BEFORE THE
ILLINOIS COMMERCE COMMISSION

BENCH SESSION
(PUBLIC UTILITY)

Chicago, Illinois
Wednesday, February 9, 2011

Met, pursuant to notice, at 10:30 a.m. in
the Room N801, Eighth Floor, 160 North LaSalle
Street, Chicago, Illinois.

PRESENT:

MANUEL FLORES, Acting Chairman

LULA M. FORD, Commissioner

ERIN M. O'CONNELL-DIAZ, Commissioner

SHERMAN J. ELLIOTT, Commissioner
via teleconference

JOHN T. COLGAN, Acting Commissioner
via teleconference

SULLIVAN REPORTING COMPANY, by
Alisa A. Sawka, CSR, RPR
License No. 084-004588
PROCEEDINGS

ACTING CHAIRMAN FLORES: Pursuant to the provisions of the Illinois Open Meeting Act, I now convene a regularly scheduled Bench Session of the Illinois Commerce Commission. With me in Chicago are Commissioners Ford and O'Connell-Diaz, and with us in Springfield are Commissioners Elliott and Colgan. I am Chairman Flores. We have a quorum.

Before moving into the agenda, according to Section 1700.100 of the Illinois Administrative Code, this is the time that 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 the Bench Session. According to the Chief Clerk's Office, we have two requests to speak at today's Bench Session. We have Mr. Thomas Harle and Miss Pilar Vargas. We will begin with Mr. Thomas Harle.

Now, before, Mr. Harle, you begin with your comments, please be advised that the Commission cannot answer any questions or comment on the
testimony that you provide as we are bound by ex
parte rules and other regulations concerning our
communications as Commissioners.

Mr. Harle.

MR. THOMAS HARLE: Good morning. My name is
Thomas Harle. I'm a resident here in Chicago. I
live on the South Side. I'm a missionary. I have
been a missionary for 25 years serving in the
Catholic Church. And I'm coming here this morning to
speak in behalf of the poor in our neighborhood.

As I said, I live on the South Side
and I'm very much aware of the people who are living
with me in the area, who are very poor. And I think
that it's not advisable, I don't think it's a good
idea, to raise the rates -- the electric rates that
the electric company wants to raise.

First of all, raising the rates will
hinder and even hurt more of the poor who are already
poor and not able to make -- not able to meet their
own particular needs. I've been aware of recent
months of how the poor have been affected. They have
to pay their -- if they pay their utility bills, they
have to go without -- sometimes without food, 
sometimes go without shelter and also medical care.

    We live in a society which should be
free and if we can keep big companies like ComEd from
continuing to want to raise their rates when there's
really no particular need to raise their rates, then
the poor will be able to have their needs met, be
able to meet the needs -- their health needs, their
spiritual needs and their emotional needs.

    I feel that this is an issue related
to the ethics -- good ethics would help -- would help
the people, especially the poor people that I've come
to represent and speak in behalf of.

    Thank you for your time and listening
to me this morning and I hope that through what I
have said that it will influence your decision not to
raise -- not to allow ComEd to raise their rates.

    Thank you.

ACTING CHAIRMAN FLORES: Thank you, Mr. Harle.

Now, we have Miss Pilar Vargas.

MISS PILAR VARGAS: Good morning. My name is
Pilar Vargas and I am a Chicago resident. I am here
today to speak on behalf of the Cook County Workers Benefit Council, a delegate body that represents the needs and interests of service workers and other low-paid workers in Cook County.

We demand that you, the ICC, deny any rate increase to ComEd. The state law clearly defines this as your duty. The Illinois General Assembly's Public Utilities Act of 2001 states that the ICC is a State agency to regulate utilities and that -- and I quote, the goals and objectives of such regulation shall be to ensure the rates for utility services are affordable and therefore preserve the availability of the such services to all citizens.

Electricity is not affordable and available to all in our city. CBS News reported that over 67,000 households in the Chicago area had no electricity in October 2009. Even when we manage to keep the lights on, the sky-high utility rates for ComEd hit low-income working families the hardest as more and more of us are trying to support our families on just that pay minimum wage or not much when we have work at all. We are forced to cut back
on food, short our landlord on rent and go without necessary medications.

