BEFORE THE

ILLINOIS COMMERCE COMMISSION

REGULAR OPEN MEETING

(PUBLIC UTILITIES)

Chicago, Illinois

Tuesday, January 14, 2014

Met, pursuant to notice, at 10:30 a.m. at
160 North LaSalle Street, 8th Floor, Chicago, Illinois.

PRESENT:

MR. DOUGLAS P. SCOTT, Chairman

MR. JOHN T. COLGAN, Commissioner (by videoconference)

MS. ANN McCABE, Commissioner

MR. MIGUEL DEL VALLE, Commissioner

MS. SHERINA E. MAYE, Commissioner

JENNIFER L, BERNIER, CSR, RPR, CLR
On behalf of Midwest Litigation
CHAIRMAN SCOTT: Pursuant to the provisions of the Open Meetings Act, I now convene our regular meeting of the Illinois Commerce Commission. With us in Chicago are Commissioner McCabe, Commissioner del Valle, Commissioner Maye. In Springfield is Commissioner Colgan. I'm Chairman Scott. We have a quorum.

Before moving into the agenda, according to Section 1700.10 of Title 2 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 Commission meetings. According to the Chief Clerk's Office, we have no request to speak at today's meeting.

The first item of business on today's agenda is the approval of minutes from our December 18th Bench session. I understand amendments have been forwarded. Is there a Motion to Amend the minutes?

COMMISSIONER McCabe: So moved.

CHAIRMAN SCOTT: Moved by Commissioner McCabe. Is there a second?

COMMISSIONER Maye: Second.

CHAIRMAN SCOTT: Seconded by Commissioner Maye.

All in favor, say aye.
(Ayes heard.)

CHAIRMAN SCOTT: Any opposed?
(No response.)

CHAIRMAN SCOTT: The vote is five to nothing and the amendments are adopted. Is there now a Motion to Approve the minutes as amended?

COMMISSIONER MAYE: So moved.

CHAIRMAN SCOTT: Moved by Commissioner Maye.

Second?

COMMISSIONER DEL VALLE: Second.

CHAIRMAN SCOTT: Seconded by Commissioner del Valle. All in favor, say aye.

(Ayes heard.)

CHAIRMAN SCOTT: Any opposed?
(No response.)

CHAIRMAN SCOTT: The vote is five to nothing and the December 18th Bench session minutes, as amended, are approved.

Item 2 is the approval of minutes from our December 18th Special Open Meeting. I understand the amendments have been forwarded. Is there a Motion to Amend the minutes?

COMMISSIONER DEL VALLE: So moved.

COMMISSIONER MAYE: Second.
CHAIRMAN SCOTT: Moved by Commissioner del Valle and seconded by Commissioner Maye. All in favor, say aye.

(Ayes heard.)

CHAIRMAN SCOTT: Any opposed?

(No response.)

CHAIRMAN SCOTT: The vote is five to nothing and the amendments are adopted. Is there a Motion to Approve the minutes as amended?

COMMISSIONER McCABE: So moved.

COMMISSIONER MAYE: Second.

CHAIRMAN SCOTT: Moved by Commissioner McCabe. Seconded by Commissioner Maye. All in favor, say aye.

(Ayes heard.)

CHAIRMAN SCOTT: Any opposed?

(No response.)

CHAIRMAN SCOTT: The vote is five to nothing and the December 18th Special Open Meeting minutes, as amended, are approved.

Item 3 is Docket No. 13-0506. This is our investigation concerning the applicability of Section 16-122, 16-108.6 of the Public Utilities Act, with reference to release of customer information on AMI. The Citizen Utility Board has filed a Request for
Oral Argument, ALJ Kingsley recommends we deny it. Is there a Motion to deny the request?

COMMISSIONER McCabe: So moved.

CHAIRMAN SCOTT: Moved by Commissioner McCabe. Is there a second?

COMMISSIONER Maye: Second.

CHAIRMAN SCOTT: Seconded by Commissioner Maye.

Any discussion?

(No response.)

CHAIRMAN SCOTT: All in favor, say aye.

(Ayes heard.)

CHAIRMAN SCOTT: Any opposed?

(No response.)

