BEFORE THE
ILLINOIS COMMERCE COMMISSION

BENCH SESSION

Springfield, Illinois
Wednesday, July 29, 2009

Met, pursuant to notice, at 10:30 a.m. in
Hearing Room A, First Floor, Leland Building, 527
East Capitol Avenue, Springfield, Illinois

PRESENT:

MR. CHARLES E. BOX, Chairman
MS. LULA M. FORD, Commissioner
MS. ERIN M. O'CONNELL-DIAZ, Commissioner
MR. SHERMAN J. ELLIOTT, Commissioner

SULLIVAN REPORTING COMPANY, by
Carla J. Boehl, Reporter
CSR #084-002710
CHAIRMAN BOX: Pursuant to the provisions of the Illinois Open Meetings Act, I now convene a regularly scheduled bench session of the Illinois Commerce Commission. With me in Springfield are Commissioners Ford, O'Connell-Diaz and Elliott, and I am Chairman Box. We do have a quorum.

Before moving into the agenda, 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 the bench session. According to the Chief Clerk's office, there are no requests to speak.

We will begin with the Transportation agenda. First we have minutes to approve from the July 8, 2009, bench session. Is there a motion to approve the minutes?

COMMISSIONER FORD: So moved.

CHAIRMAN BOX: Is there a second?

COMMISSIONER O'CONNELL-DIAZ: Second.

CHAIRMAN BOX: It is moved and seconded. All
in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN BOX: Any opposed?

The vote is 4-0 approving the minutes.

We will be holding Item RR-1 which is Docket T07-0073 and T08-0154 Consolidated.

Items RR-2 through RR-7 and RR-9 through RR-16 will be taken together. These matters are stipulated agreements to make numerous rail crossing improvements throughout the State of Illinois. Over $2.5 million in the Grade Crossing Protection Fund will be used. Staff recommends entering the orders granting the stipulated agreements.

Is there a motion to enter the order?

COMMISSIONER O'CONNELL-DIAZ: So moved.

CHAIRMAN BOX: Is there a second?

COMMISSIONER ELLIOTT: Second.

CHAIRMAN BOX: Moved and seconded. All in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN BOX: Any opposed? Vote is 4 to 0.
The stipulated agreements are entered.

We will use this 4-0 roll call for the remainder of the Transportation agenda unless otherwise noted.

Item RR-8 is Docket T09-0060. This matter is a petition to installed an at-grade pedestrian crossing over tracks owned by the Illinois Central Railroad Company in the village of Savoy, Champaign County. No Grade Crossing Protection Funds will be used. Administrative Law Judge Jackson recommends entering the order granting the petition. Is there any discussion? Any objections? Hearing none, the order is entered.

Items RR-17 and RR-18 will be taken together. These are requests for an extension of time to complete railway crossing improvements. Administrative Law Judge Jackson and Staff recommend entering the third supplemental orders. Is there any discussion? Any objections? Hearing none, the third supplemental orders are entered.

Moving on to the Motor Carrier Section, Items MC-1 through MC-4 will be taken
together. These are stipulated settlement agreements with for-hire motor carriers operating without Commission authority. Staff recommends accepting the stipulated settlement agreements. Is there any discussion? Any objections? Hearing none, the stipulated agreements are accepted.

Item MC-5 is an application by Jonathan MacIntyre for renewal of his operator's employment permit. Administrative Law Judge Jackson recommends entering the order granting the application. Is there any discussion? Any objections? Hearing none, the order is entered.

Items MC-6 through MC-8 will be taken together. These are applications for renewal of commercial relocator's licenses. Staff recommends granting the renewals. Is there any discussion? Any objections? Hearing none, the renewals are granted.

There is one administrative matter on today's agenda. AM-1 is a Revised 5-year plan for rail crossing improvements. Staff recommends approving the plan. Is there any discussion? Objections? Hearing none, the plan is approved.
And that concludes the Transportation
portion of today's agenda. Ms. Kelly, is there
anything else to come before us today?

MS. KELLY: That's all. Thank you.
(Whereupon the meeting
concluded matters pertaining to
Transportation.)
Whereupon the meeting turned to Public Utility matters.)

CHAIRMAN BOX: Now moving on to the Public Utility agenda. We have minutes to approve from the June 4 and July 8, 2009, bench sessions and the June 29, 2009, special open meeting. Is there a motion to approve the minutes?

COMMISSIONER ELLIOTT: So moved.

CHAIRMAN BOX: Is there a second?

COMMISSIONER O'CONNELL-DIAZ: Second.

