BEFORE THE
ILLINOIS COMMERCE COMMISSION
PUBLIC UTILITIES BENCH SESSION

Chicago, Illinois
March 7th, 2012

Met, pursuant to notice, at 10:30 a.m.

BEFORE:

MR. DOUGLAS P. SCOTT, Chairman
MS. LULA M. FORD, Commission
MS. ERIN M. O'CONNELL-DIAZ, Commissioner
MR. SHERMAN J. ELLIOTT, Commissioner
MR. JOHN T. COLGAN, Commissioner
(via telephone)

SULLIVAN REPORTING COMPANY, by
Amy M. Spee, CSR, RPR
License No. 084-004559
CHAIRMAN SCOTT: Pursuant to the provisions of Illinois Open Meetings Act, I now convene a regularly scheduled Bench Session of the Illinois Commerce Commission. With me in Springfield is Commissioner Elliott, via telephone is Commissioner Colgan and with us in Chicago are Commissioners Ford and O'Connell-Diaz. I am Chairman Scott. We have a quorum.

Before moving into the agenda, according to Section 1700.10 of Title III 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 requests to speak at today's Bench Session.

(The Transportation portion of the proceedings was held at this time and is contained in another transcript.)

CHAIRMAN SCOTT: Moving on to the Public
Utility agenda, we will begin today with approval of minutes from our February 16th Bench Session. I understand that amendments have been forwarded.

Is there a motion to amend the amendments?

COMMISSIONER O'CONNELL-DIAZ: So moved.
CHAIRMAN SCOTT: Is there a second?
COMMISSIONER ELLIOTT: Second.
CHAIRMAN SCOTT: It's been moved and seconded.
All in favor say "aye."
(Chorus of ayes.)
Any opposed?
(No response.)
The vote is 5-0 and the amendments are adopted.

Is there a motion to approve the February 16th minutes as amended?

COMMISSIONER ELLIOTT: So moved.
CHAIRMAN SCOTT: Is there a second?
COMMISSIONER O'CONNELL-DIAZ: Second.
CHAIRMAN SCOTT: It's been moved and seconded.
All in favor say "aye."
(Chorus of ayes.)

Any opposed?

(No response.)

The vote is 5-0 and the February 16th Public Utility Bench Session minutes as amended are approved.

Turning next to the Electric portion of today's agenda, Item E-1 is Docket Nos. 10-0141 through 10-0143 consolidated. These items concern petitions previously filed by ComEd requesting authority to enter into certain agreements with affiliated interests.

The Commission had entered Orders in these dockets in 2010 and ComEd now seeks to reopen these dockets to extend that authority. ALJs Hilliard and Benn recommend granting the reopening request.

Is there any discussion?

(No response.)

Is there a motion to grant reopening?

COMMISSIONER FORD: So moved.

CHAIRMAN SCOTT: Is there a second?
COMMISSIONER O'CONNELL-DIAZ: Second.

CHAIRMAN SCOTT: It's been moved and seconded.

All in favor say "aye."

(Chorus of ayes.)

Any opposed?

(No response.)

The vote is 5-0 and these dockets will be reopened. We will use a 5-0 vote for the remainder of the Public Utility agenda unless otherwise noted.

Item E-2 is Docket No. 11-0435. This item concerns ComEd's proposed tariff language pertaining to the purchase of uncollectible receivables. ALJ Sainsot recommends entry of an Order approving ComEd's tariffs with an adjustment to the monthly administration fee.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered.

Items E-3 through E-6 can be taken
together. These items concern customer complaints against ComEd. In each case the parties have apparently settled their differences by a Joint Motion to Dismiss, which the ALJ recommends we grant.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Joint Motions to Dismiss are granted.

Item E-7 is Docket No. 11-0144. This is Peter Fletcher's complaint against ComEd and ALJ Haynes recommends granting ComEd's Motion to Dismiss this docket.

Is there a discussion?

Commissioner Elliott?

COMMISSIONER ELLIOTT: Yeah, Mr. Chairman, I've gone through this record extensively over the last few weeks and I do have some concerns with this. And I think what we have before us is a Motion to Dismiss that we need to act on. And I would prefer not to dismiss this case and to see what further procedural
opportunities we have with regard to this case and this issue.

So, Judge, can you tell us what the next steps would be?

CHAIRMAN SCOTT: Judge Haynes.

JUDGE HAYNES: Sure.

As I say in the Order, I think that ComEd is procedurally correct that if the Commission has a problem with the underlying substantive issue about how the capacity charge is calculated, this isn't the docket to do it because any change to how that charge is calculated would affect multiple customers.

