere around,
17 say, October 18 for reply comments or I guess the
18 second round of comments.

19 So I guess the question I would have
20 is, would we be looking at September 13 as sort of a
21 start of the First Notice Period?

22 JUDGE ALBERS: Well, the Commission would have

1 to actually enter an Order and then have it published
2 in the Illinois Register to actually initiate the
3 First Notice.

4 MR. SAGONE: Okay.

5 JUDGE ALBERS: And if that's -- if you want to
6 do it with the comment route, I would suggest having
7 it actually published as a First Notice Rule might --
8 if you want to get input before it goes to the
9 Illinois Register, I am tempted to suggest testimony.
10 That way, if we do end up having to go to hearing,
11 there would be somebody to question on the stand as
12 to what their thoughts were and what their intentions
13 were in whatever recommendation they are making. But
14 if the parties are comfortable with whatever Staff
15 files as a generally, not entirely, agreed upon rule
16 going to the Commission as a recommended First Notice
17 Rule, we can try that.

18 Does that make sense? And obviously
19 I, of course, have no idea what's going to be in this
20 rule you are proposing so I want to look at it, too.

21 MR. SAGONE: I think we would be fine with not
22 necessarily having it start on the 13th. But in sort

1 of going back from that, I think sort of the drop
2 date on this is April 26. Kind of working back from
3 that, as I see the timeline, if you were assuming a
4 90-day -- you know, possible 90-day Second Notice
5 Period, it seemed to me we would probably have to
6 have the First Notice Period start at the latest by
7 mid-November.

8 JUDGE ALBERS: I think that sounds about right,
9 but let me get some input from others here before we
10 go any further.

11 Does anybody have any objection to
12 going forward with a First Notice Rule from the
13 Commission to initiate an actual First Notice Period?

14 MR. FITZHENRY: Ameren Illinois has no
15 objection.

16 MR. ROONEY: No objection from ComEd.

17 JUDGE ALBERS: I think there was some garbled
18 voices there. Did you get that, Carla? Two folks
19 spoke over each other. I got ComEd and Ameren. Was
20 there somebody else that had no objection?

21 MR. EIDUKAS: Yeah, ETA International has no
22 objection.

1 JUDGE ALBERS: Okay. Thank you.

2 MR. KLEIN: ELPC has no objection either, Your
3 Honor.

4 MS. MOORE: Neither does MidAmerican.

5 MR. STRONG: IPA has no objection.

6 MS. YU: The AG is fine with that as well.

7 MS. SKOLNICK: Can I just clarify -- this is
8 IBEW. We would not be waiving the opportunity to
9 submit testimony if we move forward with that
10 proposed rule?

11 JUDGE ALBERS: Well, that's what we are trying
12 to figure out now. As I understand it, if -- I will
13 just say what I think I heard being suggested and how
14 I think it would have to work out just procedurally.

15 Staff would file an informal rule here
16 in the next few weeks, by August 23. There would be
17 informal comments shared amongst yourselves, but not
18 me, by August 30. Staff would file -- Staff would, I
19 guess, consider those comments, make any tweaks or
20 changes based on those comments, and then formally
21 file in this docket a rule with some type of
22 supporting verified comments just for the Commission

1 to have something on the record. The Commission
2 would take that. We could leave it -- we could even,
3 I suppose -- I am just thinking out loud here.

4 If somebody wants to weigh in before
5 the Commission sees the First Notice Rule, I am not
6 going to prevent them from doing that, if they want
7 to get their thoughts on the record before the
8 Commission rules on a First Notice Rule.

9 But basically there wouldn't be any
10 type of hearing, is what I am getting from
11 Mr. Sagone's description. The Commission would take
12 this generally-agreed upon First Notice Rule. In
13 theory they would enter an Order accepting that as
14 the First Notice Rule. It would go to the Secretary
15 of State, get published in the Illinois Register. On
16 that date, the first 45 days notice period would
17 begin, and within that 45 days people could submit
18 initial comments, verified initial comments, as part
19 of the statutorily required First Notice Period.

20 We would also -- I would also send out
21 a ruling providing for a week, two weeks, you know,
22 we will see how it works out, for people to file

1 verified reply comments. I would take that, take
2 those comments and reply comments, into
3 consideration. And if it is any different from
4 what's been -- well, if there is any disputed issues,
5 issue a proposed Second Notice Rule. There would be
6 exceptions and replies, and then it would go back to
7 the Commission for their view on whether or not to
8 enter that as the Second Notice Rule, however they
9 want to use the comments to develop a Second Notice
10 Rule to send on to JCAR.