CHAIRMAN BOX: It's been moved and seconded.

All in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN BOX: Any opposed? The vote is 4-0 approving the minutes.

We are holding Item E-10, and Item T-4 has been withdrawn.

We will begin with the Electric agenda. E-1 (09-0342) concerns implementation of the new Section 16-115D of the Public Utilities Act which applies to renewable portfolio standards for ARES.
The Commission is required to establish alternative compliance payment rates. The order establishes the rates based on the recently-concluded REC procurement for Commonwealth Edison Company and the Ameren Illinois Utilities. Staff recommends entering the order. Is there a motion to enter the order?

COMMISSIONER ELLIOTT: So moved.

CHAIRMAN BOX: Is there a second?

COMMISSIONER O'CONNELL-DIAZ: Second.

CHAIRMAN BOX: It's been moved and seconded.

All in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN BOX: Any opposed? The vote is 4-0. The order is entered. We will use this 4-0 roll call vote for the remainder of the Public Utility agenda unless otherwise noted.

Items E-2 and E-3 will be taken together. These are QF buy-back rates for Mt. Carmel Public Utility Company and MidAmerican Energy Company under PURPA. Staff recommends not suspending the filings. Is there any discussion? Any objections? Hearing none, the filings are not suspended.
Item E-4 is Docket 08-0174. This concerns a proposal by Ameren Illinois Transmission Company and the three Ameren Illinois utilities engaged in borrowing from corporate parent Ameren Corporation and/or pursuant to the Ameren Utility Money Pool Agreement. Petitioners have moved to withdraw the portion of the request involving the money pool arrangement. Administrative Law Judge Albers recommends entering the order granting the motion to withdraw. Any discussion? Any objections? Hearing none, the order is entered.

Items E-5 and E-8 will be taken together. These cases involve storm damage Commonwealth Edison experienced in 2008. Recent changes in the statutes have rendered these cases moot and the utility has moved to dismiss. Administrative Law Judge Hilliard recommends granting the motions to dismiss without prejudice. Is there any discussion? Any objections? Hearing none, the motions are granted without prejudice.

Item E-6 is Docket 08-0481. This matter concerns interconnection standards for
generators larger than 10 MVA but smaller than or
equal to 20 MVA. The Commission entered a second
notice order on April 22, 2009, but the Joint
Committee on Administrative Rules has yet to act.
Administrative Law Judge Sainsot recommends entering
the order to extend the Commission's internal
deadline to February 10, 2010. Is there any
discussion? Any objections? Hearing none, the order
is entered.

Item E-7 is Docket 08-0509. This is
the complaint by Jim Fischer against AmerenCILCO.
The order finds that the complainant did not prove
his case. Administrative Law Judge Tapia recommends
entering the order denying the complaint. Is there
any discussion? Any objections? Hearing none, the
order is entered.

Item E-9 is Docket 08-0548. This is a
rulemaking to implement Section 16-115C of the Act
which requires agents, brokers and consultants, also
known as the ABCs, to be licensed. Administrative
Law Judge Yoder recommends entering the order
authorizing the submission of the second notice
period to the Joint Committee on Administrative Rules.

I have circulated various amendments to this order and I think all of the Commissioners have recommended certain changes and amendments, and these modifications go to the definitions of attempts to procure and attempts to sell, taking into account the concerns of the suppliers and Blue Star Energy, and the revised definitions also are more in keeping with the plain language and the purpose of the Act. And on behalf of all of the Commissioners I offer these revisions toward that end. Is there any discussion on the proposed revisions? Is there a motion?

COMMISSIONER FORD: So moved.

CHAIRMAN BOX: Is there a second?

COMMISSIONER O'CONNELL-DIAZ: Second.

CHAIRMAN BOX: It has been moved and seconded.

All in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN BOX: Any opposed? The vote is 4-0 approving the amendments.
COMMISSIONER O'CONNELL-DIAZ: Chairman, I would just like to thank all of our staff.

CHAIRMAN BOX: Okay, before you do that, is there a motion to enter the order as amended?

COMMISSIONER ELLIOTT: So moved.

CHAIRMAN BOX: Is there a second?

COMMISSIONER O'CONNELL-DIAZ: Second.

CHAIRMAN BOX: It has been moved and seconded to enter the order as amended. All in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN BOX: Any opposed? The vote is 4-0 to enter the order as amended and the second notice period is initiated and the rule will be sent to the Joint Committee on Administrative Rules.

Commissioner O'Connell-Diaz.