And if the Commission wanted to look at those charges, I think that it would need to be a wider proceeding. And I -- I've had another case where a consumer complaint has wanted to address wider issues. And I think that the way that that could be done would be opening an investigation into how these charges are calculated; but, of course, that would require notice and a broader docket than that one.
COMMISSIONER ELLIOTT: Well, I think what this is calling for, at least my interpretation of this, is this is essentially an interpretation of the methodology of the tariff. And I think that -- to me this is a case of first impression where a complainant and the Company are disagreeing and there's no clear indications, particularly in the tariff, that explains the methodology about how this is achieved. And I think in this case the complainant has a legitimate issue here and a legitimate position.

JUDGE HAYNES: I'm not disagreeing with that. I just -- the outcome would affect more people. And --

COMMISSIONER ELLIOTT: I understand that, but it's his complaint that's before us. And to me, it's -- if the Commission interprets the tariff in favor of what happens to be the complainant's interpretation of the methodology, why wouldn't that hold for the interpretation of the tariff itself in any future proceeding? I mean, it may be that the Company,
given a Commission decision in that regard, might want to file something to clarify their tariffs if they disputed the Commission's interpretation.

JUDGE HAYNES: But there is no factual dispute about how they're applying it. It's just whether they're doing it the right way -- or the best way.

COMMISSIONER ELLIOTT: But there is a dispute about the methodology?

JUDGE HAYNES: Not a factual dispute, but just whether that is the way it should be done.

COMMISSIONER ELLIOTT: Well, there's two different approaches. ComEd wants to do it one way and the complainant wants to do it this way.

JUDGE HAYNES: ComEd is doing it -- for all their customers, they're doing it the exact same way.

COMMISSIONER ELLIOTT: Right. But this is the first complaint we've had with regards to it. ComEd may have been doing whatever they want. We are now being asked to interpret this via this complaint.

JUDGE HAYNES: And I'm not saying it's not something that should be looked into. It's just I think that a broader -- I just don't think it's the
proper procedural mechanism to look at how -- because
it would -- what the result would be would be a
change in ComEd's methodologies, not just how --

COMMISSIONER ELLIOTT: No, I disagree.

JUDGE HAYNES: -- his bill would be changed.

COMMISSIONER ELLIOTT: I don't think the
methodology is spelled out in their tariff at all.

JUDGE HAYNES: I agree, but ComEd does lots
of -- has lots of internal procedures that aren't in
their tariffs.

COMMISSIONER O'CONNELL-DIAZ: Well, just from a
kind of practical standpoint, this is a consumer
complaint. And I noticed in the record that there
were no exceptions filed to the proposed order. And
the onus, obviously, is on the complainant to come
forward in this kind of very, I think, technical
discussion, if you will. And I think that's hard for
that particular complainant to --

COMMISSIONER ELLIOTT: The complainant's come
forward with a very technical --

COMMISSIONER O'CONNELL-DIAZ: Well -- but I'm
saying, I --
COMMISSIONER ELLIOTT: -- and very credible.

COMMISSIONER O'CONNELL-DIAZ: However, he filed no exceptions, which I think goes to the point that there -- this is a difficult road for that -- the complainant and for possibly the appropriate way would be a wider docket that brings this issue to the floor and is addressed by many parties and -- that have more resources to be able to --

COMMISSIONER ELLIOTT: Yeah. And I guess --

COMMISSIONER O'CONNELL-DIAZ: -- you know,

examine this.

COMMISSIONER ELLIOTT: At this point, the only party that we have is the complainant.

JUDGE HAYNES: And there's nothing to say that you have to dismiss his complaint. I mean, if the Commission wanted to look at it further, you could initiate an investigation and this could be consolidated with that investigation so that Mr. Fletcher would still be able to participate; but like Commissioner O'Connell-Diaz raised, then Staff would be involved and -- you know, if they were interested in this issue or whoever would be able to
have a say in it.

COMMISSIONER ELLIOTT: Yeah, I think my concern here is dismissing this docket.

JUDGE HAYNES: I'm sorry.

COMMISSIONER ELLIOTT: I don't believe it should be dismissed.

JUDGE HAYNES: I didn't mean to say -- when I said that about an investigation, I don't think you'd have to dismiss this. I would just think that you have to start another one that would be broader and then they can be considered together.

COMMISSIONER ELLIOTT: Yeah, that would be fine and we can solicit --

COMMISSIONER O'CONNELL-DIAZ: Because, you know, if we just leave it the way it is, then it's the complainant with the Company and I just think that's a real difficult burden for this complainant.

