BEFORE THE

ILLINOIS COMMERCE COMMISSION

PUBLIC UTILITY SPECIAL OPEN MEETING

Tuesday, January 21, 2020

Chicago, Illinois

Met pursuant to notice at 9:30 a.m. at 160 North LaSalle Street, Chicago, Illinois.

PRESENT:

CARRIE ZALEWSKI, Chairman

BRIEN J. SHEAHAN, Commissioner

SADZI M. OLIVA, Commissioner

MARIA S. BOCANEGRA, Commissioner

D. ETHAN KIMBREL, Commissioner

SULLIVAN REPORTING COMPANY
BY: JO ANN KROLICKI, CSR
License No. 084-002215
CHAIRMAN ZALEWSKI: Good morning. I have 9:30 on my watch.

Are we ready to proceed in Springfield?

THE CHIEF CLERK: Yes, we are.

CHAIRMAN ZALEWSKI: Thank you.

Under the Open Meetings Act, I call the January 21st, 2020, Special Open Meeting to order.

Commissioners Bocanegra, Oliva, Kimbrel, and Sheahan are with me in Chicago. We have a quorum.

We have no requests to speak.

Moving on to our Public Utilities Agenda.

There are edits to the December 19, 2019, Special Open Meeting Minutes.

Are there any objections to approving the Minutes as edited?

(No response.)

CHAIRMAN ZALEWSKI: Hearing none, the Minutes are approved.
Under Electric Items:

Item E-1 concerns ERM 19-164, which is ComEd's filing to cancel Rider Energy Efficiency Demand Response Balancing Adjustment Mechanism or Rider EBAM. ComEd has completed all adjustments to retail customer bills for any over or under collections under this Rider. The Commission Staff recommends to not suspend the filings.

Are there any objections to not suspending the filing?

(No response.)

CHAIRMAN ZALEWSKI: Hearing none, the filing is not suspended.

Items E-2 through E-21 concern Orders initiating citation proceedings against retail electricity supply brokers, agents, or consultants to determine whether to suspend licenses for violation of Commission rules. The Orders initiate the citation proceedings due to failure to file compliance reports, to maintain a license bond, or to maintain authority to transact business in Illinois. The Orders direct licensees to appear before the
Administrative Law Judge to show cause why the Commission should not suspend the license.

Are there any objections to considering these items together and approving the Orders?

(No response.)

CHAIRMAN ZALEWSKI: Hearing none, the Orders are approved.


Are there any objections to approving the Order?

(No response.)

CHAIRMAN ZALEWSKI: Hearing none, the Order is approved.

Items E-23 through E-27 concern applications for Certifications to install
distributed generation facilities in Illinois. The Orders grant the Certificates, finding that the applicants meet the requirements.

Are there any objections to considering these items together and approving the Orders?

(No response.)

CHAIRMAN ZALEWSKI: Hearing none, the Orders are approved.

Item E-28 concerns a denial of application for Certification to install distributed generation facilities in Illinois. The Order denies the application, finding that the applicant failed to amend the application as necessary to complete the application process.

Are there any objections to approving the Order?

(No response.)

CHAIRMAN ZALEWSKI: Hearing none, the Order is approved.

Item E-29 concerns a Complaint against Ameren regarding issues associated with an
easement on Complainant's property related to the electric transmission line.

The Commission makes two rulings on this item.

First, the Complainant has filed a request for Oral Argument. The Commission finds that the issues discussed in this proceeding have been thoroughly and adequately addressed, and the request for Oral Argument should be denied.

Are there any objections to denying the request for Oral Argument?

(No response.)

CHAIRMAN ZALEWSKI: Hearing none, the request is denied.

Second, Ameren has filed a Motion to Dismiss for lack of jurisdiction. The Commission Order grants Ameren's Motion to Dismiss finding that the Commission does not have the authority to decide easement disputes of this nature. The Order notes that the Commission only has jurisdiction over matters granted to it by the legislature. The Commission does not have jurisdiction over a dispute
between private parties concerning the terms of an
easement created pursuant to the contract. A court
of general jurisdiction might be a proper venue to
make this claim.

