BEFORE THE
ILLINOIS COMMERCE COMMISSION

BENCH SESSION
(PUBLIC UTILITY)

Springfield, Illinois
Thursday, January 24, 2013

Met, pursuant to notice, at 10:30 a.m.
in the Audiovisual Conference Room, Second Floor,
Leland Building, 527 East Capitol Avenue,
Springfield, Illinois.

PRESENT:
MR. DOUGLAS P. SCOTT, Chairman

MS. ERIN M. O'CONNELL-DIAZ, Commissioner
(Via audiovisual conference)

MR. JOHN T. COLGAN, Commissioner

MS. ANN McCabe, Commissioner

L.A. COURT REPORTERS
By: Carla J. Boehl, Reporter
CSR #084-002710
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 are Commissioner Colgan and Commissioner McCabe. With us in Chicago is Commissioner O'Connell-Diaz. I am Chairman Scott. We have a quorum.

Before moving into the agenda, according to Section 1700.10 of Title II 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 a separate transcript.)

CHAIRMAN SCOTT: On to the Public Utility
agenda, we will begin with the Electric portion.

Item E-1 (13-0077) concerns initiating a proceeding for the adoption of policies related to our previously-approved Statewide Technical Reference Manual for electric and gas energy efficiency programs run pursuant to Section 8-103 and 8-104 of the Public Utilities Act. Staff recommends entry of an Order initiating the policy proceeding.

Is there any discussion?

(No response.)

Is there a motion to enter the Order?

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.

COMMISSIONERS: Aye.

CHAIRMAN SCOTT: Any opposed?

(No response.)

The vote is four to nothing, and the Order is entered.

We will use this four to nothing vote
for the remainder of the Public Utility agenda, unless otherwise noted.

Item E-2 (13-0078) concerns initiating a proceeding for an investigation into ComEd's compliance with its Year 4 energy efficiency program savings goals. Staff recommends entry of an Order initiating the proceeding.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered.

Item E-3 concerns a filing made by ComEd to revise and clarify certain cost recovery aspects of its purchased electricity and hourly pricing riders. Staff recommends granting the company's requests by not suspending the filing.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the filing will not be
suspended.

Item E-4 (13-0079) concerns a proposed rate increase and rate design revision filed by Mt. Carmel Public Utility Company. Staff recommends that the filing be suspended and that the matter be set for hearing through entry of a Suspension Order.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Suspension Order is entered.

Item E-5 is Docket Number 10-0598.

This is a customer complaint by Harold Savitz and Manors of Highland Park Condominium Association against ComEd. Given the settlement of these issues among certain parties to the proceeding, ALJ Haynes recommends entry of an Order dismissing the complaint due to the remaining complainant's lack of standing.

Judge Haynes, I think I saw you enter the room. Could I ask you a couple questions on this one?
JUDGE HAYNES: Sure. Go ahead.

CHAIRMAN SCOTT: Thank you. So I am assuming the reason for the lack of standing is that the condominium association is actually the party to the contract with ComEd?

JUDGE HAYNES: Yes, with ComEd and Constellation.

CHAIRMAN SCOTT: And Constellation, okay. And that if Mr. Savitz -- it is not that he doesn't have any remedy; it just may not be here. If he has got a remedy, it would be -- because he thinks that the condo association essentially sold all the condo members short by settling for less than they should have, his remedy would be an action against the condo association, in some other forum then perhaps?

JUDGE HAYNES: I am not sure about that, what his remedy would be. It is just that it is not his individual account at issue here. And so any complaint would give money to the condominium association, not to him. And, yeah, I guess that his -- if he wanted to do something, he would have to take it up with the condominium association.
CHAIRMAN SCOTT: Because the only question I had about it from a standing perspective is, the condominium association, he is a member of that which means that any kind of overcharge, if that indeed happened in this case as it is alleged, any kind of overcharge, he and the other members of the condominium association are going to pay for it. So he can put forth, at least, an argument that he is a party who has been harmed, at least allege that he is a party who has been harmed. The question is more the privity of the contract, you are saying, between the association and ComEd and Constellation?