And so if we do want to like look at it in a more holistic manner, then I think what Judge Haynes is suggesting is probably the way we would like to address it.

COMMISSIONER ELLIOTT: Yeah, and I don't know
how to go about this; but, I mean, I'm assuming there
are other consumers out there in a similar situation
with Peter Fletcher.

    How would we go about eliciting their
participation?

    JUDGE HAYNES: There'd be -- there would have
to be an initiating order and notice would have to be
served on -- I don't know if it would have to go to
all the ComEd municipalities. I'm not sure who
notice would be served on, but there would have to be
notice because other customers would be affected.

    And Mr. Fletcher's complaint, I don't
believe, would have to be dismissed then. If you
think there's -- if you want to look at the
underlying policy question, you can leave his
complaint open and consolidate it with the broader
complaint.

    COMMISSIONER ELLIOTT: Yeah, I think that's the
position I would like to take. I would like to bring
Staff into this, at least on the policy matter; but I
would prefer to, you know, not leave this all on
Peter Fletcher.
COMMISSIONER O'CONNELL-DIAZ: Well, that's the point of having an --

COMMISSIONER ELLIOTT: So, I mean, to the degree that we can --

COMMISSIONER O'CONNELL-DIAZ: -- initiating docket.

COMMISSIONER ELLIOTT: -- to a degree that we can expand -- and I'm sure posting it in the newspaper is not going to generate a sufficient response from similarly-situated customers. I don't know how we go about --

COMMISSIONER O'CONNELL-DIAZ: We would direct OGC, I think, to draft an initiating order for us with regard to an examination of the issues that are presented here. And by virtue of the fact that the Commission puts that forward, then notice would go out to all parties affected by that. So that would be --

COMMISSIONER ELLIOTT: So could we direct Commonwealth Edison to contact customers of a similar situation to participate or at least make them aware that this is going on, give them an opportunity as
I mean, what I'm trying to get at is I'm sure there's probably more than one Peter Fletcher out there in terms of customer. I mean, it's a very specific customer type.

JUDGE HAYNES: Well -- and I think that would be perfect -- appropriate to put in an initiating order that ComEd provide a list of customers that would be affected or something.

COMMISSIONER ELLIOTT: Or similarly --

COMMISSIONER O'CONNELL-DIAZ: Provide a list to the Clerk's Office and then the Clerk's Office sends out this initiating order that we have ordered.

And then this particular complaint, I think, would be generally continued until the conclusion of that proceeding. And the complainant would have to sign an agreement, you know, to file that in this particular docket. Because, you know, you've got the year deadline issue. And --

COMMISSIONER ELLIOTT: I mean, he may be the only customer that's in this situation. I don't know. And if that's the case, then, you know, do we
need a general applicable -- or can we just decide
to -- I don't know.

JUDGE HAYNES: Well, I think it would have to
be a general case because it would be changing the
Company's procedures.

COMMISSIONER ELLIOTT: Well, again, I disagree.
We're not changing anything in the tariff. The
tariff is not explanatory on this issue.
Commonwealth Edison may feel that they've been doing
it this way all along. I don't know how many
customers. I don't know how many people have
complained. I don't know anything other than what is
before me here. And there's nothing that says in
their tariff that this is the appropriate approach.

So we're not changing anything. What
we're doing is determining whether the methodology
that they're employing is correct.

JUDGE HAYNES: I agree you're not changing the
tariff and you'd be looking at the methodology, yes.

COMMISSIONER ELLIOTT: Right. So, yeah, if we
can -- if we cannot dismiss this, carry it forward
and open an investigation and consolidate this case.
If you could whip something up and -- and have it before the end of the -- no.

JUDGE HAYNES: I'll have to figure out how that initiating order -- I think it's Conrad Rubinkowski, but...

COMMISSIONER ELLIOTT: Okay. Any further direction that you need from us on this?

CHAIRMAN SCOTT: Okay.

JUDGE HAYNES: No. Great.

COMMISSIONER ELLIOTT: Great.

CHAIRMAN SCOTT: Thank you, Judge.

COMMISSIONER ELLIOTT: Thanks.

CHAIRMAN SCOTT: Items E-8 through E-13 can be taken together. These items are an Application for Licensure as an agent, broker and consultant under Section 16-115C of the Public Utilities Act. In each case, ALJ Albers recommends entry of an Order granting the Certificate.

Is there any discussion?

(No response.)

Any objections?

(No response.)
Hearing none, the Orders are entered.