Are there any objections to granting
the Motion to Dismiss?

(No response.)

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

Item E-30 concerns Docket 19-0940,
which is a Complaint against ComEd regarding a
wrongful service termination and refusal of new
service. The parties have filed a Stipulation and a
Joint Motion to Dismiss with prejudice, stating that
the matters in dispute have been resolved.

Are there any objections to granting
the Motion to Dismiss?

(No response.)

CHAIRMAN ZALEWSKI: Hearing none, the
Motion is granted.

Item E-31 concerns MidAmerican's
request to reconcile revenues under its Rider
Purchased Power Zero Emission or Rider PZE from June 2018 to May 2019. The Order approves the reconciliation as set in the Appendix to the Order, finding that the costs during the reconciliation period were prudently incurred.

Are there any objections to approving the Order?

(No response.)

CHAIRMAN ZALEWSKI: Hearing none, the Order is approved.

Item E-32 concerns Docket 19-0944, which is the Illinois Department of Transportation's petition for approval to acquire property owned by ComEd by means of eminent domain.

IDOT seeks a permanent easement on ComEd's property for a highway safety project. Although ComEd agrees that IDOT can acquire the Subject Property, the parties have been unable to resolve a disagreement on all the documents needed to conclude a voluntary transfer of title. The Commission's approval of this Order will allow IDOT
to acquire property by filing an eminent domain case against ComEd in the Circuit Court of Cook County.

The parties, however, advised the Administrative Law Judge that there are no contested issues in this docket and that an Order by the Commission approving the taking of ComEd's property may be entered by agreement.

Are there any objections to approving the Order?

(No response.)

CHAIRMAN ZALEWSKI: Hearing none, the Order is approved.

Item E-33 concerns Docket 19-0945, which is ComEd's application for authority to incur debt pursuant to Section 6-102 of the Public Utilities Act. The Order grants the authority and directs ComEd to pay a fee pursuant to Section 6-108 of the Act.

Are there any objections to approving the Order?

(No response.)

CHAIRMAN ZALEWSKI: Hearing none, the Order
is approved.

Item E-34 concerns Docket 19-0946, which is ComEd's petition to engage in transactions with affiliated interest. The affiliated interest will assist with ComEd's issuance of debt in Docket 19-0945. The Order grants the request.

Are there any objections to approving the Order?

(No response.)

CHAIRMAN ZALEWSKI: Hearing none, the Order is approved.

Item E-35 concerns an application for a license to operate as a Retail Electric Agent, Broker, and Consultant in Illinois. The Order grants the license, finding that the applicant meets the requirements.

Are there any objections to approving the Order?

(No response.)

CHAIRMAN ZALEWSKI: Hearing none, the Order is approved.

Items E-36 through E-39 concern
requests for proprietary treatment of information in the Environmental Disclosure Reports of Alternative Electric Suppliers. The Orders grant the protection, finding that the information is highly proprietary and confidential.

Are there any objections to considering these items together and approving the Orders?

(No response.)

CHAIRMAN ZALEWSKI: Hearing none, the Orders are approved.

Item E-40 concerns a dismissal of an application for authority to install Energy Efficiency Measures due to the applicant's decision to withdraw the application.

Are there any objections to approving the Order?

(No response.)

CHAIRMAN ZALEWSKI: Hearing none, the Order is approved.

Items E-41 through E-43 concern denials of applications for authority to install
Energy Efficiency Measures. The Orders deny the Certifications, finding that the applicants did not meet the requirements.

Are there any objections to considering these items together and approving the Orders?

(No response.)

CHAIRMAN ZALEWSKI: Hearing none, the Orders are approved.

Items E-44 through E-59 concern application for authority to install Energy Efficiency Measures. The Orders grant the Certificates, finding that the applicants meet the requirements.

Are there any objections to considering these items together and approving the Orders?

(No response.)

