BEFORE THE
ILLINOIS COMMERCE COMMISSION

BENCH SESSION
(PUBLIC UTILITY)

Wednesday, March 5, 2014
Chicago, Illinois

Met, Pursuant to notice, at 10:30 a.m., in the Audiovisual Conference Room, Eighth Floor, State of Illinois Building, 160 North LaSalle Street, Chicago, Illinois.

APPEARANCES:

MR. DOUGLAS P. SCOTT, Chairman
MS. ANN McCabe, Commissioner
MR. MIGUEL del VALLE, Commissioner
MS. SHERINA E. MAYE, Commissioner
MR. JOHN T. COLGAN, Commissioner
(via teleconference)

MIDWEST LITIGATION SERVICES, by
Meagan M. Cahill, CSR
CHAIRMAN SCOTT: Pursuant to the provisions of the Open Meetings Act, I now convene a regularly scheduled Bench Session of the Illinois Commerce Commission. With me in Springfield is Commissioner Colgan. With us in Chicago are Commissioner McCabe, Commissione del Valle, and Commissioner Maye. I am Commissioner 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 wishing 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 requests to speak at today's Bench Session.

Moving on to the Public Utility Agenda, we'll begin with the minutes from our February 5th Bench Session. I understand amendments have been forwarded. Is there a motion to amend the minutes?

COMMISSIONER del VALLE: Moved.

COMMISSIONER SCOTT: Is there a second?

COMMISSIONER McCabe: Second.

CHAIRMAN SCOTT: Moved by Commissioner del Valle,
seconded by Commissioner McCabe.

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 McCABE: Moved.

CHAIRMAN SCOTT: Moved by Commissioner McCabe.

Second?

COMMISSIONER MAYE: Second.

COMMISSIONER 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 minutes from our February 5th Bench Session, as

amended, are approved.

Turning now to the electric portion of today's agenda. Item E-1 is Mt. Carmel Public Utility's filing in compliance with Docket No. 12-0212 regarding
certification requirements applicable to vendors that install electric vehicle charging stations. Staff recommends that we approve Mt. Carmel's tariff by not suspending the filing.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Is there a motion to approve the changes by not suspending the filing?

COMMISSIONER MAYE: So moved.

CHAIRMAN SCOTT: Moved by Commissioner Maye.

Second?

COMMISSIONER del VALLE: Second.

COMMISSIONER 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 filing is not suspended.

We will use the five-to-nothing vote for the remainder of today's public utility agenda, unless otherwise noted.

Item E-2 is Docket No. 14-0120. This is ComEd's Petition for Special Permission to file and put
into effect, on less than 45 days' notice, revisions to Rider AC-Residential Air Conditioner Loading Cycling Program. Staff recommends entry of an Order granting the special permission.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: I would just like to say that I am pleased to see this kind of action on the part of ComEd. It's encouraging that the company is continuing to improve upon its programs and that it is doing so proactively and expeditiously. As we have noted many times before, and will likely do many times in the future, this Commission oversees the energy industry, and we are hopeful that utilities can continue to innovate and generate benefits to the ratepayers, as well as to their own operations.

Any further discussion?

(No response.)

CHAIRMAN SCOTT: Any objection to granting the special permission?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Order is entered, and the special permission is granted.

Item A-3, Docket No. 13-0476. This item
concerns Ameren's revenue-neutral tariff changes related to rate design. Ameren and the Illinois Industrial Energy Consumers have filed requests for oral argument, which ALJ Von Qualen recommends we deny.

Is there any discussion? Commissioner McCabe?

COMMISSIONER McCABE: Yes. I'm fine with denying oral argument, but I just wish to express to the parties that we are taking the issues raised with the oral argument request and in the reply briefs, very seriously.

COMMISSIONER SCOTT: Any further comments?

(No response.)

CHAIRMAN SCOTT: Are there any objections to denying oral argument?

(No response.)

CHAIRMAN SCOTT: Hearing none, the requests for oral argument are denied. Additionally, ALJ Von Qualen recommends entry of an Order approving tariff changes. This matter will be held for disposition at a future Commission proceeding.