COMMISSIONER O'CONNELL-DIAZ: I just would like to note that our staff worked very hard on these edits. I think it clarifies the order as the Commission received it and approved it, and I know they all worked in concert on it. So I would like to thank all of our staff assistants for doing that for us.
CHAIRMAN BOX: Further comments?

As indicated, we are holding Item E-10.

Item E-11 is Docket 09-0065. This matter concerns a request by FirstEnergy Solutions Corporation for proprietary treatment of its 2008 kilowatt hour report. The Commission originally granted a request for five years although recent practice has been to allow confidentiality for only two years. Administrative Law Judge Yoder recommends that the Commission consider reopening this docket to direct the administrative law judge to gather additional information regarding the correct time limit for confidentiality. Is there any discussion? Is there a motion to reopen Docket 09-0065?

COMMISSIONER ELLIOTT: So moved.

CHAIRMAN BOX: Is there a second?

COMMISSIONER O'CONNELL-DIAZ: Second.

CHAIRMAN BOX: It's been moved and seconded. All in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN BOX: Opposed? Vote is 4-0 to reopen
Docket 09-0065. The administrative law judge is directed to gather additional information regarding the appropriate time limit for confidentiality of FirstEnergy's annual 2008 kilowatt hour report.

Item E-12 is Docket 09-0257. This is an uncontested service territory adjustment between Illinois Rural Electric Cooperative and AmerenCIPS. Administrative Law Judge Yoder recommends entering the order granting the petition. Is there any discussion? Any objections? Hearing none, the order is entered.

That concludes the Electric portion of today's agenda.

Turning to the Natural Gas portion,

Item G-1 is Docket 08-0390. This matter is a billing dispute between Norma Hines against Peoples Gas, Light and Coke Company. The order sustains the complaint in part and denies the complaint in part. Administrative Law Judge Gilbert recommends entering the order. Is there any discussion? Any objections? Hearing none, the order is entered.

Item G-2 is Docket 08-0596. Albert
Zamora alleged that the Illinois Northern Gas Company improperly shut off his service. The complainant did not appear at two of the four status hearings and his service has been restored. Administrative Law Judge Benn recommends dismissing this docket for want of prosecution with prejudice. Is there any discussion? Any objections? Hearing none, the docket is dismissed with prejudice.

Item G-3 is Docket 09-0253. This is a complaint by Saul Diaz against Illinois Energy Savings Corporation. The parties have settled and move to dismiss. Administrative Law Judge Kimbrel recommends dismissing this docket with prejudice. Is there any discussion? Any objections? Hearing none, the docket is dismissed with prejudice.

That concludes the Natural Gas portion of today's agenda.

Turning to the Telecommunications portion, Item T-1 concerns a filing by Illinois Bell Telephone Company. Petitioners are seeking to extend the effectiveness of the grandfathered service to December 31, 2009. These filings are competitive for
retail and non-competitive for wholesale. Staff recommends not investigating or suspending the filings. Is there any discussion? Any objections? Hearing none, the filings will not be investigated or suspended.

Items T-2 and T-3 will be taken together. Verizon North, Inc., and Verizon South, Inc., are introducing a new business package service. These are classified as non-competitive. Staff recommends not suspending the filings. Is there any discussion? Any objections? Hearing none, the filings are not suspended.

Item T-4 has been withdrawn.

Items T-5 through T-7 and T-9 will be taken together. These are petitions for certifications for modifications to existing certificates of various telecommunications providers. The administrative law judge is recommending entering the orders granting the certificates or modifications to existing certificates. Is there any discussion? Any objections? Hearing none, the orders are entered.
Item T-8 is Docket 09-0278. This matter is a petition by Public Wireless, Inc., to withdraw its application for authority to provide various telecommunication services. Administrative Law Judge Benn recommends granting the motion to withdraw without prejudice. Is there any discussion? Any objections? Hearing none, the motion to withdraw is granted.

Items T-10 and T-11 will be taken together. These matters concern petitions to withdraw or cancel certificates of authority. Administrative Law Judge Benn recommends entering the orders granting the request. Is there any discussion? Any objections? Hearing none, the orders are entered.