CHAIRMAN SCOTT: The vote is five to nothing, and the Request for Oral Argument is denied. We will use this five-to-nothing vote for the remainder of today's Regular Open Meeting agenda unless otherwise noted.

Item 4 is Docket No. 13-0495. This is ComEd's Petition for Approval of its Energy Efficiency and Demand-Response Plan pursuant to Section 8-103(f) of the Public Utilities Act. REACT has filed a Request for Oral Argument, which ALJ Haynes recommends we deny.

Is there any discussion?

(No response.)
CHAIRMAN SCOTT: Are there any objections to denying their Request for Oral Argument?

(No response.)

CHAIRMAN SCOTT: Hearing none, the request is denied.

ALJ Haynes also recommends entry of an Order directing ComEd to file a revised plan. Commissioner McCabe has some questions, I believe.

COMMISSIONER McCabe: Yes.

CHAIRMAN SCOTT: Commissioner McCabe.

COMMISSIONER McCabe: Yes.

CHAIRMAN SCOTT: Good morning, Judge.

JUDGE HAYNES: Good morning.

COMMISSIONER McCabe: The proposed Order, at page 63, directs ComEd to spend the remaining energy efficiency budget after it meets the modified savings goals. To the extent they do not expend the funds, do those funds get rolled over to the next three-year plan?

JUDGE HAYNES: The short answer is, no. Each three-year plan -- a new budget is established for each three-year plan. The budget acts more like a max.

COMMISSIONER McCabe: Okay. And is there any risk of imprudence if ComEd spends money after reaching its modified goals and those remaining expenditures turn out
to be on cost ineffective measures?

JUDGE HAYNES: There is always a risk that the company will be found -- their expenditures will be found to be imprudent; but, as discussed in the Order, cost ineffective measures may be okay if they're part of a cost effective package of measures. But what any party will propose to find as cost ineffective in a reconciliation, you can't -- there is always a risk that that will be proposed.

COMMISSIONER McCABE: And on the 5 percent risk adjustment, was there any discussion in the record about other jurisdictions or states having similar risk adjustments?

JUDGE HAYNES: Not that I could find.

COMMISSIONER McCABE: Okay. Thank you.

JUDGE HAYNES: Sure.

CHAIRMAN SCOTT: Anyone else have any further questions for the judge?

(No response.)

CHAIRMAN SCOTT: If there is nothing further, this item will be held for disposition at a future Commission meeting.

Item 5 is Docket No. 13-0498. This is Ameren's Petition for Approval of its Energy Efficiency
and Demand-Response Plan pursuant to Section 8-103(e) and (f) and 8-104(e) and (f) of the Public Utilities Act. ALJ Yoder recommends entry of an Order conditionally approving Ameren's Energy Efficiency and Demand-Response Plan. Commissioner McCabe, I believe, has some questions for the judge. Judge Yoder.

JUDGE YODER: Yes.

CHAIRMAN SCOTT: There he is.

COMMISSIONER McCabe: Good morning.

JUDGE YODER: Good morning.

COMMISSIONER McCabe: On page 78 of the proposed Order, it declines to adopt ELPC's proposal to spend a significant portion of the emerging technologies budget on a comprehensive Smart Devices Program. The Commission appears to adopt CUB's proposal and recommends that the company discuss this program at the SAG and SGAC.

In adopting CUB's position, does the proposed Order also adopt CUB's recommendation to spend any remaining amounts of the technology fund on the Smart Device Proposal?

JUDGE YODER: Commissioner, the intent was not, at this time, to adopt CUB's spending proposal. As Ameren has indicated, they have allocated a portion of the
Smart Devices Budget to some programs. The intent of that conclusion was to adopt the last sentence in CUB's position where CUB recommends that Ameren discuss its plans for a program with the SAG and the SGAC. So, perhaps, it needs clarifying, but at this time the intent was not to adopt the spending provision of CUB's recommendation.

COMMISSIONER McCabe: Okay. And if the Commission were to agree with most of the intervenors that AIC's savings goals should be revised upward, would the company have to re-file its plan and would that be through a compliance filing or another litigated docket?

Judge Yoder: Commissioner, I believe the way the conclusion of the final ordering paragraphs are drafted in this, it calls for Ameren -- it calls for the Commission to conditionally approve Ameren's plan and for Ameren to make a filing within 30 days of a new plan, taking into account the conditions proposed in the Order. I believe that language would be satisfactory no matter what changes the Commission makes to Ameren's plan.