CHAIRMAN ZALEWSKI: Hearing none, the Orders are approved.

Under our Gas Items.

Item G-1 concerns Docket 19-0788,
which is Ameren's request to reconcile revenues under Rider VITA or Variable Income Tax Adjustment during 2018. The Order approves the reconciliation as set in the Appendix to the Order, finding that the costs during the reconciliation period were prudently incurred.

Are there any objections to approving the Order?

(No response.)

CHAIRMAN ZALEWSKI: Hearing none, the Order is approved.

Item G-2 concerns Docket 19-1105, which is Nicor Gas' Petition for Special Permission to approve revised tariffs allowing large gas customers to continue voluntary participation in Energy Efficiency Programming. The tariff modifications are to Nicor Gas' Rider 30, which concerns its Energy Efficiency Cost Recovery Plan. The special permission would allow Nicor to file the tariff on less than 45 days' notice and without suspension.

Staff has reviewed the filing and
recommends denying the special permission and
initiating an investigation into the tariff filing.
The Citizens Utility Board has also filed a
letter requesting the investigation. The Order
denies the special permission and initiates the
investigation.

Are there any objections to approving
the Order?

(No response.)

CHAIRMAN ZALEWSKI: Hearing none, the Order
is approved.

Under our Telecommunications Items.

Item T-1 and T-2 concern petitions
for voluntary cancellation of Certificates of Service
Authority. The Orders cancel the applicants'
certificates to provide interexchange
telecommunications services and find that the
cancellations will not deprive any Illinois customers
of necessary telecommunications service.

Are there any objections to
considering these items together and approving the
Orders?
(No response.)

CHAIRMAN ZALEWSKI: Hearing none, the Orders are approved.

Item T-3 concerns a petition to protect highly proprietary information from disclosure in the Petitioner's Annual Report to the Commission. The Order protects the proprietary information from disclosure.

Are there any objections to approving the Order?

(No response.)

CHAIRMAN ZALEWSKI: Hearing none, the Order is approved.

There are no Water and Sewer Items.

We're going to move on to our Miscellaneous Items.

Item M-1 concerns Docket 19-0673, which is Dakota Access and Energy Transfer's Joint Petition to install additional pumping stations and pumping facilities on existing certified pipelines.

Sierra Club and Save Our Illinois
Land, or SOIL, petitioned the Commission to review the denial of their motion to require Joint Petitioners to respond to certain data requests concerning the identity of shippers and affiliates and documentation demonstrating the need for additional throughput capacity on Joint Petitioner's pipelines. There are four related requests filed by Sierra Club and SOIL that are now pending before the Commission.

First, the initial December 9, 2019, Petition For Interlocutory Review against the Administrative Law Judge's December 5, 2019, ruling that denied SOIL and Sierra Club's Motion to Compel;

Second, on December 13, 2019, SOIL and Sierra Club also filed a Verified Motion For Leave to Supplement Petition for Interlocutory Review;

Third, on December 31, 2019, SOIL and Sierra Club filed a Verified Amended Motion for Leave to Supplement Petition For Interlocutory Review; and
Fourth, on January 3, 2020, SOIL and Sierra Club filed a Verified Motion for Leave to File Instanter a Reply in Support of Petition for Interlocutory Review.

Joint Petitioners oppose the Petition.

The Commission has reviewed the Petition, the Motions, the responses, and the record. Myself and a few other Commissioners are persuaded by Sierra Club and SOIL arguments that the Joint Petitioners' responses to the data requests were not sufficient.

Do any of the other Commissioners have anything to say?

COMMISSIONER SHEAHAN: Should we have a vote on this?

CHAIRMAN ZALEWSKI: I will vote. I wanted to know if you have a comment on it.

COMMISSIONER SHEAHAN: I don't have a comment, but I'd like to vote.

COMMISSIONER KIMBREL: I thought Commissioner Bocanegra was getting ready to make a
comment.

COMMISSIONER BOCANEGRA: Yes, I do. Thank you, Commissioner, and thank you, Chairman.