Item E-4 is Docket No. 11-0593. This is our investigation into ComEd's compliance with the efficiency standard requirement of Section 8-103 of the Public Utilities Act. ALJ Sainsot recommends entry of a
Post Exceptions Proposed Order. I have two sets of edits to propose for this Order. The first set concerns the issue of Banking Excess Energy Savings. These edits address the recent amendment to Section 8-103 sub (b) of the Public Utilities Act, which now clearly states that utilities may utilize banked energy savings to meet the obligations set forth in the Act. While the amended provision does not apply until Plan Year 7, we find it to be instructive as to the Legislature's intent to allow a limited amount of banking of energy savings.

Until PY7, it is our opinion that the prior Commission precedent, as to banking, should continue to apply, which is as follows: One, the utility may bank only a de minimus amount of excess energy savings; two, the utility may cumulatively bank those savings over multiple plan years; three, the utility may only apply 15 percent of their cumulative banked savings to meet the obligations set forth in the Act in any year; and four, the utility may apply those savings outside of three-year plans. We believe that this methodology has worked well to create a balance between allowing successful programs to continue, even when the utilities have hit their savings goals, while not allowing them to utilize too much of their banked savings.
Thus, we made a number of edits to reflect this position, which appear under the Procedural Posture of this Case, on pages 1 to 3; Banking of Energy Savings on page 13, under Analysis and Conclusions; Banking of Excess Energy Savings on pages 16 to 21, and under Findings and Ordering Paragraphs on page 31.

The second set of edits appears on pages 24 to 25 of the PEPO and concerns the use of the in-situ study in determining the energy savings associated with ComEd's refrigerator recycling program. While we agreed with staff and the ALJ that using the calculation derived from the more recent in situ study seems to result in a more accurate evaluation of savings achieved, we believe this sets a very dangerous precedent that the SAG has worked tirelessly to avoid in Illinois.

Using numbers and a study that did not exist when ComEd planned and implemented its portfolio of programs may have the unintended consequence of subjecting a program to unattainable, constantly changing standards that it is required to meet in order to be deemed successful. We don't believe it's any party's intent, or for that matter, in the best interest of any stakeholder.
With that, I will move for the adoption of these edits.

Is there a second?

COMMISSIONER MAYE: Second.

COMMISSIONER SCOTT: Seconded by Commissioner Maye.

Any discussion on the edits?

(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 edits are approved.

Is there now a motion to approve the Order as amended?

COMMISSIONER del VALLE: Moved.

CHAIRMAN SCOTT: Moved by Commissioner del Valle.

Is there a second?

COMMISSIONER McCabe: Seconded.

CHAIRMAN SCOTT: Seconded by Commissioner McCabe.

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 Order, as amended, is entered.

Item E-5 is Docket No. 12-0509. This is our reconciliation of revenues collected under Rider EDA with the actual costs associated with energy efficiency and demand response programs for ComEd. ALJ Haynes recommends an 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 the entered.

Item E-6 is Docket No. 13-0597. This is Ameren 's petition pursuant to Section 6-102 of the Illinois Public Utilities Act for an Order authorizing an entry of an $8 million revolving credit agreement, which ALJ Jones recommends we grant.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?
(No response.)

CHAIRMAN SCOTT: Hearing none, the Order is entered.

Items E-7 and E-8 can be taken together. These items are petitions for the -- and/or proprietary treatment of each Petitioner's Part 451 annual report for a period of not less than two years. In each case, the ALJ recommends entry of an Order granting the requested relief.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Are there any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Orders are entered.

Item E-9 is Docket No. 0662. This is Emuna Energy's Application for Authority to operate as an agent, broker or consultant under Section 16-115C of the Public Utilities Act. ALJ Kimbrel recommends entry of an Order approving the Application.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Are there any objections?

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

Item E-10 is Docket No. 11-0722. This is North Shore Sanitary District's complaint against ComEd as to Section 10-108 of the Public Utilities Act 220 ILCS 5/10-108 and Section 200.170. The parties have apparently settled their differences and have filed a Stipulation and Joint Motion to Dismiss, which ALJ Hilliard recommends we grant.

Is there any discussion?
(No response.)

CHAIRMAN SCOTT: Are there any objections?
(No response.)

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

Item E-11 is Docket No. 13-0348. This is Kevin Thayer's complaint against Ameren as to criminal damage to property in Clinton. The parties have settled their differences and have filed a Joint Motion to Dismiss, which ALJ Von Qualen recommends we grant.

Is there any discussion?
(No response.)

CHAIRMAN SCOTT: Are there any objections?
(No response.)
CHAIRMAN SCOTT: Hearing none, the Joint Motion to Dismiss is granted.