COMMISSIONER McCabe: Okay. Thank you.

Judge Yoder: Thank you.

Chairman Scott: Any other questions?
CHAIRMAN SCOTT: Thank you, Judge. If there is nothing further, this item will also be held for disposition at a future Commission meeting.

Item 6 is Docket No. 13-0499. This is the Illinois Department of Commerce and Economic Opportunity's Petition for Approval of its Energy Efficiency Portfolio Demand and Response Plan pursuant to Section 8-103(e) and (f) and 8-104(e) and (f) of the Public Utilities Act. ALJ Haynes recommends entry of an Order directing DCEO to file a revised plan.

Are there any questions with regard to this matter? Commissioner McCabe?

COMMISSIONER McCabe: I have one that I did not submit previously, so I apologize. But since you're the judge on two of these related issues, there is a lot of discussion about referring issues to the SAG.

Any sense in the hearings whether the SAG can handle everything you may be shifting over to them, or are we asking too much?

JUDGE HAYNES: That is definitely a question. And I think having to do with the discussion regarding the policy manual, the parties talked about SAG just not having time to deal with it and having limited
resources, so it is an issue.

COMMISSIONER McCabe: I know they're not a party.

JUDGE Haynes: Okay.

CHAIRMAN Scott: Anybody else?

COMMISSIONER Del Valle: Well, I have a question. Do they prioritize? How is it determined what they take up and how much time and energy goes into each?

JUDGE Haynes: You know, I don't know the answer to that. It's not -- I know there aren't -- there is no court reporter. I don't even know if there is officially minutes, and it's definitely -- I don't know how it's run. I know they have conference calls, but I really don't know. It's not part of the record necessarily how that happened, at least, not that I recall.

COMMISSIONER Del Valle: So we establish expectations, but there is no way of ensuring that what we suggest be addressed will be addressable?

JUDGE Haynes: Right. I think, obviously, if the Commission tells them to address it, they'll do it.

COMMISSIONER Del Valle: So should we prioritize for it?

JUDGE Haynes: Sure. Yeah. I think a lot of the issues that were thrown back to SAG were things that
aren't ready, that are not fully developed proposals yet, and so it's not something that the Commission necessarily wants to adopt because it's not clear what they'll be adopting. And so let's go work it out with everybody that knows about this and how to work it out and then come to the Commission with a real proposal.

COMMISSIONER DEL VALLE: I just wonder if it becomes a way for us to kind of avoid making certain things happen.

JUDGE HAYNES: I never avoid making decisions on issues. Well, I don't know if it's avoiding or it's just not possible to adopt the proposals yet.

COMMISSIONER DEL VALLE: Okay.

CHAIRMAN SCOTT: Anything else?

(No response.)

CHAIRMAN SCOTT: Okay. Thanks, Judge. We appreciate it. This item will also be held for disposition at a future Commission meeting.

Item 7 is Docket No. 13-0473. This is Karen McCoy's complaint against ComEd as to billing and/or charges in Chicago. ALJ Riley recommends entry of an Order denying the complaint. Is there any discussion? (No response.)

CHAIRMAN SCOTT: Any objections?
(No response.)

CHAIRMAN SCOTT: Hearing none, the Order is entered.

Item 8 is Docket No. 13-0626. This is Linda Maldonado's complaint against ComEd as to billing and/or charges. It appears that the parties have settled their differences and have filed a Stipulation and Joint Motion to Dismiss, which ALJ Riley recommends we grant. Is there any discussion? (No response.)

CHAIRMAN SCOTT: Any objections? (No response.)

CHAIRMAN SCOTT: Hearing none, the Joint Motion to Dismiss is granted.

Item 9 is Docket No. 13-0553. This is our investigation of ComEd's tariffs approved in Docket No. 13-0386. CUB, the AG, and ComEd have all filed Applications for Rehearing. ALJ Dolan and Kimbrel recommend granting the AG and CUB's request in part and deny the remainder of the requests made by the parties. I'll take the issues in two different batches. Start first with the ComEd Application for Rehearing. I would move to deny that Application. Is there a second?

