BEFORE THE
ILLINOIS COMMERCE COMMISSION

BENCH SESSION
(PUBLIC UTILITY)

Chicago, Illinois
Thursday, June 2, 2011

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

PRESENT:

DOUGLAS P. SCOTT, Chairman
LULA M. FORD, Commissioner
ERIN M. O'CONNELL-DIAZ, Commissioner
SHERMAN J. ELLIOTT, Commissioner
JOHN T. COLGAN, Acting Commissioner

SULLIVAN REPORTING COMPANY, by
Alisa A. Sawka, CSR, RPR
License No. 084-004588
CHAIRMAN SCOTT: Pursuant to the provisions of the Illinois Open Meetings Act, I now convene a regularly scheduled Bench Session of the Illinois Commerce Commission. With us in Chicago are Commissioners Ford, O'Connell-Diaz, Elliott and Acting Commissioner Colgan. I'm Chairman Scott and 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 the 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 no requests to speak at today's session.

(Whereupon, the Transportation Agenda is contained in a separate transcript.)

CHAIRMAN SCOTT: On to the Public Utility Agenda. We will start with approval of minutes
from prior Commission meetings. First are minutes from our May 4th Bench Session, but these minutes will be held so that the transcript can include public comments given at this Commission meeting.

Next up are minutes from our May 9th Special Open Meeting. I understand amendments have been forwarded.

And so I move to amend the minutes.

Is there a second?

COMMISSIONER FORD: 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 5 to nothing and the amendments to the May 9th minutes are adopted.

I move to approve the minutes, as amended.

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.)

CHAIRMAN SCOTT: Any opposed?

(No response.)

CHAIRMAN SCOTT: The vote is 5 to nothing and
the May 9th Special Open Meeting Minutes, as amended,
are approved.

Last up are minutes from our May 13th
Special Open Meeting. I understand amendments have
been forwarded.

And so I move to amend the minutes.

Is there a second?

ACTING 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 5 to nothing and
the amendments to the May 13th minutes are adopted.
And I move to approve the minutes, as
amended.
Is there a second?

ACTING 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 5 to nothing and the May 13th Special Open Meeting Minutes, as amended, are approved.

We will now turn to the electric portion of today's Agenda. Items E-1 and E-2 can be taken together. These items concern customer complaints regarding billing and/or charges against ComEd. In each case the parties have apparently settled their differences and have brought a Joint Motion to Dismiss, which the ALJ recommends we grant.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Is there a motion to grant the Joint Motions to Dismiss?

ACTING COMMISSIONER COLGAN: 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.)

CHAIRMAN SCOTT: Any opposed?

(No response.)

CHAIRMAN SCOTT: The vote is 5 to nothing and the Joint Motions to Dismiss are granted.

We will use this 5 to nothing vote for the remainder of the Public Utility Agenda unless otherwise noted.

Item E-3 is Docket No. 11-0275. This is Illinois Gas & Electric's Application for a Certificate of Service Authority to operate as an Alternative Retail Electric Supplier in Illinois. ALJ Tapia recommends that the Commission enter an Amendatory Order making certain corrections to the Commission's May 4th Order granting the Company's Certificate.

Is there any discussion?

(No response.)
CHAIRMAN SCOTT: Any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Amendatory Order is entered.

Item E-4 is Docket No. 11-0360. This is MC Squared Energy Services' Application to Operate as an ARES authorized to serve all eligible residential and nonresidential retail customers in ComEd's service territory. ALJ Tapia recommends that the Commission enter an Order granting this amendment to the Company's Certificate.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Order is entered.

Items E-5 and E-6 can be taken together. These items are Applications for Licensure as an Agent, Broker and Consultant under Section 16-115C of the Public Utilities Act. In each case, ALJ Yoder recommends that the Commission enter
an Order granting the requested Certificate.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Orders are entered and the Certificates are granted.

Item E-7 is Docket No. 11-0273. This is a Petition by Exelon to protect against the disclosure of confidential and/or proprietary information in its Annual Kilowatt Hour Report. ALJ Albers recommends that the Commission reopen the record for the purpose of accepting Exelon's corrected Petition in this matter and enter an Order on Reopening granting the Company's correction.

Is there any discussion on reopening this matter?

(No response.)

CHAIRMAN SCOTT: Any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the record in this matter is reopened.
Is there any discussion on entering the Order on Reopening?

(No response.)

CHAIRMAN SCOTT: Any objections?  

(No response.)

CHAIRMAN SCOTT: Hearing none, the Order on Reopening is entered and the corrections to the Company's Petition are made.

Item E-8 is Docket No. 11-0379. This is Direct Energy Services' Petition for the confidential treatment for portions of its ARES Compliance Report. ALJ Albers recommends the Commission enter an Order granting in part and denying in part the Company's request.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?  