Each rate hike means we'll have less money to spend in our communities and local businesses are happy with customers. Chicago area businesses are already suffering from the effects of high unemployment and more of us working for lower wages cannot afford to have $396 million more taken out of our pockets. This rate increase request is clearly a profit grab. ComEd increased profits by 24 percent in 2009 after you, the ICC, approved a $274 million rate increase for ComEd.

John W. Rowe, the CEO of ComEd's parent company Exelon, received compensation of nearly $6 million in 2010. For you, the ICC, to grant this rate increase could be a clear abandon of your duty. The Cook County Workers Benefit Council calls on you to fulfill the mandate of the Public Utilities Act of 2001 to ensure you deliver service that is affordable and available to all.

We demand that the ICC direct ComEd to suspend shutoffs and reconnect service without charge
to households whose income is 300 percent or less than the Federal Poverty line whose service was terminated due to nonpayment of arrears. We demand that the ICC direct ComEd to work out reasonable payment plans for customers unable to pay their bills in full at time of received. We demand that the ICC direct ComEd to cease all future shutoffs for those whose income are 300 percent or lower than the Federal Poverty Level.

Again, we demand the State of Illinois through the ICC fulfill the mandate of the Public Utilities Act of 2001, that utilities will be affordable and available to all and reject ComEd's $396 million rate increase request. ICC, do your duty, please.

Thank you very much.

ACTING CHAIRMAN FLORES: Thank you, Miss Vargas.

COMMISSIONER FORD: Thank you.

ACTING CHAIRMAN FLORES: Very well. Those are the only two speakers that we have for today's session -- section of the public statements.
(The Transportation portion of the proceedings was held at this time and is contained in a separate transcript.)

ACTING CHAIRMAN FLORES: We are now moving to the Public Utility Agenda. We will begin with the Electric Portion. Items E-1 and E-2 will be taken together. These items concern reconciliation proceedings for Ameren's hazardous materials adjustment clause and for coal tar riders for various Illinois utilities. In each case Staff recommends that the Commission enter an Order commencing the reconciliation proceedings.

I will make a motion to enter the Orders.

Is there a second?

COMMISSIONER O'CONNELL-DIAZ: Second.

ACTING CHAIRMAN FLORES: It's been moved and seconded.

All in favor say "aye."

(Chorus of ayes.)

ACTING CHAIRMAN FLORES: Any opposed?
ACTING CHAIRMAN FLORES: The vote is 5-0 and the reconciliation proceedings are commenced. We will use this 5-0 vote for the remainder of the Public Utility Agenda unless otherwise noted.

Item E-3 concerns Ameren's Petition for Special Permission to revise its tariff sheet to correct the typo in Rate DS-3. Staff recommends the Commission allow the Company's proposal by granting the Company's request for Special Permission. Any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the request for Special Permission is granted.

Item E-4 is Docket No. 09-0602. This item concerns Ameren's petition for approval of its reliability project surcharge rider to recovery costs of implementing the recommendations of the Liberty audit. Ameren has moved to withdraw its petition
without prejudice and Administrative Law Judge Tapia recommends that the Commission grant the Company's motion.

Any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Motion to Withdraw is granted.

Item E-5 is Docket No. 10-0286. This item concerns Patricia Callon's complaint as to billing and/or charges against ComEd. Administrative Law Judge Sainsot recommends that the Commission dismiss this matter without prejudice for want of prosecution.

Any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Docket is dismissed.

Item E-6 through E-12 can be taken
together. These items each concern customer complaints against ComEd or Ameren. In each case the parties have settled their differences and brought Joint Motions to Dismiss which the Administrative Law Judges recommend we grant.

Any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Joint Motions to Dismiss are granted.

Item E-13 is Docket No. 10-0138. This is ComEd's PORCB case and last week we denied parties' Petitions for Rehearing. However, we did not want -- we did not want to resolve an issue on the blended uncollectible charges through an Amendatory Order. I'm sorry. I said "we did not want to." I meant to say -- strike that. I've had a head cold. I'm getting over it. We wanted to resolve an issue on the blended uncollectible charges, but we wanted to do it through an Amendatory Order. And, I believe, Commissioner Ford has put
that language together for us.

Commissioner Ford.

COMMISSIONER FORD: Yes. We simply -- it was inadvertently omitted, and it has been put back into the paragraph has been put back into the Docket. So we would move that that Amendatory Order by addressed and the blended rates become acceptable to our fellow Commissioners.

ACTING CHAIRMAN FLORES: Yes. And, you know, I appreciate the parties bringing this matter, obviously, to our attention and I know all of the Staff's work on this matter and led by Commissioner Ford.

