BEFORE THE

ILLINOIS COMMERCE COMMISSION

REGULAR OPEN MEETING

(PUBLIC UTILITY)

Chicago, Illinois

Wednesday, March 27, 2013

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

PRESENT:

MR. DOUGLAS P. SCOTT, Chairman

MR. JOHN T. COLGAN, Commissioner

MS. ANN McCABE, Commissioner

MR. MIGUEL del VALLE, Acting Commissioner

MS. SHERINA E. MAYE, Acting Commissioner

L.A. COURT REPORTERS by

Kari Wiedenhaupt, Reporter, CSR# 084-004725
CHAIRMAN SCOTT: Is everything ready in Springfield?

JUDGE WALLACE: Yes.

CHAIRMAN SCOTT: Pursuant to the provisions of the Open Meetings Act, I now convene a Regular Open Meeting of the Illinois Commerce Commission. With me in Chicago are Commissioner Colgan, Commissioner McCabe, Acting Commissioner del Valle and Acting Commissioner Maye. We have a quorum.

I do want to state at the beginning of the meeting today that Commissioner Maye will be abstaining today on all votes. Before moving into the agenda, according to Section 1700.10 of Title 2 of the Administrative Code, this is the time we allow members of the public to address the Commission. Members of the public wishing to address the Commission must notify the Chief Clerk's Office at least 24 hours prior to Commission meetings.

According to the Chief Clerk's Office, we have no requests to speak at today's meeting.

Moving onto the agenda for today, Item 1 is the approval of minutes from our March 6th Bench
session. I understand amendments have been forwarded.

Is there a motion to amend the minutes?

COMMISSIONER MCCABE: So moved.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER COLGAN: Second.

CHAIRMAN SCOTT: It's been moved and seconded.

All in favor, say aye.

(Chorus of ayes.)

CHAIRMAN SCOTT: Any opposed?

(No response.)

CHAIRMAN SCOTT: The vote is four to nothing, and the amendments are adopted. Is there now a motion to approve the minutes as amended.

COMMISSIONER COLGAN: So moved.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER MCCABE: Second.

CHAIRMAN SCOTT: It's been moved and seconded.

All in favor, say aye.

(Chorus of ayes.)

CHAIRMAN SCOTT: Any opposed?
(No response.)

CHAIRMAN SCOTT: The vote is four to nothing, and the March 6th Bench session minutes as amended are approved. We will use this four to nothing vote for the remainder of today's Regular Open Meeting unless otherwise noted.

Item 2 is Docket No. 11-0461. This is Joel Harris' billing complaint against ComEd concerning potential overcharges from an improperly operating meter. ALJ Benn recommends entry of an order denying the complaint.

Commissioner McCabe, I believe you have some revisions on this matter?

COMMISSIONER MCCABE: Yes. My proposed changes address some questions that came up in this case. As Commissioners reviewing an Order, we are not privy to the off-the-record discussions in a docket. We can and do look at the record and base our Orders on it.

In this case, both the Order and the record raised questions. I submitted questions to the parties and their responses raised some more questions. Ultimately, it became clear that the
Order in this case should reflect the full procedural history of this case and address the evidence that was eventually put forward.

In this case, a ratepayer, Mr. Harris, suspected that his meter was malfunctioning, resulting in inflated bills. After considerable effort on his part, ComEd did come out and test the meter. They determined that the meter was over counting his usage and issued him a check for just under $600.

The ratepayer and ComEd did not agree on the length of time for compensation for the faulty meter. Unbeknownst to the ratepayer, ComEd had already retested his original meter and concluded that the meter had not been malfunctioning and none of the bills had been inflated.

They did not disclose this fact. So the ratepayer filed a formal complaint, endured multiple hearings and months of delays and finally learned eight months after the fact that ComEd had actually retested the meter, and that there were no further damages for him to claim.
Separately, the Commission is concerned with the focus earlier in this case on whether a ratepayer who has been overbilled due to a faulty meter is limited to only two years of recovery. In cases such as this one, no such limit applies. We also note that ComEd did not follow the Commission's rules requiring a customer to be present when the meter is tested at his residence.