(No response.)

CHAIRMAN SCOTT: Hearing none, the Order is entered.

Items E-9 through E-15 can be taken together. These items concern Petitions to protect
against the disclosure of confidential and/or proprietary information in the Petitioners' reports filed with the Commission. In each case, ALJ Albers recommends entry of an Order granting the requested protective relief.

Is there any discussion?
(No response.)

CHAIRMAN SCOTT: Any objections?
(No response.)

CHAIRMAN SCOTT: Hearing none, the Orders are entered.

Item E-16 is Docket No. 11-0395. This is Constellation NewEnergy's Petition to protect against the disclosure of confidential information in the dockets surrounding the amendment of its ARES Certificate of Service Authority. ALJ Albers recommends that the Commission grant the Company's Motion to Withdraw its Petition in the present docket.

Is there any discussion?
(No response.)

CHAIRMAN SCOTT: Any objections?
CHAIRMAN SCOTT: Hearing none, the Motion to Withdraw is granted.

Item E-17 is Docket No. 11-0402. This is Glenview Consulting Group's Petition for Confidential Treatment of Information in its Annual Report. ALJ Albers recommends that the Commission dismiss this docket as the confidential treatment being sought is already expressly authorized by statute.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the docket is dismissed.

We have one Natural Gas item today.

Item G-1 is Docket No. 11-0067. This is Rosie Lacy's complaint as to billing and/or charges against Nicor. The parties have apparently settled their differences and brought a Joint Motion to Dismiss, which ALJ Kimbrel recommends that 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.

Moving on to Telecommunications.

Item T-1 is Docket No. 11-0312. This is G3 Telecom USA's Application for a Certificate of Prepaid Calling Service Provider Authority statewide across Illinois. The Company has filed a Motion to Withdraw its application, and ALJ Riley recommends that we grant this Motion.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?

(No response.)

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

Item T-2 is Docket No. 11-0298. This is Safari Communications' Application for a Certificate of Wireless Authority to Operate as a
Reseller of Telecommunications Services throughout Illinois. ALJ Riley recommends that the Commission enter an Order granting the requested Certificate.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?

(No response.)

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

Item T-3 is Docket No. 11-0322. This is Stand Up Wireless's Application for Authority to Operate as a Facilities-Based Wireless Application Carrier throughout Illinois. ALJ Riley recommends the Commission enter an Order granting the requested Certificate.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?

(No response.)

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

Item T-4 is Docket No. 11-0401. This
is Macon County's Petition for Approval of a Modification to its 9-1-1 system to add an additional backup answering point. ALJ Albers recommends that the Commission enter an Order approving the modification.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Order is entered.

Item T-5 is Docket No. 10-0721. This is Illinois Consolidated Telephone Company's Petition for Approval of an Equipment Location Agreement with US Signal Company. ALJ Jones recommends that the Commission enter an Order granting the Petition, subject to certain conditions agreed to between the Companies and the Staff.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?

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

Item T-6 is Docket No. 11-0417. This is ANPI's Petition requesting an Order authorizing ANPI, Incorporated, to transfer its Certificates of Service Authority to the newly created ANPI, LLC. ALJ Albers recommends that the Commission enter an Order granting the requested relief.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Order is entered.

On to Water and Sewer.

Item W-1 is Docket No. 11-0340. This is Aqua Illinois' Rate Case. Before us today is a Petition by Aqua Illinois requesting a waiver of certain provisions of Title 83, Part 285, of the Administrative Code by allowing independent accountants engaged by the Company to use the currently effective guide for prospective financial
ALJ Jones recommends that the Commission enter an Order granting the requested waiver.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Order is entered and the requested waiver is granted.

We have one Petition for Rehearing up today.

Item PR-1 is Docket No. 07-0310. This is ComEd's Application seeking authorization to construct new transmission lines in Kane and McHenry Counties. After the Commission entered its recent Order in this matter, the Kreutzer Road parties filed a Request for Rehearing. ALJ Dolan recommends that the Commission deny the Request for Rehearing.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?

(No response.)
CHAIRMAN SCOTT: Hearing none, the party's Request for Rehearing in this matter is denied.

COMMISSIONER O'CONNELL-DIAZ: Mr. Chairman?

CHAIRMAN SCOTT: Yes, Commissioner O'Connell-Diaz.

COMMISSIONER O'CONNELL-DIAZ: Thank you.

I just have one comment. First of all, I'd like to thank Judge Dolan for a complete and thorough memo and also Staff for presenting really kind of what the Commission's case is in this point. But I just think it's important to point out that as I look at this proceeding -- and it has been with us since 2007. It is now four years later. It's a transmission line. It is -- the transmission line at issue in this is to be to reinforce an area that underwent massive growth. And the growth in that area was occasioned by the development permits that were issued by the various municipalities that turned farmland into sprawling suburban highways and byways. And I find it quite remarkable that the Village of Huntley is saying the Commission is not doing their
job right. They're not looking at this issue right.