Item E-14 is Docket No. 12-0077. This concerns an eminent domain petition by the Illinois Department of Transportation in conjunction with a highway improvement project in Kendall County.

ALJ Riley recommends entry of an Order granting the petition.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered.

Items E-15 and E-16 can be taken together. These items are petitions for the confidential and/or proprietary treatment of the petitioners' reports. In each case ALJ Albers recommends entry of an Order granting the requested protective treatment.

Is there any discussion?

(No response.)

Any objections?

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

Turning now to Natural Gas.

Item G-1 is a filing by Ameren to revise its Rider S for system gas service in response to provisions contained in the Commission's Order in its rate case.

Staff recommends granting the Company's request by not suspending the filing.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the filing will not be suspended.

Item G-2 is a filing by Peoples Gas for Special Permission to revise its Rider ICR for infrastructure cost recovery to acknowledge the recent Appellate Court decision on Rider ICR and pending remand.

Staff recommends granting the Company's Special Permission request.

Is there any discussion?
Any objections?

(No response.)

Hearing none, the Special Permission request is granted.

Items G-3 and G-4 can be taken together. These items concern reconciliation cases for North Shore Gas and Peoples Gas regarding revenues collected under gas adjustment charges in 2008.

In each case, ALJ Haynes recommends entry of an Order approving the reconciliation.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Orders are entered.

Item G-5 is Docket Nos. 11-0280 and 11-0281 consolidated. This is the North Shore Gas and Peoples Gas rate case. And we have a couple of items up for consideration today.

We will start with an Amendatory Order
to correct the typographical which ALJs Hilliard and Kimbrel recommend we enter.

Is there any discussion on that point?
(No response.)

Any objections?
(No response.)

Hearing none, the Amendatory Order is entered.

Next up is a Motion to Stay filed by the Office of the Attorney General. On this motion ALJs Hilliard and Kimbrel recommend we modify the Order as to reflect that ratepayers or the companies would be entitled to a refund or recovery of any surcharges if Rider VBA is found to be illegal.

With respect to a discussion on that, Judge, thank you for being here. What would we do to give effect to that language? Because there isn't an Order to that effect. So...

JUDGE HILLIARD: I think I would try to draft language for the Commission's approval. It would kind of basically track the recommendation just contingent upon a finding that there was money due
and owing, then it would be -- if the money's collected, it could be identified. And if there's a court decision that determines it ought to go back to somebody, then we've just made that a possibility.

That's all.

CHAIRMAN SCOTT: Is there any objection to that approach?

(No response.)

And is there a time line that we're dealing with here or...?

JUDGE HILLIARD: Well, I think the only time line that I'm aware of is April 12th of 2013.

CHAIRMAN SCOTT: So we hold disposition of this until the March 21st meeting?

JUDGE HILLIARD: I don't think there would be a problem with it at all.

CHAIRMAN SCOTT: Very good.

Thank you, Judge.

Item G-6 is Docket No. 11-0223. This item concerns a rulemaking for amending Title 83, Part 595 of the Administrative Code regarding pipeline accident reporting.
ALJ Haynes recommends entry of an Order adopting the proposed amendment with an effective date of April 1st, 2012.

Are there any objections?
(No response.)

Is there any discussion?
(No response.)

Any objections?
(No response.)

Hearing none, the Order is entered.

Item G-7 is Docket No. 11-0006. This is Malgorzata Szayna's complaint against Nicor.

ALJ Hilliard recommends entry of an Order sustaining the complaint and waiving the outstanding balance on the customer's account.

Is there any discussion?
(No response.)

Any objections?
(No response.)

Hearing none, the Order is entered.

Item G-8 is Docket No. 11-0725. This is Lisa Seaton's complaint against Nicor. The
parties have apparently settled their differences and brought a Joint Motion to Dismiss, which ALJ Haynes recommend we grant.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Joint Motion to Dismiss is granted.

Telecommunications.

Items T-1 and T-2 can be taken together. These items are filed by Frontier Affiliates seeking tariff changes to introduce the Versaline Centrex Service for business customers.

In each case Staff recommends granting the Company's request by not suspending the filing.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the filings will not be suspended.
Item T-3 concerns a filing by Frontier Citizens Communications of Illinois seeking tariff changes to clarify how it will determine the appropriate Voice Over Internet Protocol, Public Switched Telephone Network Traffic.

Staff recommends granting the company's request by not suspending the filing.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the filings will not be suspended.

Item T-4 concerns a similar filing by Frontier North also seeking tariff changes to clarify how it will determine appropriate rates for Voice Over Internet Protocol, Public Switched Telephone Network Traffic.