The final Order in this case sets out all these issues. It still denies the complaint, and I move the Order as amended.

CHAIRMAN SCOTT: You are moving the approval of the revisions then, correct?

COMMISSIONER MCCABE: Yes.

CHAIRMAN SCOTT: And I will second that.

Is there any further discussion?

(No response.)

CHAIRMAN SCOTT: I will just say that I appreciate your revisions. I know that there was a lot of concern about the evidence in the case, and I think you said it very well and also the apparent sort of statutory bar to claims that are more than
two years old, which I know the person has to bring it within two years from the time that they discover the problem, but I don't see anything in the Act, as you don't from the revisions, that would call for a bar to that.

So I appreciate all the work that you did on this and the revisions and I think while, as you said, it doesn't change the conclusion, I think it makes how we got to that decision a little clearer and sets out some guidelines for the future. So I appreciate all the work that you did on it.

Further discussion?

(No response.)

CHAIRMAN SCOTT: It's been moved and seconded to adopt the revisions. All in favor, say aye.

(Chorus of ayes.)

CHAIRMAN SCOTT: Any opposed?

(No response.)

CHAIRMAN SCOTT: The vote is four to nothing, and the revisions are adopted.

Is there any further discussion on this matter?
(No response.)

CHAIRMAN SCOTT: Commissioner McCabe, then do you move to enter the Order as revised?

COMMISSIONER MCCABE: Yes.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER COLGAN: Second.

CHAIRMAN SCOTT: It's been moved and seconded.

All in favor, say aye.

(Chorus of ayes.)

CHAIRMAN SCOTT: Any opposed?

(No response.)

CHAIRMAN SCOTT: The vote is four to nothing, and the Order as revised is entered.

Item 3 is Docket No. 12-0213. This is our rulemaking proceeding for Title 83, Part 468 of the Administrative Code concerning certification requirements for distributed generation installers. ALJ Albers recommends entry of an Order adopting the proposed rule with an effective date of April 25th, 2013.

Is there any discussion on this matter?
(No response.)

CHAIRMAN SCOTT: Are there any objections to entering the Order?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Order is entered.

Item 4 is Docket No. 12-0499. This is HIKO Energy's application for certification as an alternative retail electric supplier. This matter will be held for disposition at a future Commission meeting.

Item 5 is Docket No. 13-0076. This is Lucy Litvinenko's complaint against ComEd. The parties have apparently settled their differences and have brought a Joint Motion to Dismiss, which ALJ Kimbrel recommends we grant.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Joint Motion to Dismiss is granted.
Item 6 is Docket No. 13-0077. This is a proceeding for adopting policies concerning the statewide technical reference manual for energy efficiency program evaluation. There are no contested issues in this matter, and ALJ Kimbrel recommends entry of an Order adopting policies consistent with the initial filing.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Order is entered.

Items 7 and 8 can be taken together. These items are petitions for the confidential and/or proprietary treatment of the petitioners' reports. In each case, ALJ Sainsot recommends entry of an Order granting the requested protective relief.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?
CHAIRMAN SCOTT: Hearing none, the Orders are entered.

Item 9 is Docket No. 11-0696. This is Cbeyond's complaint against AT&T. ALJ Sainsot recommends entry of an Order dismissing this matter with prejudice.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Order is entered, and this matter is dismissed.

Items 10 and 11 can be taken together. These items are Joint Petitions for the approval of amendments to interconnection agreements between telecommunications carriers. In each case, the parties have moved to withdraw their application, and ALJ Baker recommends granting withdrawal.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?
CHAIRMAN SCOTT: Hearing none, the petitions are withdrawn.