The time to look at this would have been way before they issued the permits to build these large tract situation developments. And they should have also gotten together with the neighboring municipalities to come up with a plan to deal with the absolute eventuality of the need for more electrical transmission services to serve these many homes.

These are -- many of these are in the utility right of way, right of ways that have been there for years and years and years. So this is really a village's or a municipality's planning opportunity when they let it go and make these large developments, they will end up at the Commission because we need to make sure that there is a reliable supply of electricity in that area.

So I know I always make this speech when I see these cases; but the municipalities really need to do a better job of planning together so that the lines go through in the least offensive way, because the lines do need to go through to supply the
new homes that are out there.

So I'd like to thank all the
participants of the case. Again, it's gone on for
four years.

And thank you, Judge Dolan.

JUDGE DOLAN: Hopefully, we won't see it again.

COMMISSIONER FORD: Hopefully.

CHAIRMAN SCOTT: Thank you, Commissioner.

Thank you, Judge.

Lastly, we have one other item of
business for today. This item is our Annual Report
on Cable and Video Service Deployment by Providers
Granting State Issued Cable and Video Service
Authorization.

Is there someone from Staff who's
available to brief us on this Report?

MR. McCLERREN: Yes, Chairman. My name is Sam
McClerren. I'm in the Telecommunications Group. And
Dr. Zolnierek is here with me. We're here to make a
brief presentation and answer any questions you might
have about the Report.

CHAIRMAN SCOTT: Go right ahead.
MR. McCLENNEN: The Cable and Video Services Law of 2007 permits cable and video providers to receive Commission-authorized State-issued permits. The condition of the state-issued authorized providers are required by April 1st of each year to provide a report basically indicating their deployment status. The Commission is required by statute to report to the Legislature by July 1st of each year regarding the information provided. We're here today seeking Commission approval of the report we've developed.

Some background, we've had two companies as of the reporting period that are actually -- that have received a Commission permit. Illinois Bell AT&T Illinois received their permit on October 24th of 2007. Wide Open West, WOW, was authorized to provide service on April 21st of 2010. We have had a third provider, Highland Communication Services, receive Commission approval but that was in February of this year. So they do not report -- they're not included in this particular report.
AT&T Illinois' report, there is three particular items we want to bring to your attention. By October 23rd of 2010 there were three requirements that they were statutorily required to attain.

One, was that they would provide access to video service at 35 percent of households in its incumbent local exchange carrier service area. As of year-end 2010, AT&T Illinois reported it employed service to 42 percent. So it had attained that benchmark.

Also by October 23rd, 2010, 30 percent of the households provided access to video services by AT&T Illinois were to be low income. Relative to that 30 percent, AT&T Illinois reported that as of year-end 2010 they had attained 30 percent.

Finally, by October 23rd of 2010, the percentage of low income households provided access to video services in each exchange was to equal or exceed the percentage of low income households in the exchange. AT&T Illinois reported that out of its 105 service exchanges, they had attained that criterion.

There were two footnote exceptions,
that I need to report. For the Skokie exchange AT&T
Illinois reported it was unable to obtain access to
public rights of way due to a fee dispute with the
Village of Skokie. So they reported the Skokie
exchange, the area outside of the Village of Skokie.
And when looking at it that way, they attained that
low income criterion.

For the Huntley exchange, AT&T
Illinois did not attain the requirement. And it was
basically due to the rapid growth within the Huntley
exchange. Essentially during the decade of 2000-2010
Huntley experienced a 400 percent increase in
population growth. And much of that growth was in
population at centers distant from AT&T's network
nodes. So basically they were not able to keep up
with the growth in the Huntley exchange.

On Wide Open West, they reported
within their exchanges basically they were providing
service to everyone within their service territories.
There was no -- they passed every household, every
business. So they obviously met the criterion set up
by the Legislature.
So with your approval of this report today, the Office of Governmental Affairs will format and print the report; submit it along with the reports from AT&T Illinois and Wide Open West to the Legislature; and we're here to answer any questions you might have about the report.

CHAIRMAN SCOTT: Are there any questions from the Commission?

COMMISSIONER FORD: Yes. My only question is I see where AT&T said that they had built-out -- they had 10 nodes in the low income percentage. It would still remain at 9 percent even if they were to deploy U-Verse to all 62 nodes. And, I guess, I'm interested because I must be in one of those low income nodes that they have not reached. And even if -- they said that even if they were to deploy, it would still only reach 9 percent. I'm wondering how is that?

MR. McCLERREN: 9 percent.