Staff recommends that this filing be suspended through the entry of a Suspension Order.

Is there any discussion?

COMMISSIONER ELLIOTT: Yes, I just think it --
I just want to point out that Staff did a great job in their tariff memos where it meant something and where it didn't in particularly this case.

So for a similar issue, we're not suspending one and suspending another. I just want to clarify that Staff actually nailed this one pretty good.

CHAIRMAN SCOTT: Very good.

Any further discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Suspension Order is entered.

Items T-5 through T-7 can be taken together. These items concern Joint Petitions by telecommunications carriers for the approval of Interconnection Agreements.

In each case, the ALJ recommends entry of an Order approving an amendment to an existing Interconnection Agreement.

Is there any discussion?
Any objections?
(No response.)
Hearing none, the Orders are entered.

Item T-8 is Docket No. 11-0628. This item concerns a rulemaking for amendments to Title 83, Part 791 of the Administrative Code regarding cost of service rules.

ALJ Riley recommends entry of an Order authorizing submission of the proposed amendments to JCAR.

Is there any discussion?
(No response.)
Any objections?
(No response.)
Hearing none, the Order is entered.

Items T-9 through T-12 can be taken together. These items are petitions for the confidential and/or proprietary treatment of the petitioners' annual reports.

On each case the ALJ recommends entry of an Order granting requested protective treatment.
Is there any discussion?
(No response.)

Any objections?
(No response.)

Hearing none, the Orders are entered.

We have one item of other business scheduled today, which concerns the Commission's Initiative on Plug-In Elective Vehicles and associated report, but that item was addressed at yesterday's Policy Committee Meeting.

And, again, we did it yesterday, but we really want to thank Ambika Dalal and Anthony Star, who worked very hard on that report, and Jennifer Hinman, who worked on a report. And thank you also to Commissioner O'Connell-Diaz.

I think that group made a tremendous amount of progress, all stakeholders that participated and a very good product that will be sounding off.

COMMISSIONER O'CONNELL-DIAZ: Absolutely. And it also is something that -- as I suggested yesterday, that we are really again ahead of the pack
nationwide of looking at these issues. Because as I talked to our fellow Commissioners across the country, they're not -- they haven't done this. So we have provided that for the country.

So it's really a good thing for our state to have had this process. And the process doesn't end. We will continue to work together with the EVAC Council on moving forward. So it's just an excellent -- excellent time spent and thanks to all the stakeholders, too, because they made it happen.

CHAIRMAN SCOTT: I just want to remind folks that our meeting that was scheduled for next week on the 13th has been canceled. We announced that before. We just want to remind folks.

So the next meeting will follow the calendar after that.

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

JUDGE WALLACE: No, I think that's it.

CHAIRMAN SCOTT: All right. Thank you.

JUDGE DOLAN: Wait a minute.

CHAIRMAN SCOTT: Yes.
JUDGE DOLAN: On E-7, do we -- are we not voting? Are you just holding E-7? That's the Peter Fletcher. You guys didn't ever vote, you didn't...

CHAIRMAN SCOTT: Do we need to vote to --

COMMISSIONER ELLIOTT: Deny the Motion to Dismiss?

CHAIRMAN SCOTT: Well, no, we don't want to -- need to do that because that was going to be continued generally. But to do the initiating order or --

JUDGE WALLACE: Mr. Chairman.

CHAIRMAN SCOTT: Yes, Judge.

JUDGE WALLACE: Why don't you just hold it and allow OGC time to draft up an initiating order.

CHAIRMAN SCOTT: Perfect.

JUDGE DOLAN: That's what I was going to suggest.

CHAIRMAN SCOTT: Very good.

Thank you very much.

With nothing else to come before the Commission, this meeting stands adjourned.

Thanks, everyone.
CERTIFICATE OF REPORTER

STATE OF ILLINOIS )
) SS:
COUNTY OF COOK )

TITLE: Public Utilities Bench Session

I, Amy M. Spee, do hereby certify that I am a court reporter contracted by SULLIVAN REPORTING COMPANY of Chicago, Illinois; that I reported in shorthand the evidence taken at the proceedings had in the hearing of the above-entitled case on the 7th day of March 2012; that the foregoing 61 pages are a true and correct transcript of my shorthand notes so taken as aforesaid and contains all of the proceedings directed by the Commission or other person authorized by it to conduct the said hearing to be stenographically reported.

Dated at Chicago, Illinois, this 19th day of March 2012.

_______________________
Amy M. Spee, CSR, RPR