COMMISSIONER MAYE: Second.
CHAIRMAN SCOTT: Seconded by Commissioner Maye. Is there any discussion?
(No response.)
CHAIRMAN SCOTT: All in favor of the denial, say aye.
(Ayes heard.)
CHAIRMAN SCOTT: Opposed?
(No response.)
CHAIRMAN SCOTT: The vote is five to nothing and ComEd's Application for Rehearing is denied.
Take the AG and CUB request together. I would also move to deny those requests. Is there a second?
COMMISSIONER MAYE: Second.
CHAIRMAN SCOTT: Seconded by Commissioner Maye.
Discussion?
(No response.)
CHAIRMAN SCOTT: All in favor, say aye.
(Ayes heard.)
CHAIRMAN SCOTT: Opposed?
COMMISSIONER DEL VALLE: No.
CHAIRMAN SCOTT: The vote is four to one, and the Motion to Deny carries.
Items 10 and 11 can be taken together. These items are citation proceedings for various parties'
failure to file the required annual report or failure to maintain certain certification requirements pursuant to the Commission's Administrative Rules. In each case, Staff recommends entry of an Order initiating citation proceedings.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Orders are entered.

Item 12 is a citation proceeding against CRM Marketing Group. That item has been withdrawn from this morning's agenda.

Items 13 through 27 can be taken together.

These items are citation proceedings for various parties' failure to file a required annual report or a failure to file -- failure to maintain certain certification requirements pursuant to the Commission's Administrative Rules. For each case, Staff recommends entry of an Order initiating citation proceedings.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?
(No response.)

CHAIRMAN SCOTT: Hearing none, the Orders are entered.

Item 28 is Docket No. 12-0654. This is our reconciliation of revenues collected under Illinois Gas Company's gas adjustment charges with actual costs prudently incurred. ALJ Yoder recommends entry of an Order approving the reconciliation.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Order is entered.

Item 29 is Docket No. 13-0665. This is Verde Energy's Application for a Certificate of Service Authority pursuant to Section 19-110 of the Public Utilities Act to act as an alternative gas supplier. ALJ Sainsot recommends entry of an Order granting the requested certificate.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?

(No response.)
CHAIRMAN SCOTT: Hearing none, the Order is entered.

Item 30 is Docket No. 12-0451. This is Total Call Mobile's Application for designation as an eligible telecommunications carrier in the state of Illinois. The petitioner has filed a Motion to Withdraw its application, which ALJ Riley recommends we grant.

Is there any discussion?
(No response.)

CHAIRMAN SCOTT: Any objections to granting the Motion?
(No response.)

CHAIRMAN SCOTT: Hearing none, the Motion is granted.

Item 31 is Docket No. 13-0587. This is Illinois Bell, AT&T, MCImetro Access Transmission Services and Verizon Access Transmission Services' Joint Petition for Approval of an amendment to an existing interconnection agreement pursuant to 47 U.S.C. Section 252. ALJ Baker recommends entry of an Order approving the amendment.

Is there any discussion?
(No response.)

CHAIRMAN SCOTT: Any objections?
(No response.)

CHAIRMAN SCOTT: Hearing none, the Order is entered.

Item 32 is Docket 11-0580. This is Donald Davis' complaint against ComEd as to service in Machesney Park, Illinois. ComEd has filed an Interlocutory Appeal on an ALJ ruling denying Staff's Motion for a Reconsideration of the ALJ's decision to deny a request to stay the proceeding. I have a couple of quick comments on this and then we'll be moving to grant the petition and stay the proceeding.

It's my position that it was not necessary for a stay of the Commission's Order in 11-0588. In order for a stay to attach here in Mr. Davis's complaint proceeding, Section 411.220(c) of the Administrative Rules appears to be a scheduling rule for the Commission and provides that formal complaints brought pursuant to the Commission's Rules of Practice brought by affected customers shall be stayed pending the disposition of a waiver proceeding and appeals thereof. The waiver proceeding is still on appeal at this time.