So any discussion -- any further discussion on this matter?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Amendatory Order is entered.

Item E-14 is Docket 10-0157. This item will be held for disposition at a future
Commission proceeding.

Item E-15 is Docket --

COMMISSIONER O'CONNELL-DIAZ: Who's holding that?

ACTING CHAIRMAN FLORES: Commissioner Elliott.

Item E-15 is Docket No. 10-0508. This is a Petition for Eminent Domain brought by the Illinois Department of Transportation concerning obtaining an easement for widening a road in DuPage County. Administrative Law Judge Riley recommends that the Commission enter an Order granting the Petition for Eminent Domain.

Any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Order is entered.

Item E-16 through E-20 can be taken together. These items concern applications for the licensure of Agents, Brokers and Consultants under Section 16-115C of the Public Utilities Act. In each
case Administrative Law Judge Yoder recommends that the Commission enter an Order granting the requested certificate.

Any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Orders are entered and the certificates are granted.

Item E-21 is Docket No. 10-0734. This item is Ameren's petition pursuant to Section 6-102 of the Illinois Public Utilities Act for an Order authorizing entry of an $800 million revolving credit agreement. Administrative Law Judge Jones recommends that the Commission enter an Order approving the proposed financing.

Any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Order is entered.
Items E-22 through E-24 can be taken together. These items each concern joint petitions for approval of residential customer releases. In each case the Administrative Law Judge recommend this Commission enter an Order granting the petition and approving the customer release.

Any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Orders are entered and the petitions are granted.

We're now moving to the Gas Section of the agenda. Item G-1 concerns a rulemaking proceeding for Title 83 Part 5-90 of the Administrative Code concerning pipeline safety rules. Staff recommends entry of an Order authorizing the submission of the first notice of the proposed amendment of Part 5-90.

Any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?
(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Order is entered.

Item G-2 through G-4 can be taken together. These items concern complaints by customers against their gas utilities. In each case the parties have apparently settled their differences and brought a Joint Motion to Dismiss, which the Administrative Law Judge recommends that we grant.

Any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Joint Motions to Dismiss are granted.

Item G-5 is Docket Nos. 10-0399, 10-0400 and 10-0401 consolidated. This matter concerns citations for alleged violations of Commission rules regarding plastic pipe fusion processes by the Ameren Illinois utilities. The parties have filed a joint motion of entry for an Order citing for the terms of a settlement agreement.
And Administrative Law Judge Tapia recommends that the Commission enter the Order and Stipulation agreed to by the parties.

Any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Order is entered and the settlement is approved.

Item G-6 is Docket No. 10-0588. This item concerns an Application for Reorganization by Peoples Energy, Peoples Gas and North Shore Gas. The reorganization would allow Peoples Energy to become a Delaware Limited Liability Company. Administrative Law Judge Kimbrel recommends the Commission enter an Order authorizing approval of the Reorganization.

Any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Order is entered.
Item G-7 is Docket No. 11-0003. This is Cross Plains Natural Gas application for certificate of service authority under Section 19-110 of the Public Utilities Act. The Company has made a Motion to Withdraw its petition which Administrative Law Judge Tapia recommends that we grant.

Any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Motion to Withdraw is granted.

Now, moving to the Telecommunications Section of the agenda. Item T-1 concerns Frontier North's filing to update language to allow the Transparent Local Area Network Service to be available to more exchanges. Staff recommends that the Commission allows the Company's request by not suspending the filing.

Any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?
ACTING CHAIRMAN FLORES: Hearing none, the filing will not be suspended.

Item T-2 concerns Illinois Telecommunications Access Corporation's filing to provide instruction for monthly remittance of assessments by interconnected Voice over Internet Protocol Providers. Staff recommends that the Commission allow the Company's request by not suspending the filing.

Any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the filing will not be suspended.

Item T-3 is Docket No. 10-0581. This is Intrado Communication's application for certificates of service authority to provide facilities-based and resold local and interexchange telecommunication services in Illinois. The applicant has brought a Motion to Withdraw its
application, which Administrative Law Judge Teague recommends that the Commission grant.

Any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the motion is granted and the docket is dismissed.

Item T-4 is Docket No. 10-0639. This is SOS Telecom’s application for a certificate of wireless authority to operate as a reseller of telecommunication services throughout the State of Illinois. Administrative Law Judge Riley recommends that the Commission enter an Order granting the requested certificate.

