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BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:

General assembly and the)
Governor approved Section 9-223(b))

To evaluate the purpose and use of)
each fire protection charge imposed)
under this section.)

Public Forum
14750 S. Ravinia Avenue
Orland Park, Illinois

October 15, 2007

Met pursuant to notice at 7:00 p.m.

BEFORE:

CHIEF PUBLIC HEARING OFFICER ROBERT R. BENSKO.

ALSO PRESENT:

- MR. MICHAEL FOUNTAIN
Director of the Consumer Services Division
- MR. JOHN HENDERSON
Manager of the Rates Department
- MR. MICHAEL LUTH
Analyst with the Rates Department
527 East Capitol Avenue
Springfield, Illinois

SULLIVAN REPORTING COMPANY, by
Tracy L. Overocker, CSR

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1 CHIEF HEARING OFFICER BENSKO: Public hearing
2 October 15th, 2007, 7:15 p.m.

3 Good evening, my name is Robert Bensko and I'm the
4 Chief Public Hearing Officer for the Illinois
5 Commerce Commission. Tonight with me, I have three
6 gentlemen from the ICC. Do you want to introduce
7 yourselves, starting with Mike.

8 MR. MICHAEL FOUNTAIN: Good evening, everyone,
9 my name is Michael Fountain, I'm director of the
10 Consumer Services Division of the Illinois Commerce
11 Commission.

12 MR. JOHN HENDERSON: John Henderson, I'm the
13 manager of the Rates Department at the Commerce
14 Commission.

15 MR. MICHAEL LUTH: Mike Luth, I'm with -- an
16 analyst with the Rates Department with John.

17 CHIEF HEARING OFFICER BENSKO: Thank you,
18 gentlemen.

19 I want to thank you all for coming
20 tonight. Seated next to me, I have a court reporter
21 that will make a legal record of your comments, which
22 will be made available to the chairman and

1 commissioners and then a report -- a final report
2 will be made to the legislature prior to the -- prior
3 to or after?

4 MR. JOHN HENDERSON: Prior to.

5 CHIEF HEARING OFFICER BENSKO: Prior to the
6 2008 veto session. I'd like to ask if you have cell
7 phones or anything on, please turn them off so it
8 won't disrupt the proceedings.

9 The purpose of this forum: In 2006,
10 the general assembly and the Governor approved
11 Section 9-223(b) which requires the ICC to conduct
12 three public forums to evaluate the purpose and use
13 of each fire protection charges imposed under this
14 section. The statute also requires that the ICC
15 invite to the forum a representative from each
16 municipality and fire protection district. The ICC
17 is required to report its findings to the general
18 assembly.

19 The legislative history and background
20 from this: Section 9-223(a) of the Public Utility
21 Act was enacted around 1984. Prior to that time,
22 fire-related water system costs were recovered from

1 municipalities and fire districts through per hydrant
2 charges. The statute was proposed by fire protection
3 districts, that's the fire protection charge, that
4 was originally proposed by the fire protection
5 districts. The effect of the statute was to allow
6 municipalities and fire protection districts to opt
7 out of paying such charges unless they choose to do
8 so by entering into a contract with a company. Most
9 municipalities and districts have chosen not to pay
10 hydrant charges and those hydrant charges are per
11 hydrant. Most hydrants are 500 feet apart, so you
12 can imagine, say, in this area, a fire hydrant every
13 500 feet and if you were charged per hydrant charge,
14 that would -- those costs would add up.

15 As a result, fire-related costs are
16 now recovered from customers, primarily through a
17 fixed charge for public fire protection service. The
18 statute provides for the recovery in the manner of a
19 reasonable portion of the cost of providing capacity
20 and water for fire protection. Any fire protection
21 costs that may not be recovered through the fire
22 protection charge are allowed to be recovered through

1 charges for the general water services.

2 As the statute has been interpreted,
3 the requirement for a fixed amount per bill permits
4 differentiation of the fixed charge by meter size.
5 Also, the charge must be based on the level of fire
6 protection costs for each municipality or fire
7 protection district. The language has been
8 interpreted to allow for a uniform charge in a given
9 rate area, such as the Chicago Metro Division.