Although the ALJ's ruling references the Illinois Supreme Court rules and the Commission has the authority to control its own proceedings, it's not
subject to the rules of the Illinois Supreme Court as
the Commission is not part of a judicial branch of
government. Further, it may create hardship for the
complainant if we attempted to resolve his claim only to
have the waiver case overturned on appeal. It would be
administratively inefficient to hold any number of
complaint hearings wasting, potentially, the time of
ALJ's attorneys and, perhaps, most importantly, the
complainants themselves if, ultimately, ComEd is
successful in overturning the Commission's decision and
no liability attaches.

With that, I would move to grant the Petition
for Interlocutory review and to stay both this
proceeding and any other complaint proceedings pursuant
to Section 411.220 until such time as the appeals
process has concluded with respect to the ComEd
incident. Is there a second to that Motion?

COMMISSIONER MAYE:  Second.

CHAIRMAN SCOTT:  Seconded by Commissioner Maye.

Discussion? Commissioner del Valle?

COMMISSIONER DEL VALLE:  Mr. Chairman, when we
issued our final Order in Docket 11-0588, I expressed my
concern that fewer legitimate claims would be heard
because of the duration of this process and passage of
time. The automatic stay in Administrative Rule 411.220 needs to be reviewed.

Utilities have every right to appeal Commission decisions that they do not agree with; but in doing so, they should not enjoy an automatic stay. Guaranteeing customers will be forced to wait even longer before they are given an opportunity to be heard. Over the often lengthy appeals process, customers face the risk of their claims going stale, a risk the utility does not share.

Mr. Davis filed his complaint in August of 2011. Two-and-a-half years have now passed and he is still waiting, and now he will be told that he must wait to proceed with his claim until the Illinois Appellate Court makes a decision on ComEd’s appeal of our Order in 11-0588.

Of course, the process -- that process and possible subsequent appeals could take anywhere from six months to several years. I do not believe this outcome achieves a fair balance of utility and customer interest, so I will be voting no.

CHAIRMAN SCOTT: Thank you, sir. Further discussion?

COMMISSIONER MAYE: I actually have a question. Do
we happen to know -- any of us know where we are with
the amount of complaints filed for this complaint? Has
there been a number? Do we know?

CHAIRMAN SCOTT: I don't know if it's --

COMMISSIONER MAYE: I wasn't sure.

JUDGE DOLAN: I talked to Pete Muntaner, because
they're handling them, and he said that some have been
coming in, but I don't know what the number is.

COMMISSIONER MAYE: Okay. My apologies for not
asking that in advance.

CHAIRMAN SCOTT: Could you let the court reporter
know who you are?

JUDGE DOLAN: I'm Judge Dolan.

CHAIRMAN SCOTT: Further discussion?

COMMISSIONER COLGAN: Mr. Chairman, I'm going to
vote for the interlocutory review, but I share some of
the concerns that Commissioner del Valle expressed
there. And I do think it would be a really good idea to
revisit this issue and to give some further
consideration to it. But I think the statute dictates
that the stay is an automatic stay.

CHAIRMAN SCOTT: Further discussion?

(No response.)

CHAIRMAN SCOTT: The Motion is in favor of the
Motion for Interlocutory Appeal and to stay this and other proceedings brought pursuant to Section 411.220 with respect to the ComEd issue. All in favor, say aye.

(Ayes heard.)

CHAIRMAN SCOTT: Opposed?

COMMISSIONER DEL VALLE: No.

CHAIRMAN SCOTT: The vote is four to one. The Petition is granted in this and any other associated complaint proceedings are stayed until the appeal process is complete.

Judge Wallace, any other matters to come before the Commission today?

JUDGE WALLACE: No. That's all today, Mr. Chairman.

CHAIRMAN SCOTT: Thank you. Hearing none, this meeting stands adjourned. Thank you, everyone.

(Meeting adjourned.)
STATE OF ILLINOIS  )
    ) SS.
COUNTY OF COOK    )

Jennifer L. Bernier, being first duly sworn,
on oath says that she is a Certified Shorthand Reporter,
Registered Professional Reporter, Certified LiveNote
Reporter, doing business in the City of Chicago, County
of Cook and the State of Illinois;

That she reported in shorthand the proceedings
had at the foregoing Meeting;

And that the foregoing is a true and correct
transcript of her shorthand notes so taken as aforesaid
and contains all the proceedings had at the said
Meeting.

CSR No. 084-004190

SUBSCRIBED AND SWORN TO
before me this 23rd day of