Item E-12 is Docket No. 13-0349. This is Gilbert Candelario's complaint against ComEd as to billing and/or charges in Chicago. ALJ Teague-Kingsley recommends entry of an Order denying the complaint.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Are there any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Order is entered, and the complaint is denied.

Item E-13 is Docket No. 13-0415. This is Marcela Guerrero Hawaii Beauty Salon's complaint against ComEd as to billing and/or charges in Aurora. The parties have apparently settled their differences and have filed a Stipulation and Joint Motion to Dismiss, which ALJ Benn recommends we grant.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Are there any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Joint Motion to Dismiss is granted.
Turning now to natural gas, Items G-1 and G-2 can be taken together. These are our reconciliation of revenues collected under gas and adjustment charges with actual costs prudently incurred for North Shore Gas and The Peoples Gas Light and Coke Company. In both cases, ALJ Benn recommends entry of an Order approving the reconciliation.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Are there any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Orders are entered.

On to telecommunications. I have T-1, which is Docket No. 13-0505. This is South American Telecom's Application for a Certificate of Authority to operate as a telecommunications carrier in the State of Illinois. ALJ Benn recommends entry of an Order granting the certificate.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Order is
Item T-2 is Docket No. 14-0065. This is InLine's Application for a Certificate of local exchange and interexchange authority to operate as a reseller and/or facilities-based carrier of telecommunications in the State of Illinois. ALJ Riley recommends entry of an Order granting the certificate of service authority.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Are there any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Order is entered.

Items T-3 and T-4 can be taken together. These items are Petitions for Withdrawal of a certificate of service authority in the State of Illinois, which the ALJ, in both cases, recommends we grant.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Are there any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Orders are entered.
Items T-5 and T-6 can be taken together.

These items are Applications for state-issued authorization to provide cable service, pursuant to Section 401 of the Cable and Video Competition Law of 2007. In both cases, ALJ Riley recommends issuing the authorization.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Are there any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the authorizations to provide service are issued.

Items T-7 through T-10 can be taken together.

These items are petitions for the confidential and/or proprietary treatment of each petitioner's annual or interconnection report for a period of not less than two years. In each case, the ALJ recommends entry of an Order granting the requested relief.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Orders are entered.
Item T-11 is Docket No. 13-0590. This is our motion to repeal 83 Ill. Adm. Code Section 720.

ALJ Albers recommends entry of a Second Notice Order authorizing the submission of the proposed repeal to JCAR.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Are there any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Second Notice Order is entered.

Item T-12 is Docket No. 12-0550. This is SprintCom, Inc. and WirelessCo. L.P.'s Petition for Arbitration, pursuant to Section 252 sub (b) of the Telecommunications Act of 1996 to establish an interconnection agreement with AT&T. Sprint and AT&T filed a Joint Motion to Reopen the docket and modify the arbitration decision. ALJs Haynes and Jorgenson recommend entry of an Order on reopening vacating portions of the arbitration decision.

While we will vote in favor of granting the motion to reopen the docket to vacate the portion of the decision for issue 43, I would encourage the parties in the future to make a concerted effort to attempt to
resolve such issues earlier in the litigation process. Had the issue been resolved previous to this time, it would never appeared in the arbitration decision at all and would have saved a significant amount of resources for the Commission and for others.

Additional discussion on this?

COMMISSIONER MAYE: Yes, Chairman Scott.

COMMISSIONER SCOTT: Commissioner Maye.

COMMISSIONER MAYE: Thank you. I'm going to support the ALJs' recommendation for the proposed Order to reopen the docket and vacate the specified portions of the decision; however, I do concur with staff's response to the joint motion that appealing an issue the Commission has litigated and decided and then settling the issue through the appeals process is not the most efficient way of doing things. That being said, in this limited circumstance, I will support the Order on Reopening in order to preserve the Commission's resources.

COMMISSIONER SCOTT: Commissioner Colgan?

COMMISSIONER COLGAN: Yes, I agree with you, Mr. Chairman, and Commissioner Maye's comments, and I, too, will be voting today to grant the motion to reopen the docket to vacate the portion of the arbitration's
decision regarding the now-settled issue 43. However, I want to make clear that my vote is in no way suggesting a precedent for modifying issues already decided by the Commission. And the parties should not interfere -- should not infer that it is acceptable to litigate an issue before the Commission, appeal the Commission's decision on that issue, and then settle that issue during the Appellate process. I realize that settling this issue will preserve scarce Commission resources, going forward.