I just want to add that I'm in agreement with the Chair in terms of being persuaded by SOIL and Sierra Club's Petition For Interlocutory Review.

With that said, I just want to add -- these are my own remarks and my own observations. That, first, I think that the ruling today really allows the parties to exchange information and to continue the discovery process.

The second thing I will add, that for me, the decision really is based here on whether there was noncompliance with the Data Request. I will make the observation that whatever was produced by Dakota, in my opinion, is hearsay. It was a document created specifically for litigation, and for me, the rules of evidence are not suspended in this particular proceeding.

So I just want to make clear that that's one of the reasons I'm basing my vote on that.
And the last thing I will add is I do believe that SOIL and Sierra have properly triggered the exception under the federal statute that's applicable in this case.

So I will leave it at that. Thank you.

CHAIRMAN ZALEWSKI: If there are no other comments, I will go ahead and call for a vote.

COMMISSIONER KIMBREL: Yes, I have a comment, Madam Chair.

CHAIRMAN ZALEWSKI: Sure.

COMMISSIONER KIMBREL: In this docket, the ALJ found that the Dakota Access and Energy Transfer, a crude oil company, are complying with the federal statutory and contractual confidentiality and nondisclosure obligations. The Joint Petitioners provided the information sought in SOIL Data Request 1.018, 1.019, 1.022, 1.023, and 1.024 with the shippers' names redacted in order for the parties to make a determination of the need for the increased capacity.

This information is similar to the
information provided in discovery in Dockets 14-0754 and 14-0755 when the Joint Petitioners were found to be fit, willing, and able to construct and operate the pipelines which underlie this docket. 

I agree with the ALJ that the interveners have not demonstrated that the identities of the affiliates or the shippers are necessary to make a determination under Section 8-503 of the Public Utilities Act, that there is a public need for the project and that the project will serve the public convenience and necessity.

I also find troubling Section 15-13 of the Interstate Commerce Act regarding nondisclosure of shipments and this Commission's failure to directly address the exceptions. I know that Commissioner Bocanegra just mentioned it, but I'm not sure which exception she's referring to.

CHAIRMAN ZALEWSKI: Anything else?

(No response.)

CHAIRMAN ZALEWSKI: Okay. I'm going to call the vote, and the vote I'm calling for is to
grant the Petition For Interlocutory Review and the two Motions to Amend, treating the leave to file a reply as moot.

All those in favor of granting the Petition and treating the leave to file as moot, say aye.

(Chorus of ayes.)

CHAIRMAN ZALEWSKI: All opposed, say nay.

COMMISSIONER KIMBREL: Nay.

COMMISSIONER SHEAHAN: Nay.

CHAIRMAN ZALEWSKI: The Petition for Interlocutory Review is granted. The ayes have it.

The ALJ shall work with the parties to ensure that the information produced by the Data Request is properly handled under the Protective Order in this docket.

Under our Petitions For Rehearing.

Item PR-1 concerns Docket 19-0387, which is ComEd's Formula Rate Update and Revenue Requirement Reconciliation. The Attorney General has filed an application for rehearing, to reopen the docket and rehear two issues.
First, the rate at which unprotected excess deferred income taxes or EDIT are returned to ratepayers; and

Second, the inclusion of Projected Plant Additions into rate base for 2019.

The Administration Law Judges recommend denying the rehearing on this issue noting that the AG references and incorporates arguments that were previously made in briefs and that no new evidence or arguments are presented.

Is there any other discussion, Commissioners?

(No response.)

CHAIRMAN ZALEWSKI: Personally, I believe that this is an important matter, figuring out how to correctly refund millions of dollars to ratepayers. There's a significant amount of money at stake, and it's important to get it right. We have a responsibility to ensure the record is complete. If getting the record complete means that we reopen the decided matter, out of an abundance of caution, I think we should do so. We must ensure that the
record captures all evidence addressing all issues in this docket, including any potential additional benefits and methods to get to a shorter period to return the money to ratepayers.