Any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Order is entered and the certificate is granted.

Item T-5 is Docket No. 11-0029. This
is Highland Communication Services' application for a State-issued authorization to provide cable service pursuant to Section 401 of the Cable and Video Competition Law of 2007. Administrative Law Judge Riley recommends that the Commission issue an authorization to use, occupy and construct facilities in the public rights of way to deliver video service and authorization to provide video service.

Any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the notice is issued.

Item T-6 is Docket No. 10-0654. This is SYNIVERSE Technologies' effort to cancel a certificate of service authority in Docket No. 07-0546 to provide resold cellular service in Illinois. Administrative Law Judge Baker recommends the Commission enter an Order granting the cancellation of the certificate.

Is there any discussion?
(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Order is entered and the certificate is canceled.

Items T-7 through T-9 can be taken together. These concern petitions to withdraw certificates of interexchange service authority. In each case the Administrative Law Judge recommends that the Commission enter an Order granting the Petition for Withdrawal.

Any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Orders are entered and the certificates are withdrawn.

Item T-10 is Docket No. 10-0679. This is Geckotech's Petition to Withdraw its certificate of local authority to operate as a resale and facilities-based UNE carrier of telecommunications
services throughout the State of Illinois.

Administrative Law Judge Baker recommends that the
Commission enter an Order granting the withdrawal of
the certificates.

Any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the
Order is entered and the certificates are withdrawn.

Item T-11 Docket No. 10-0335. This is
TruComm's Petition for Withdrawal of its certificate
of interexchange service authority. Administrative
Law Judge Baker recommends that the Commission enter
an Order granting the withdrawal of the certificate.

Any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the
Order is entered and the certificate is withdrawn.

Item T-12 is Docket No. 10-0637. This
is NTS Services' complaint against CenturyLink alleging that CenturyLink's charges and policies violate the terms of the current interconnection agreement. Administrative Law Judge Tapia recommends that the Commission dismiss the complaint without prejudice assessing Commission fees and costs to NTS.

Is there any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the complaint is dismissed.

Item T-13 through T-21, these items each concern Joint Petitions for Interconnection Agreements or Amendments to Interconnection Agreements under 47 U.S.C. Section 252. In each docket the Administrative Law Judge recommends entering an Order approving an agreement or amending an existing agreement.

Any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?
(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Orders are entered.

Items T-22 through T-38 can be taken together. These items each concern potential citation proceedings against telecommunication carriers for failure to file their annual reports with the Commission. In each case the Staff recommends that the Commission enter an Order initiating a citation proceeding against the company.

Any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Orders are entered and the citation proceedings are initiated.

Item T-39 concerns the same issue but this item has been withdrawn and will be resubmitted at a future Commission meeting.

Items T-40 and T-41 can be taken together. These items each concern potential
citation proceedings against telecommunications carriers for failure to file their annual reports with the Commission. In each case Staff recommends that the Commission enter an Order initiating the citation proceeding against the company.

Any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Orders are entered and the citation proceedings are initiated.

Items T-42 through T-63 can be taken together. These items concern petitions to protect against the disclosure of confidential and/or proprietary information in the petitioners' annual reports. In each case the Administrative Law Judge recommends entry of an Order granting the requested relief for a period of two years.

Any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?
ACTING CHAIRMAN FLORES: Hearing none, the
Orders are entered and the requested relief is
granted for two years.

Item T-64 is Docket No. 10-0578. This
item concerns a proposed repeal of Title 83 Part 792
of the Illinois Administrative Code. Administrative
Law Judge Kimbrel recommends that the Commission
submit the second notice of the proposed amendment to
the Joint Committee and that the Commission enter an
Order authorizing the submission of the proposed
repeal.

Any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the
order is entered.

We are now moving to the Water and
Sewer portion of today's agenda. Items W-1 and W-2
are proposed general increases in rates brought by
Camelot Utilities and Lake Holiday Utilities
Corporation. In order to determine the reasonableness of the proposed increase in rates for each company, Staff recommends the filings be suspended and set for hearing and the Commission enter Suspension Orders.

Any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Suspension Orders are entered.

Item W-3 is Docket No. 10-0613. This is Jody Kimbrell's complaint as to billing and/or charges against Illinois-American Water Company. Administrative Law Judge Tapia recommends that the Commission enter an Order dismissing the complaint with prejudice.