Items 12 through 14 can be taken together. These items are also Joint Petitions for the approval of amendments to interconnection agreements between telecommunications carriers. In each case, the ALJ 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.

Item 15 is Docket No. 13-0151. This is AT&T's Petition for the confidential and/or proprietary treatment of its annual report. ALJ Albers recommends entry of an Order granting the requested protective treatment.

Is there any discussion?
(No response.)

CHAIRMAN SCOTT: Any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Order is entered.

Item 16 is Docket No. 10-0366. This is our management audit of Illinois-American Water Company. This item will be held for disposition at a future Commission meeting.

Item 17 is a FERC matter which concerns pending litigation. So we will go into closed session to address it. Is there a motion to go into closed session?

COMMISSIONER COLGAN: So moved.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER MCCABE: Second.

CHAIRMAN SCOTT: It's been moved and seconded.

All in favor, say aye.

(Chorus of ayes.)

CHAIRMAN SCOTT: Any opposed?

(No response.)

CHAIRMAN SCOTT: The vote four to nothing, and
the Commission will now go into closed session.

Please let me know when the room is ready in Springfield.

JUDGE WALLACE: Okay. Yeah. We are ready.

CHAIRMAN SCOTT: Thanks.

MR. HANSON: This is -- do you want me to start speaking? This is --

CHAIRMAN SCOTT: Hang on just a second. We are waiting for our room to clear here.

MR. HANSON: Okay. Sorry.

(Whereupon, the meeting went into closed session.)
CHAIRMAN SCOTT: In closed session the Commission discussed making a filing in FERC Docket No. ER13-535-001. Is there a motion to make the filing with FERC?

COMMISSIONER MCCABE: So moved.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER COLGAN: Second.

CHAIRMAN SCOTT: It's been moved and seconded.

All in favor, say aye.

(Chorus of ayes.)

CHAIRMAN SCOTT: Any opposed?

(No response.)

CHAIRMAN SCOTT: The vote is four to nothing, and the filing will be made with FERC. Before we adjourn today, I have one thing I need to bring to everybody's attention. He is hiding in the back. Brian Granahan, this is his last day at the Commission. It's very sad for me and I think for the other Commissioners, but a good day for Brian. He is moving on to a -- it seems like a great opportunity in the private sector. I know he is going to do very well. Brian has been with the Commission for three
years. He has been working for me for the last two.

He's not only a really good guy, but a really good
public servant, and he has done a great job for me
and for the Commissioners and for the people in the
state. And I just want to wish you luck, Brian, and
we are going to lose not only the biggest Iowa fan I
think we have in the office, but one of the only
people that actually admits to liking Nicholas Cage.

So we are losing out from the
Commission standpoint, but Brian, we wish you all the
best, and good luck to you.

MR. GRANAHAN: Do I have a chance for rebuttal?

CHAIRMAN SCOTT: No. Absolutely not.

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

COMMISSIONER COLGAN: Well, I'd say -- I would
just like to say thank you as well to Brian. It's
been a pleasure most of the time to work with you,
and, you know, I think you have made a significant
contribution and, you know, you have been -- you have
a good sense of humor and a lot of wit and
intelligence and substance that you have brought to
our process. And I am sure that we are going to miss you, but I do wish you the very best luck, and stay in touch.

CHAIRMAN SCOTT: Go ahead.

COMMISSIONER MCCABE: I second those sentiments, and we know you aren't going far.

CHAIRMAN SCOTT: And not only do you not get a chance to rebut, but now we know why you don't come into the room during most of the Commission meetings. Judge Wallace, anything further to come before the Commission?

JUDGE WALLACE: Not today. I wish you luck on finding an Iowa Hawkeye fan to replace Brian, though.

CHAIRMAN SCOTT: Thanks, Judge. Hearing nothing else to come before the Commission, this meeting stands adjourned. Thanks everyone. Good luck, Brian.

(END OF PROCEEDINGS.)