10 The basis for the calculation of the
11 charges, the fire protection -- the public utility
12 provides the water pipe system, the hydrants, the
13 water for fire protection and the utility is allowed
14 to recover its cost from its water customers and
15 municipality or fire protection district. Now,
16 that's the public utility.

17 At this time, a public water utility
18 must seek approval from us, the ICC, to initiate and
19 to charge a fire protection charge. Fire protection
20 charges are developed in a rate case in, generally,
21 the following manner based on costs to provide the
22 service: The number of hydrants; the number of

1 customers; the amount of water for fire protection;
2 the cost of the water and a monthly charge. The
3 basis for the determination of municipality and fire
4 protection charges on a tax -- and I want to clear
5 this thing up because there's some misconceptions
6 about people being dual taxed.

7 You have a fire protection charge on
8 your water bill, that pays for the water, the hydrant
9 maintenance and stuff like that. The fire protection
10 charge that you have on your tax bill pays for those
11 little red trucks that drive around and the building
12 and the people and the services and the training and
13 stuff like that. They are two distinct different
14 entities; but a lot of times we have the public, they
15 think that they're being dual taxed for the same
16 thing and they're not.

17 I run these hearings very openly and I
18 encourage anyone and everyone to speak tonight
19 because the only way we're going to have anything to
20 write to the legislature is if you tell us something
21 and we don't want to go home empty handed, so...

22 I run these hearings openly and I urge

1 anyone and everyone to speak. If you have some --
2 and I know there are some chiefs and some people
3 representing larger numbers than are seated in this
4 room, I will allow you up until January 1st to send
5 me letters to the Illinois Commerce Commission, I'll
6 give you the address, 527 East Capitol Avenue, that's
7 C-a-p-i-t-o-l, Avenue, Springfield is 62701 and
8 address them to Robert Bensko, B-e-n-s-k-o.

9 When you come up to speak tonight, I
10 ask that you use the podium. State your name and
11 spell it so that the court reporter has an accurate
12 record. If you would like to do like one of you has
13 already done, drop off your written comments, along
14 with what you say up there, that's okay or if you
15 have written comments from other entities, I will
16 take those tonight; but be sure and send out to
17 everybody a note that states that they can write to
18 me by January 1st and I will accept all those
19 comments and letters.

20 All right. I will mispronounce every
21 name on this page. Robert Buhs.

22 MR. ROBERT BUHS: Thank you, Mr. Bensko. I

1 appreciate the opportunity to speak here on behalf of
2 the fire districts, the Illinois fire chiefs. Again,
3 my name is Robert Buhs, spelled B-u-h-s, I'm the
4 executive director for the Illinois Fire Chiefs
5 Association. I am also the retired chief
6 administrator for the Orland Fire District where this
7 stuff kind of generated back when I was the chief
8 here in Orland.

9 I speak on behalf of 463 members of
10 the fire districts that are part of our membership,
11 many of whom are protected or have water by private
12 companies. Looking over House Bill 5555 back in '94,
13 Section 9223 -- 223, we are in support of leaving
14 that section alone, we have really no issue with
15 that. We do not want to remove the section allowing
16 the district or the department to opt out of waiving
17 those fees.

18 You are correct, many of the fire
19 districts will be here across the state complaining
20 on the water bill from the private utility company,
21 they are hearing of a fire protection charge. They
22 have every right to do it according to the statutes;

1 however, I want to go on record that we would like at
2 least to see in the water bills an asterisk, if you
3 will, next to the fire protection charge making it
4 clear that by rights of the public utility or the
5 private utility company, that they can charge this
6 for fire protection systems, like, a warning label or
7 an informational label, if you will. I think that's
8 pretty important.

9 We understand that there is a number
10 of citizens in the state that don't pay much
11 attention to these bills, but it has to be made clear
12 that this is a private company's ability to install
13 and maintain systems.

14 We have another concern that many of
15 our districts -- we have to do a better job, meaning
16 the Illinois Fire Chiefs Association, informing our
17 members who are dealing with a private utility that
18 they need to go on record to opt out because many of
19 our districts are receiving bills -- yearly bills for
20 fire hydrant usage or rental, if you will.