Any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objection?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the
complaint is dismissed.

Items W-4 and W-5 can be taken together. These items concern reconciliation proceedings for the Illinois-American Water Company and Aqua Illinois for Qualifying Infrastructure Plant or QIP. In each case the Administrative Law Judge recommends that the Commission enter an Order approving the reconciliation.

Any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Orders are entered and the reconciliations are approved.

We have some Petitions for Rehearing. Item PR-1 is Docket No. 10-0568. This is the Ameren Illinois Utility's energy efficiency case. And before us today is a Petition for Rehearing brought by the Environmental Law & Policy Center concerning a calculation of the spending limit for the gas utilities under Section 8-104 of the Public Utilities
Act. Administrative Law Judge Yoder recommends that the Commission deny the Petition for Rehearing. However --

COMMISSIONER O'CONNELL-DIAZ: Is Judge Yoder there?

ACTING CHAIRMAN FLORES: Your Honor?

JUDGE YODER: Yes.

COMMISSIONER O'CONNELL-DIAZ: Good morning, Judge Yoder. Could you just step us through your recommendation to the Commission on this issue.

JUDGE YODER: I will try to do that.

In the Order the Order adopted the agreed spending plan -- or the -- I'm sorry -- the spending numbers that were suggested by both Ameren and Staff. The Order also adopted -- but the Order adopted an increase in therm savings as suggested by Staff.

The Environmental Law & Policy Center argued for an increased spending limit based on gas trans- -- used by transportation customers carried through Ameren's system, that that -- I guess the value of that gas be included in calculating the
spending limit. That position was rejected in the
Order that was adopted.

ELPC argues that their reading of a
proposed Order in Docket 10-0564 agrees with their
argument; although it's kind of ambiguous as to what
that language actually says since it says, Staff and
the Intervenors' calculation. Staff's calculation
and Intervenors' calculations are different, so I
assume there'll be some -- that will be hashed out in
the final Order.

COMMISSIONER O'CONNELL-DIAZ: And we have no
final Order in that proceeding at this point;
correct?

JUDGE YODER: No. No, nor the Nicor Gas
sufficiency docket. I don't believe the final
Order's come out in that, which in its proposed order
adopted similar language to the Order -- the language
in this Order.

ACTING CHAIRMAN FLORES: Well, let me just say
that, you know, I had an opportunity to read over the
statutory language and the parties' briefs and there
is -- at least -- I mean, there are questions about,
you know, how we should be calculating the budget for
gas efficiency programs.

And, you know, we're dealing with --

obviously, it's still -- it's a new issue. I think
that we would benefit from further fleshing this
issue out. It's a rehearing. We're not making a
decision ultimately on the merits today, but it gives
us an opportunity to hear further arguments and to
really, you know, bear down on some of these issues
further. And in that view, I think it would be
helpful to this Commission to at least provide for
further briefing through a rehearing.

So I would like to make a motion to
allow for a rehearing, and I'd like to know if there
is a second for that?

COMMISSIONER ELLIOTT: I'll second that motion.

I think with all the confusion and
apparent differing perspectives in other docket s I
think we could benefit from additional testimony on
this.

COMMISSIONER O'CONNELL-DIAZ: Judge Yoder, we
will also have Motions for Clarification that are
still outstanding in this proceeding; correct?

JUDGE YODER: Correct.

COMMISSIONER O'CONNELL-DIAZ: If I might, as I read through all of this, I find it somewhat confusing. However, I believe what the relief that's being requested would more appropriately have been pled as a Motion for Clarification.

Number one, for a party to assert that a proposed Order is somehow authority for the Commission to look at, is premature and inappropriate. So, you know, I found that to be wanting in the pleading that's before us.

Additionally, this is -- these are new provisions that we're interpreting. And the notion that we should not look at legislative history to figure out, you know, how we're going to determine the end result of this, I believe, is incorrect and I think that the movants in this instance are suggesting that we should do just that.

So while I don't have a problem with a Motion for Clarification, I believe that this has been pled wrong as a request for rehearing. I agree
with the ALJ. I do agree with my colleagues that this is confusing, we want to get it right; but I would suggest that in the future that the parties that bring these motions to us plead them appropriately. And I found this pleading is just wrong here.