For this reason, I'm in favor of granting the Petition For Rehearing.

I'm going to call the vote if there's no other comments. All those --

COMMISSIONER KIMBREL: Madam Chair, I would disagree with you and don't think that there is a reason to grant the Petition For Rehearing. We heard Oral Argument in this docket, and I think that the records stand for itself and that we could conserve Commission resources and move on from this.

CHAIRMAN ZALEWSKI: Anyone else?

(No response.)

CHAIRMAN ZALEWSKI: All those in favor of denying the Petition For Rehearing, say aye.

(Chorus of ayes.)

CHAIRMAN ZALEWSKI: I'm a nay. So the four ayes have it, and the Petition For Rehearing is denied.
Item PR-2 concerns Docket 19-0436, which is Ameren's Rate MAP-P Modernization Action Plan, the Annual Formula Rate Update and Revenue Requirement Reconciliation. The Attorney General has filed an application for rehearing to hear two issues:

First, the amortization of Excess Deferred Income Taxes or EDIT; and

Second is the treatment of construction-work-in-progress-related accumulated deferred income taxes.

The Administration Law Judge recommends denying rehearing on this issue noting that the AG references and incorporates arguments that were previously made in briefs and that no new evidence or argument is presented.

Is there any discussion from Commissioners?

(No response.)

CHAIRMAN ZALEWSKI: Without restating everything, for the reasons I stated in 19-0387, I'm in favor of granting this Petition For Rehearing as
well.

So all those in favor of denying the
Petition For Rehearing, say aye.

(Chorus of ayes.)

CHAIRMAN ZALEWSKI: All opposed, say nay.

I'm a nay.

The four ayes have it, and the
Petition For Rehearing is denied.

Under Other Business Items.

Item O-1 concerns the Commission's
2019 Annual Report to the Governor and the General
Assembly on Electricity, Gas, Water, and Sewer
Utilities. The Annual Report is required by Section
4-304 of the Public Utilities Act. The Report
includes a review of the Commission's 2019 activities
and the state of the Illinois utility industry in
2019, among other topics.

Are there any objections to approving
the Report?

(No response.)

CHAIRMAN ZALEWSKI: Hearing none, the
Report is approved.
The Report should be put up on the website, so I encourage anyone who would like to read it to check it out under our ICC website under Reports.

Item 0-2 concerns approval of Batches, Contracts, and Confirmations under the Illinois Adjustable Block Program.

Are there any objections to approving the Program Administrator's Submissions?

(No response.)

CHAIRMAN ZALEWSKI: Hearing none, the Submissions are approved.

Item 0-3 concerns approval of Batches, Contracts, and Confirmations under the Illinois Solar For All Program.

Are there any objections to approving the Program Administrator's Submissions?

(No response.)

CHAIRMAN ZALEWSKI: Hearing none, the Submissions are approved.

Item 0-4 concerns the Commission's request for rehearing to FERC on FERC consolidated
EL 16-49-000 and EL 18-178-000, which is the Calpine Corporation and other parties versus PJM Interconnection, LLC.

Are there any objections to approving the Submission of the Commission's Request For Rehearing?

(No response.)

CHAIRMAN ZALEWSKI: Hearing none, the Commission's Request for Rehearing is approved.

This concludes our Public Utilities Agenda.

Judge Teague-Kingsley, do you have any matters to come before the Commission today?

JUDGE TEAGUE-KINGSLEY: No, Madam Chairman.

CHAIRMAN ZALEWSKI: Do the Commissioners have any other business to discuss?

(No response.)

CHAIRMAN ZALEWSKI: I just wanted to mention that last Friday was our intern, Salhah Elaneizi's, last day. She's moving on with her studies. And I just want to express my gratitude for all her diligent and dedicated work. She's not here
today. She was a great resource, and we are going to miss her.

If there's no other business and without objection, the meeting stands adjourned.

Thank you.

(WHEREUPON, the above-entitled matter was adjourned.)