21 We have some districts in this state
22 that have an operating budget of only \$30,000 a year,

1 I mean, their main revenue stream is pancake
2 breakfasts and the like and they really don't know
3 what to do and some of them have been trying to make
4 payments to pay for this charge. So we have to do a
5 better job of informing our members to go on record
6 to opt out as the statute now allows, so we
7 definitely want to keep that in place.

8 There is a concern and I think you'll
9 hear later -- testimony later on that there are
10 several different fees in the area. One is for the
11 \$4.00 a month charge, which averages out to about
12 \$55.00 a year for fire protection; but there's also
13 another fee for large, they have an alliance that has
14 to be brought in for a sprinkler building. So we are
15 starting to see a menu, if you will, in some of the
16 bills for fire protection fees, which I guess by
17 statute is allowable, but that throws a lot of
18 questions by some of the districts, how much and
19 where does the list stop, the size of water mains and
20 the like. If it's clear that it's for hydrants to
21 maintain the water supply system, the storage and the
22 like, that's fine; but we got to be careful of that,

1 you know, the ICC look closely at the private
2 companies not starting a laundry list of fees, if you
3 will, it's got to be very clear lumped into one.

4 Currently -- we know there's been a
5 lot of issues up in Springfield regarding what's
6 going to happen December 31st, 2007, with this and I
7 know you have to make your report by the April
8 session of 2008. Again, I want to be very clear that
9 we do not want to lose the ability to opt out on that
10 section.

11 And, number 2, we think it will be
12 wise for the ICC to look at the private companies to,
13 at least, on the bill itself, to identify what the
14 charges are for and some have even questioned exactly
15 what -- how that money is going. I mean, there's no
16 accounting principal for the budget process that's
17 being maintained.

18 As you know, Channel 5, they made a
19 big deal of fire hydrants, both municipal public and
20 private, regarding the maintenance of hydrants and we
21 know this is an issue on both sides; but if those
22 fees are being used for fire protection systems, then

1 we need some accountability also in the maintenance
2 of those systems; and, again, it's the same issue on
3 the public side, too. So we also have a concern for
4 making sure the systems are maintained.

5 With a water company that I dealt with
6 here when I was the fire chief, we had a hydrant that
7 was out of service. We called -- and believe me,
8 that is documented probably in our journals way back,
9 I've been gone now three years, but there are cases
10 where those hydrants were out of service and what
11 sticks in my mind for one hydrant was over three
12 weeks. I could say when I was here, it was a
13 municipal -- a village owned park hydrant, it was
14 fixed within 48 hours; but then -- so, I mean, that's
15 at an issue, too, for us.

16 So the fee that is going to maintain
17 the system for fire protection, I think there needs
18 to be some more accountability and when a hydrant
19 does go out, it's got to be repaired in a reasonable
20 amount of time.

21 I keep hearing "reasonable fees and
22 the like," "reasonable costs." I think my -- what

1 I'm hearing from some of our membership is, is this
2 going to be a fixed rate? Is it going to keep
3 incrementally going up every year? And I think Bob
4 said it's based upon service -- service in the way of
5 people and I guess every metropolitan area --

6 CHIEF HEARING OFFICER BENSKO: It's based on
7 the number of hydrants, the number of customers, the
8 amount of water for the fire protection and the cost
9 of the water and on top of that, a monthly charge and
10 they have to come to us in a rate case before they
11 can change that.

12 MR. ROBERT BUHS: Okay. We have -- and I need
13 to get those letters to you, some parts of the state
14 are paying astronomical rental fees. I guess -- so
15 you are saying the ICC does approve those rates?

16 CHIEF HEARING OFFICER BENSKO: Correct.

17 MR. ROBERT BUHS: We also heard that some staff
18 members of the ICC even looked at systems to rise
19 close to \$650.00 based upon costs and I'm not too
20 sure of those numbers, but we're concerned about
21 that. So we're very -- it is a big issue for us and
22 how high that rate is going to go.

1 Now, again if we opt out and it's made
2 clear on the bill that this is not a tax or going
3 directly to the fire district or the public entity,
4 that it's strictly for private water supply use, then
5 maybe it will take some of the heat off us, but those
6 are our concerns. I thank you for listening.