So I would be in favor of granting the rehearing, slash, clarification as proffered by Acting Chairman Flores. But, you know, when we have this instance come up again, I'd like the parties to, like, plead them properly. So -- these are lawyers and it's kind of pulling hairs but, you know, this is how -- this is -- the words that are -- that we deal in on a regular basis and I found their arguments not convincing. So...

COMMISSIONER COLGAN: Commissioner, I think you make good points there. And I also am going to support the request for rehearing just from the point of view that first time through, we need to get this right. And so I don't think there is any harm in hearing the arguments and so -- you know, it is a confusing issue, and I think we would all benefit
from having a little more information put out there in front of us so we can make the best decision possible.

COMMISSIONER O'CONNELL-DIAZ: And just another note, in the case in chief in this, this issue was not brought forward till the brief on exceptions. If parties have good arguments, it should be right out there in front, not at the tail end of the case so that it really flushes the issue out and keeps us from having to do a rehearing on it. If you have a good argument, you should be putting it forward in your initial briefs.

So I believe the ALJ pointed that out to us in the memo. So on a going-forward basis if -- you know, that's instructive I think to our counsels that are practicing at the Commission, you know, bring those good arguments or points in those briefs on exceptions as opposed -- on your initial briefs as opposed to the exceptions phase because it's, like, a little bit too late.

ACTING CHAIRMAN FLORES: Thank you.

Those are good points and, in
particular, as it speaks to maintaining the judicial efficiency of this Commission and making sure that we are moving these cases forward in an expedited fashion and that all of these issues are fully litigated, especially in areas where we are developing new programs and new policies. It's critical that the various intervenors, through their attorneys, do their best to raise these issues in the very beginning. And I think that, again, it's in that spirit that I believe this Commission wishes to have this rehearing to make sure that we get these issues right.

And there's a motion and it's been seconded.

All in favor say "aye."

(Chorus of ayes.)

COMMISSIONER FORD: Any opposed?

(No response.)

ACTING CHAIRMAN FLORES: The vote is 5-0 and the Petition for Rehearing is granted.

Item PR-2 is Docket No. 10-0570. This is ComEd's energy efficiency docket and before us
today are Petitions for Rehearing brought by DCEO and by ELPC concerning the scope of the Commission's authority over DCEO's filed energy efficiency plans. Administrative Law Judge Haynes recommends that the Commission deny both parties' request for hearing.

Any discussion on these petitions?

You know, I have looked over the petitions and I would be in favor of rehearing on this issue for two reasons. The language in the Order, as it currently stands -- want to make sure that, again, it's an issue of making sure that our Commission here is -- that we're being consistent with our Commission's statutory responsibility under Section 8-103.

There are questions of authority and -- with regards to DCEO's filings, and I believe that given that this is also -- it's a -- you know, an area that we're just beginning to get involved in here. I think it's -- it would be worth it to have this matter heard in rehearing so that we are -- so that all the parties understand what the rules of engagement are here and what are -- what is the
appropriate jurisdiction and authority with regards
to DCEO's efficiency plans. So I would like to make
a motion to grant rehearing.

Is there a second?

COMMISSIONER COLGAN: I'll second that motion.

And I agree with things that you said, Mr. Chairman.

And, you know, the two issues of the
potential inconsistencies in the Order and the
argument that maybe they need to be consistent I
think should be fleshed out. I think the issue of
DCEO's authority versus the ICC authority, I'd like
to be sure that we walk through that issue
appropriately so that it doesn't appear that we're
trying to do anything here other than exercise the
statutory authority that's been given to us by the
General Assembly and that we definitely are not
trying to take over authority on any other matter
with DCEO.

Also the time lines on these came
through pretty quickly, and I think that gave us, you
know, the haste possibly making waste here. So let's
make sure we got it right. So let's -- what's the
harm in rehearing this? So I'll second your motion.

ACTING CHAIRMAN FLORES: Thank you.

Any further discussion?

COMMISSIONER O'CONNELL-DIAZ: I guess my only question is, are we, in fact -- I hear this call for consistency and, in fact, we ruled in opposite of this a week ago with regards to the Ameren matter.

So, somebody, help me out.

COMMISSIONER FORD: I wanted to ask Judge Haynes a question because it seems that it's inconstancy and it's just the opposite, that's my issue. DCEO knows what the Public Utility Act is, I hope. And they know that we don't have jurisdiction over another agency. So, I guess, I'm confused now because this is in opposition of what was earlier stated.