I, on the other hand, am concerned about the Commission resources that have already been expended that perhaps should -- could have been avoided. This arbitration spanned eight months, several rounds of testimony, three days of evidentiary hearings, motion practice and extensive briefing. It now appears that at least some of this could have been avoided. Arbitration is a process that resolves disputes that cannot be resolved through voluntary negotiation. I encourage the parties to work more effectively together to avoid settling disputes so late in the litigation process that the Commission resources are needlessly expended.

That's my comment. Thank you.

COMMISSIONER SCOTT: Further discussion?
CHAIRMAN SCOTT: Are there any objections?
(No response.)

CHAIRMAN SCOTT: Hearing none, the Order on Reopening is entered.

Items T-12 and T-14 can be taken together.

These items are Joint Petitions for approval of an interconnection agreement, or second amendment to an agreement, pursuant to 47 U.S.C. Section 252. In both cases, ALJ Benn 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 Orders are entered.

We have two miscellaneous items on the agenda today. Item M-1 is our motion to initiate a proceeding to consider approval of Version 3, the Illinois Statewide Technical Reference Manual for Energy Efficiency, dated February 24th, 2014. Staff recommends entry of an Order initiating the proceeding.

Is there any discussion?
CHAIRMAN SCOTT: Is there any objection?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Order is entered.

Item M-2 is Docket No. 11-0711. This is our motion regarding development and adoption of rules concerning rate case expense. The Utility Stakeholders have filed a joint proposal, requesting that the Commission order additional workshops prior to issuing the First Notice Order, which ALJ Sainsot recommends we deny.

For purposes of discussion, I'd like to acknowledge that the Commission agrees with staff and the AG/CUB that this proposal would serve no purpose other than to further delay this proceeding and ultimately the Utility's accountability to the general public as it concerns their rate case expenses. The parties have held extensive workshops over the last three years and had plenty of opportunities in which to propose edits to the Rule. This joint proposal presents no evidence to justify the need for additional workshops and, in truth, seems to be nothing more than just a delay.
Are there any objections to denying the request for further discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the request is denied.

We have one item of other business on today's agenda. This item concerns pending litigation, so we'll need to go into closed session to address it.

Is there a motion to go into closed session?

COMMISSIONER del VALLE: Moved.

CHAIRMAN SCOTT: Moved by Commissioner del Valle.

Is there a second?

COMMISSIONER McCABE: Seconded.

COMMISSIONER SCOTT: Seconded by Commissioner McCabe.

All in a favor, say aye.

(Ayes heard.)

CHAIRMAN SCOTT: Any opposed?

(No response.)

CHAIRMAN SCOTT: The vote is five to nothing, and the Commission will now go into closed session. Please let me know when the room is ready in Springfield.
WHEREUPON, pages 23-33 of the proceeding are contained in a separate closed transcript.)

CONTINUATION OF PROCEEDING

COMMISSIONER SCOTT: In the closed session, Randy Rismiller of Commission staff briefed us on FERC Docket No. ER14-503-001 concerning the ICC's comments on PJM's filing responding to FERC's deficiency notice regarding PJM's proposal to revise the Reliability Pricing Model design to add a Capacity Import Limit.

Is there a motion to file the comments with FERC?

COMMISSIONER COLGAN: So moved.

CHAIRMAN SCOTT: Moved by Commissioner Colgan.

Second.

COMMISSIONER McCABE: Seconded.

COMMISSIONER SCOTT: Seconded by Commissioner McCabe.

All in a favor, say aye.

(Ayes heard.)

CHAIRMAN SCOTT: Any opposed?

(No response.)

CHAIRMAN SCOTT: The vote is five to nothing, and the filing will be made with FERC.
Judge Wallace, are there any other matters to come before the Commission today?

JUDGE WALLACE: No, that's all, Mr. Chairman.

CHAIRMAN SCOTT: Thank you, sir.

Thank you to our guests for being here.

Having nothing else to come before the Commission, this meeting stands adjourned. Thanks, everyone.

END OF PUBLIC UTILITY AGENDA
CERTIFICATE OF REPORTER

I, Meagan M. Cahill, a Certified Shorthand Reporter within and for the State of Illinois do hereby certify that the Bench Session aforementioned was held on the time and in the place previously described.

IN WITNESS WHEREOF, I have hereunto set my hand and seal

________________________________________
MEAGAN M. CAHILL, CSR

IL CSR # 084-004754