Item T-12 is Docket 06-0119. This is a complaint by Annette Amelkovich against AT&T Illinois which has already addressed most of the complainant's concerns. However, the complaint also sought financial restitution for time, aggravation and credit damage. The Commission has no authority to award such damages. Therefore, the order is to...
1 dismiss this complaint with prejudice.
2 Administrative Law Judge Riley recommends entering
3 the order. Is there any discussion? Any objections?
4 Hearing none, the order is entered.
5
6 Item T-13 is Docket 09-0284. The
7 County of Randolph, Illinois, seeks to modify its
8 9-1-1 system. Administrative Law Judge Jones
9 recommends entering the order granting the petition.
10 Is there any discussion? Any objections? Hearing
11 none, the order is entered.
12
13 Item T-14 is Docket 09-0298. This is
14 a petition by the Universal Telephone Assistance
15 Corporation to determine the amount and form of
16 supplemental assistance provided to LECs.
17 Administrative Law Judge Yoder recommends entering
18 the order granting the requested relief. Is there
19 any discussion? Any objections? Hearing none, the
20 order is entered.
21
22 Item T-15 is Docket 09-0300. Illinois
23 Bell Telephone Company is seeking to require new
24 customers with unsatisfactory credit to make an
25 advance payment instead of a security deposit. To do
so the petitioner has requested waiver of the Commission regulations. Staff and the Attorney General have indicated a desire to investigate this matter. Administrative Law Judge Sainsot recommends entering the order commencing an investigation. Is there any discussion? Any objections? Hearing none, the order is entered.

Item T-16 is Docket 09-0255. This is a new interconnection agreement between Illinois Bell Telephone Company and Midwestern Telecommunications, Inc. Administrative Law Judge Benn recommends entering the order approving the agreement. Is there any discussion? Any objections? Hearing none, the order is entered.

That concludes the Telecommunications portion of today's agenda.

Turning to the Water and Waste Water portion, W-1 is Docket 09-0289. Sundale Utilities, Inc., has a petition for authority to issue $367,752 in new debt to refinance existing debt. Administrative Law Judge Tapia recommends entering the order approving the request. Is there any
discussion? Any objections? Hearing none, the order is entered.

Item W-2 is Docket 08-0439.

Illinois-American Water Company has petitioned for a certificate of public convenience and necessity to serve certain parts of Champaign County that it is not already serving. Administrative Law Judge Jones recommends entering the order granting the certificates. Is there any discussion? Any objections? Hearing none, the order is entered.

That concludes the Water and Waste Water portion of the agenda.

Under Miscellaneous on today's agenda Item M-1 is Docket 09-0081. This is a rulemaking to implement minimum safety standards for transportation of gas and for gas pipeline facilities. The Joint Committee on Administrative Rules has issued a certificate of no objection. It is entering the second notice period. The rule may now go into effect. Administrative Law Judge Benn recommends entering the order adopting the rule's amendment with an effective date of August 15, 2009. Is there any
discussion? Any objections? Hearing none, the order is entered.

Under Petitions for Rehearing, Item PR-1 is Docket 09-0569 in which AT&T Illinois seeks to reclassify as competitive several of its MSAs outside of MSA-1. The Attorney General has petitioned to rehear the Commission's decision on measured services. Administrative Law Judge Yoder recommends denying the AG's petition. Is there any discussion? Is there a motion to deny the Attorney General's petition?

COMMISSIONER O'CONNELL-DIAZ: So moved.

CHAIRMAN BOX: Is there a second?

COMMISSIONER FORD: Second.

CHAIRMAN BOX: It's been moved and seconded.

All in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN BOX: Opposed? The vote is 4-0. The Attorney General's petition for rehearing is denied.

AT&T Illinois has petitioned for rehearing of the Commission's decision to condition its approval on AT&T Illinois expanding the
availability of DSL services in the greater Illinois MSAs. Administrative Law Judge Hilliard recommends either eliminating the condition by issuing an amended order or granting AT&T's petition to rehear the issue on the DSL conditions. Is there any discussion? Is there a motion to grant AT&T's petition for rehearing on the conditions?

COMMISSIONER O'CONNELL-DIAZ: So moved.

CHAIRMAN BOX: Is there a second?

COMMISSIONER ELLIOTT: Second.

CHAIRMAN BOX: It's been moved and seconded.

All in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN BOX: Opposed? The vote is 4-0.

AT&T's petition for rehearing on the conditions is granted.

The last item on the agenda is a second quarter report by Liberty Consulting Group on the People's Gas Pipeline Safety Program. The report addresses People's Gas' progress in addressing 66 recommendations for improvement. Staff recommends that the Commission accept the report and direct
staff to post the report on the Commission's website.

Is there a motion to accept the report and post it on the Commission's website?

COMMISSIONER ELLIOTT: So moved.

CHAIRMAN BOX: Is there a second?

COMMISSIONER FORD: Second.

CHAIRMAN BOX: It has been moved and seconded.