It seems to be -- the ELPC seems to want to gain control over both Commissions, in my opinion, to keep having rehearings on the things that we've already settled. So that's just my take on all of this.

JUDGE HAYNES: Well, I did print out my memo
that I did think that because the Commission's 
last -- at the last meeting denied DCEO's -- I 
thought that that one should be denied. 

But other than that, I don't know if 
there's a question to me.

COMMISSIONER O'CONNELL-DIAZ: But, I mean, it 
was the same issue that was brought to us by a 
different party.

COMMISSIONER FORD: Right.

JUDGE HAYNES: Well, DCEO, I think, has the 
same petition pretty much in both of them. I don't 
know if ELPC filed one in the Ameren one.

COMMISSIONER O'CONNELL-DIAZ: And we rejected 
that one.

JUDGE HAYNES: The DCEO one.

COMMISSIONER O'CONNELL-DIAZ: I'm missing why 
we're going to be --

JUDGE HAYNES: Well, I think that there is an 
inconstancy between mine -- or the ComEd Order and 
the Ameren Order. But should it be just reheard in 
this docket or should it be reheard in both? And do 
you actually want rehearing with -- or do you just
want an amendatory Order conforming the dockets? So I'm not really sure what I should do here.

COMMISSIONER FORD: Well, I guess, because -- being a nonlawyer I thought that each docket had to speak on its own.

JUDGE HAYNES: True.

COMMISSIONER FORD: So I can't see how we could amend an Ameren Order to be consistent with a ComEd Order, being a nonlawyer. That's just -- for the lawyers to know.

COMMISSIONER O'CONNELL-DIAZ: Then I think we get back to the one-size-fits-all argument that was discussed ad nauseam.

ACTING CHAIRMAN FLORES: That's why I think we just, you know --

COMMISSIONER FORD: So we'd have to rehear both Orders. Is that the way we would have to do it?

JUDGE HAYNES: So ELPC didn't -- I guess this is a question for Judge Yoder. The ELPC doesn't have the same one as the Ameren Order?

COMMISSIONER FORD: Judge Yoder went to his seat.
COMMISSIONER O'CONNELL-DIAZ: It's also not before us this morning, so we can't even talk about it.

ACTING CHAIRMAN FLORES: I understand the -- you know, the questions and the comments. And, again, I think it's a Petition for Rehearing to have an opportunity to get more information. This is rather -- this is still new territory. And to the extent that it can provide for, you know, more instruction, I think that it's a course -- it's a good course to take.

So there's a -- a motion's been made. It's been seconded. Understand the comments and appreciate the comments that have been made by the Commissioners.

All in favor say "aye."

(Chorus of ayes.)

ACTING CHAIRMAN FLORES: Any opposed?

(Chorus of noes.)

ACTING CHAIRMAN FLORES: All right. We'll do a roll call.

Commissioner Ford.
COMMISSIONER FORD: Nay.

ACTING CHAIRMAN FLORES: Commissioner O'Connell-Diaz.

COMMISSIONER O'CONNELL-DIAZ: Nay.

ACTING CHAIRMAN FLORES: Commissioner Elliott.

COMMISSIONER ELLIOTT: Aye.

ACTING CHAIRMAN FLORES: Commissioner Colgan.

COMMISSIONER COLGAN: Aye.

ACTING CHAIRMAN FLORES: Chairman Flores votes aye.

Let the record reflect 3-2, a vote in support of granting rehearing in this Petition for Rehearing.

COMMISSIONER O'CONNELL-DIAZ: And that they're -- the scope of the rehearing is?

ACTING CHAIRMAN FLORES: We're going to go hear --

JUDGE HAYNES: Yeah, I guess -- so that's my other question. Are your granting both Petitions for Rehearing?

ACTING CHAIRMAN FLORES: I think we will grant both Petitions for Rehearing.
JUDGE HAYNES: Because they both deal with scope.

ACTING CHAIRMAN FLORES: They both deal with scope. Right, the jurisdiction.

So that will be the Order.

JUDGE HAYNES: Okay.

ACTING CHAIRMAN FLORES: Okay?

Very well. Judge Wallace, are there any other matters to come before the Commission today, sir?

JUDGE WALLACE: No, Mr. Chairman.

ACTING CHAIRMAN FLORES: Thank you very much.

Hearing none, this meeting stands adjourned.

MEETING ADJOURNED