COMMISSIONER FORD: Yes. That's on Page 3 of 9, Attachment A --

MR. McCLERREN: All right.
COMMISSIONER FORD: -- first paragraph of --
sixth sentence from the bottom.

MR. McCLERREN: Within the Huntley exchange?

COMMISSIONER FORD: No. It's right under the
Huntley exchange.

CHAIRMAN SCOTT: I believe it's the last two
sentences of the first paragraph on that page.

COMMISSIONER FORD: It is.

CHAIRMAN SCOTT: It starts with "Therefore,
AT&T."

COMMISSIONER FORD: "Therefore AT&T."

MR. McCLERREN: I believe, Commissioner, that
paragraph refers to the Huntley exchange.

COMMISSIONER FORD: Okay. All right. It said
something about -- I thought it said -- sorry.

MR. McCLERREN: They have -- I guess their
deployment, they have not hit every household in all
exchanges to answer your overall question.

COMMISSIONER FORD: I guess since it said
Skokie I was a little confused.

MR. McCLERREN: Oh, yeah. Skokie was a dispute
about the tax, the SMTT tax.
COMMISSIONER FORD: But if AT&T paid them all that money -- I guess they paid them 26 percent or 28 percent I saw somewhere -- and then they still didn't allow them to do the infrastructure? Imposed a 6 percent tax. That's what I'm -- percentage -- it's in the next paragraph.

MR. McCLERREN: My understanding --

COMMISSIONER FORD: Were they going to get the money back?

MR. McCLERREN: My understanding is that AT&T contended that since it was paying the SMTT -- the Simplified Municipal Telecommunications Tax, they were not obligated to provide anything more than that for the build-out --

COMMISSIONER FORD: Okay.

MR. McCLERREN: -- rights of way permits. And then I gather the Village of Skokie was of the mind that they -- regardless of the SMTT, they were still -- AT&T were still liable. And that's our understanding.

COMMISSIONER FORD: Okay. Thank you.

CHAIRMAN SCOTT: Is there a resolution of that
particular issue or is that one that's just going to keep going on?

MR. McCLENNEN: To my knowledge, it has not been resolved and it would be a legal matter, and I do not know the answer.

CHAIRMAN SCOTT: Okay. Any other --

ACTING COMMISSIONER COLGAN: I did have a question yesterday that I forwarded to the Staff. And that was about, you know, how would a cable and video service provider actually have knowledge of how many low income customers they were serving. And they provided a good response to that. Basically it's -- AT&T uses some sort of a formula to look at census data and census tract poverty data to determine that calculation.

And then for the other provider that reported, the WOW, they basically provide access to everybody in the territory so they automatically meet that criterion.

So thanks to Staff for that response.

MR. MCCLENNEN: You're welcome.

CHAIRMAN SCOTT: Commissioner O'Connell-Diaz.
COMMISSIONER O'CONNELL-DIAZ: I appreciate that it's a -- just, actually, it's the legislation under which we operate is kind of broken out so that we do take care of our low income sector.

But as I view this issue, it's not -- it's really not to me a low income/high income. It's access issue. And I just wait for the day where there is 100 percent coverage for folks in the rural areas. I mean, everybody has kids and these services are how we live these days. And to -- and everybody knows I'm in the digital --

But, you know, it's a real hardship when you cannot get access to how you bank from your home. And, you know, unless you put up your own T-1 line for a great expense every month... So if there's a way that we can figure this out so that everybody can be covered, this would be, I think -- maybe we could invent something and retire to our villas in the south of France.

But it's an access issue as opposed to just an income issue. And it's really important that we solve that.
CHAIRMAN SCOTT: I have one last question, and this may not be answerable by you. But in terms of the build-out in the Huntley area, it didn't make sense to me reading through it that the build-out in the area like that would somehow inhibit the reach to low income households. Because I'm not assuming that most of the build-out now is low income in the Huntley region. So -- and it's not really contained in the body of the report.

So I'm not sure if that's something that, Mr. McClerren -- if you can answer that or not. Or it may be worthwhile to follow back up with them to get a few more details of that.

MR. McCLERREN: I can't really answer how that affected the low income. I know the growth is extraordinary and affected their ability to respond. But I would like to follow up on that and get back to you directly if I could.

CHAIRMAN SCOTT: Appreciate that. Thank you.

Any further discussion?

(No response.)
CHAIRMAN SCOTT: Gentlemen, thank you for the Report -- for the briefing on the report.

Are there any objections to approving the Report and having it prepared for distribution to the General Assembly?

(No response.)

CHAIRMAN SCOTT: Hearing no objections, the Report is hereby approved and will be sent to the General Assembly.

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

JUDGE WALLACE: No, there are not, Mr. Chairman.

CHAIRMAN SCOTT: Thank you, sir.

Hearing none, this meeting stands adjourned.

(Meeting adjourned.)