11 I suppose, after we get the verified
12 reply comments, if there are that significant of
13 issues that we need to actually have testimony, we
14 could incorporate very quick testimony and
15 evidentiary hearing before we get to a proposed
16 Second Notice Order.

17 Everybody follow that?

18 MS. SKOLNICK: Yeah, my concern -- this is
19 Rochelle Skolnick. My concern is that, with the last
20 draft rule that was circulated, we had some fairly
21 substantial structural problems with it. And I just
22 -- before we see what it is that Staff is proposing

1 as that sort of, you know, rule that's going to be
2 the basis from which we are going to work, I think we
3 would not be comfortable waiving the opportunity to
4 submit testimony.

5 JUDGE ALBERS: Well, it sounds like then there
6 would be some interest in a possibility of having
7 some kind of testimony submitted after the verified
8 reply comments.

9 MS. SKOLNICK: Or at least having the
10 opportunity for that. You know, it may be that we
11 don't in the end feel we need it, but at least to
12 know that we haven't foreclosed that avenue
13 altogether.

14 MR. FITZHENRY: Judge, this is Ed Fitzhenry.
15 Perhaps then a status hearing sometime after the
16 reply comments are circulated, so then the parties
17 have a better idea as to what remains in dispute and
18 perhaps amongst the parties themselves they could
19 agree to the remaining schedule, and we are sort of
20 (inaudible) on that. Perhaps it would be premature
21 to do so, given the IBEW's position. Which there is
22 nothing wrong with it; I am just saying there is some

1 options for us to consider.

2 JUDGE ALBERS: Okay, thank you. Well, bearing
3 in mind the deadline and the time it takes to get a
4 rulemaking done just as far as the First Notice of
5 JCAR's period goes, I am inclined to go ahead and try
6 to get that First Notice Period started sooner rather
7 than later. Therefore, I believe Staff's -- well,
8 the more or less jointly recommended course of having
9 Staff submit one more round, one more informal draft
10 followed by informal comments by the close of this
11 month, and then having Staff make a formal filing,
12 you know, early to mid-September, I think is a
13 prudent course. And get that before the Commission
14 as a recommended, you know, generally recommended
15 First Notice Rule and letting the Commission know
16 that there may be some, you know, disputed issues
17 that would be at a minimum addressed through the
18 filing of verified comments and reply comments.

19 Ms. Skolnick, does that address your
20 concerns, at least on a --

21 MS. SKOLNICK: No, I think it does. Thank you,
22 Your Honor.

1 JUDGE ALBERS: Okay. Well, I think the dates
2 that Staff suggested are all right. If they want to
3 do something sooner, that's fine, too. At this point
4 I suppose we can just set September 13 as an outside
5 date for the filing of something formal from Staff.
6 If they file something sooner, I can get it before
7 the Commission that much faster certainly and get the
8 First Notice Period to begin. I'll look at the
9 Commission's calendar here for a second.

10 MR. ROONEY: Yeah, they meet the following
11 week, the 18th and 19th, Your Honor.

12 JUDGE ALBERS: Yeah. Getting something on the
13 13th would be too late to get it on the bench for the
14 19th. So if Staff could get me something --

15 MR. SAGONE: By the 6th or the 7th?

16 JUDGE ALBERS: That would definitely help.

17 MR. SAGONE: I think that's do-able.

18 JUDGE ALBERS: I would like to ask for the 5th,
19 if you can try that.

20 MR. SAGONE: Is Eric Schlaf there?

21 JUDGE ALBERS: He is.

22 MR. SAGONE: Eric, do you think September 5

1 would be workable?

2 MR. SCHLAF: How many days after the holiday is
3 that? Two days?

4 MR. SAGONE: It is, what, two days.

5 MR. SCHLAF: I guess if that is the date that
6 works best, then I guess that would be the date by
7 which we will have something available for the
8 record.

9 JUDGE ALBERS: All right.

10 MR. SAGONE: That was September 5?

11 JUDGE ALBERS: Yes.

12 MR. SAGONE: Did we want to try and do a status
13 shortly after that or wait until after the initial
14 comments?

15 JUDGE ALBERS: Well, I suspect that many of us
16 will be involved in the second Ameren formula update
17 docket for Ameren. The hearings begin the following
18 week. So I would suggest we hold off on a status
19 hearing right after the filing of the rule because,
20 unless there is something you folks care to share
21 with me, I am not sure what we would accomplish then.
22 And if you want, we could just kind of continue this