All in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN BOX: Any opposed? The vote is 4-0 the report accepted and will be posted on the website.

Judge Wallace, anything else to come before us today?

COMMISSIONER FORD: Actually, I wanted to hear the report summary.

CHAIRMAN BOX: You have a summary of the report? I am sorry.

MR. BURK: Good morning. I am Darin Burk, the manager of the Pipeline Safety Department, and I have prepared a summary of what's going on in the Liberty report. I am going to cover the months March through
May. Liberty verifications are completed for three of the 66 recommendations, primarily developing an implementation of the procedure for sealing these joints, approved inside safety inspection procedures and training, and modified pre-qualifications. Liberty confirmed progress towards implementation of 22 recommendations, although they are not completed. They have unacceptable progress towards three of the recommendations. Now, Liberty has not determined the progress towards the implementation of 38 recommendations.

Upon completion of the first quarter report I met with People's Gas, mainly because Commissioner Ford expressed concerns of the pace of their implementation. People's Gas now considers 29 recommendations complete. Liberty has not completed their assessment and will not consider those complete until they have verified the implementation and that the processes are in fact working. They do report significant progress towards 31 recommendations. This is People's Gas stating this. Pipeline safety staff, along with People's Gas, is in the process of
field verifying, checking on the records. They admit little or no progress towards six of the recommendations, but we will be following up on that as we go forward.

CHAIRMAN BOX: I have one question for you.

When you say six little or no progress, is there a reason for that? Is it timing or what is it?

MR. BURK: Part of it is working with the City of Chicago and the digger. That covers two of them. Training for municipal employees as far as damage prevention, that's another one that they have offered the training but they have had no one attend. So far it's slow. That's kind of out of their control. We are looking into maybe methods of persuading the City, meaning the CDOT and the water department, to encourage them to participate in that.

Others are related to methodic protection issues on testing and electrical isolation of carrier pipe from casing pipe. And then others are just training guidelines that need to be developed and implemented. So overall the true safety-related issues as we find critical are being
addressed.

COMMISSIONER ELLIOTT: What are the three unacceptable progress that Liberty pointed out? Do you know those?

MR. BURK: Okay, unacceptable progress was cast iron replacement policies. They need to rewrite their policies as far as how they choose their cast iron replacement projects. Development and implement of training for the Chicago municipal workers and contractors, and development and implement of a procedure for monitoring directional boring activities. Again, they have to work with the City and the digger on that issue as well.

CHAIRMAN BOX: On the first one you said the whole thing of, would that be so much prioritizing cast iron replacement?

MR. BURK: Yes.

CHAIRMAN BOX: Because that was one of the issues, I think, in a former rate case where they asked for a rider to recoup that money. One of the reasons we said no was the fact that there was no schedule or design or layout of when those
improvements or replacements would be made in order for that rider to be put into effect. So you would think they would comply with that one above and beyond any of the others.

MR. BURK: We are hoping they make some improvements. But the current method is using a main ranking index system along with public improvement projects in the city of Chicago. Unfortunately, I have been told that the downturn in the economy is going to require them to reduce their replacement progress from 46 miles a year to down around 16. They just don't have the money to invest in the system, according to what I have been told in these. I am working with a vice president of operations to see if we can alter that schedule.

COMMISSIONER O'CONNELL-DIAZ: Darin, is there a schedule that the company is aware that we want compliance by and that you have had how many audits with other companies and we have gotten a schedule and pretty well stuck with the schedule?

MR. BURK: We have an outline for compliance of each recommendation that People's has committed to.
Of course, things come up and they fall behind. But it is implemented based on this schedule agreed to between our department, Liberty and People's Gas.

COMMISSIONER FORD: But most of the problems occur when they have collaborated with the City.

MR. BURK: That's where most of the delays are right now, yes.

COMMISSIONER FORD: The next time I see the mayor, I will tell him that.

MR. BURK: I would appreciate that.

CHAIRMAN BOX: Can I be notified when you are about to make that statement?

Anything further? Any other questions? Thank you very much.

Judge Wallace, anything else to come before us today?

COMMISSIONER FORD: Thank you, Mr. Burk.

MR. WALLACE: No, Mr. Chairman.

CHAIRMAN BOX: We have an eleven o'clock today. That's about a five-minute break. We have the electric policy committee meeting to address the pending applications by Commonwealth Edison Company.
and the Ameren Illinois Utilities for the stimulus funding under the American Recovery and Investment Act. If nothing further here, we will adjourn for about five minutes. We will reconvene at that time.

COMMISSION BENCH SESSION ADJOURNED