7 CHIEF HEARING OFFICER BENSKO: Thank you very
8 much.

9 Michael Dillon.

10 MR. MICHAEL DILLON: I'm Michael Dillon,
11 D-i-l-l-o-n, I'm the president of the Illinois
12 Association of Fire Protection Districts. Our board
13 represents about 650 fire districts across the state
14 of Illinois. And our concern, again, is almost
15 identical to the chief's, but one thing I do want to
16 bring up is that fire protection districts receive
17 nearly all of their financial support from real
18 estate taxes and the levies allowed to the districts
19 are subject to rate limits in most cases or are
20 subject to PTEL or tax caps which really limits the
21 amount the district can generate by property tax to
22 pay our operating expenses and adding a charge for

1 public fire protection to the operating expenses of
2 the fire protection district would impose a serious
3 financial hardship and result in diminished fire
4 services.

5 One of the fire chiefs from Fairfield
6 Heights in the previous hearing put it; the way that
7 he would be pulling plugs out of service in order to
8 reduce the cost and this, of course, would reduce the
9 amount of the department's fire suppression
10 capabilities.

11 Also, again, I want to say that the
12 fire protection districts do not want Section 9223(a)
13 to be changed in any manner which will allow either
14 the ICC or the water utilities to force a charge on
15 them for what the utilities and the ICC staff decide
16 and characterize as a public fire protection charge.

17 And I want to reiterate what Mr. Buhs
18 said is that there's a lot of confusion on the bills
19 on what that fire protection charge is for. A lot of
20 people think that that -- when they pay their water
21 bill, that that money is going back to the fire
22 department or the fire protection district and that's

1 not the case and it needs to be clarified on the
2 bill. That's all I have. Thank you. Thank you for
3 the opportunity.

4 CHIEF HEARING OFFICER BENSKO: Thank you very
5 much.

6 Larry?

7 MR. LARRY RAUCH: No thanks. He said it all.

8 CHIEF HEARING OFFICER BENSKO: Bill?

9 MR. WILLIAM BONNAR: My name is William Bonnar,
10 B-o-n-n-a-r, from Homer Township Fire Protection
11 District. And what I want to bring to the table here
12 at this hearing is I brought an actual bill from our
13 fire station. We are primarily covered by Illinois
14 American Water which is a private utility. The
15 history of it was, it was a small group of water
16 companies bought out by Citizens Utility,
17 conglomerated and bought out by Illinois American
18 Water. And just so that everyone has an example of
19 what we're talking about here is 12,000 gallons of
20 water was used last month for a total charge \$308.00.
21 The bill breaks down to basic service use, \$3.51 per
22 thousand; supply charge, American lake water, \$2.37

1 per thousand; sewage treatment of \$8.65 per thousand;
2 and then under other current charges, we have an
3 8-inch fire protection \$66.00 a month. What that is,
4 is an 8-inch water main that goes into our fire
5 station to supply our sprinkler system, there's no
6 explanation on that. If they say they need that for
7 maintenance, we've performed the RBZ inspections, we
8 perform the flushing of the system, they do no
9 maintenance whatsoever.

10 And then also is a \$4.28 per month
11 fire protection charge and that was when we opted out
12 of paying for the hydrants ourselves, the utility
13 company charges everyone across the board. That's
14 all I have. Thank you.

15 CHIEF HEARING OFFICER BENSKO: Thank you.

16 Is there anyone else that would like
17 to speak on the record tonight?

18 MR. ROBERT BUHS: I'm sorry, I think that was a
19 good example, the 8-inch main that comes into the
20 station. Is this being charged to every commercial
21 building, too, that has a sprinkler system?

22 MR. WILLIAM BONNAR: The building has a

1 sprinkler system.

2 MR. ROBERT BUHS: There's no maintenance on
3 that line once it comes in, it's up to the fire
4 department then to check the sprinkler system and
5 there's a good example. Is it -- will it become a
6 laundry list, if you will, and when does it end? And
7 I think it has to be made very clear. Thank you.

8 CHIEF HEARING OFFICER BENSKO: Any one else?

9 (No response.)

10 Hearing no other speakers, I will
11 adjourn this meeting. I thank you all for coming
12 tonight. I urge you to have people write me letters;
13 I want that. I want you to write me letters so that
14 we can put it in the public record of the file and it
15 gives us some meat and potatoes to write our report
16 and the report will reflect exactly what the people
17 in the room stated.

18 Thank you every one.

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