JUDGE HAYNES: Well, I think it might even go beyond that in that, you know, this kind of -- it would be a huge mess if individual condominium owners could bring this sort of action when they have elected this board to bring this action for them, and then part of that electing the board, it is the board who is going to represent the interests of all the condominium owners. And so just even to -- so it is the contract is between the condominium association and the utility, but also just to keep it all -- this
is why you have the condominium association, to
insure that there is one body that speaks for all of
the members.

CHAIRMAN SCOTT: Right. It is just kind of
strange because he brought the complaint first and
then they joined in afterwards, as opposed to, you
know, initiating the way it normally does in these
cases.

JUDGE HAYNES: Well, I think Mr. Savitz is very
vocal, and he -- I think that originally when I think
this all started was back in the 1980s and he was
more involved then, and so -- and so he is very
interested in what goes on at the condominium and I
think he has been on and off the board over the
years. However, recently he hasn't been on the -- he
isn't on the board now and I don't think he has been
for awhile.

JUDGE SCOTT: Okay. I appreciate that. Thank
you. Any further questions?

COMMISSIONER O'CONNELL-DIAZ: Just I would as
an aside, I would think that the bylaws of the
condominium association would give guidance to the
legal representative of the entity in situations such as this. And what is clear here is that he is not the legal representative of the condominium association at this point in time.

CHAIRMAN SCOTT: Any further discussion?

(No response.)

Are there any objections to entering the Order dismissing the complaint due to lack of standing?

(No response.)

Hearing none, the Order is entered.

Thank you, Judge Haynes.

Item E-6 is Docket Number 11-0790.

This is RWE Management's complaint against ComEd regarding the switch installation. ALJ Teague recommends entry of an Order denying the complaint.

Is Judge Teague available as well?

JUDGE TEAGUE: Good morning.

CHAIRMAN SCOTT: Good morning, Judge. Thanks for being here. Just a couple of questions. I think I understand this one, but I just want to make sure I am as clear on this as I can be.
So the allegation about the moving of the lines ultimately doesn't really matter here because the company paid for moving of the lines. So the complainant wasn't the person who was charged for that; he was only charged for the switch that was installed?

JUDGE TEAGUE: Exactly.

CHAIRMAN SCOTT: And the switch that was installed was done, not because the lines were placed improperly in the right place, it is because there wasn't enough room to put them far enough away so that the switch wasn't necessary?

JUDGE TEAGUE: Exactly, yes. The moving of the line was just to meet the NEIS standards, the National Electric Standards, and that had to be done twice because by mistake ComEd moved it over five feet and then they had to come out and move it to the 7.5 that is required. But whether that was done in one or two steps, they still had to get the switch because they needed to meet the OSHA standards.

CHAIRMAN SCOTT: And that moving of the lines wasn't something that the complainant was charged
JUDGE TEAGUE: The moving, no. The moving of the lines they weren't charged for, just the switch.

CHAIRMAN SCOTT: Very good. I appreciate that.

Thank you.

Any further questions for the Judge?

(No response.)

Thank you, Judge.

Further discussion?

(No response.)

Are there any objections to entering the Order denying the complaint?

(No response.)

Hearing none, the Order is entered.

Items E-7 through E-9 (12-0353, 12-0359, 12-0583) can be taken together. These are customer complaints against ComEd. In each case the parties have apparently settled their differences and brought 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-10 is Docket Number 12-0627.

This is John Osman's complaint against ComEd. The complainant has filed to withdraw his complaint, and ALJ Haynes recommends dismissal of the matter without prejudice.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the matter is dismissed.

Item E-11 is Docket Number 12-0415.

This is Illinois Gas and Electric's petition seeking the confidential and/or proprietary treatment of portions of its compliance report. ALJ Jorgensen recommends entry of an Order granting the requested relief.

Is there any discussion?

(No response.)
Any objections?

(No response.)

Hearing none, the Order is entered.

Item E-12 is Docket Number 12-0598.

This is Ameren Transmission Company's filing seeking authority for the construction of a new transmission line across central Illinois. There were some issues with proper notice being provided to some landowners in this case, so ALJs Albers and Yoder recently ruled that for statutory deadline purposes the 150-day deadline clock should begin as of January 7, 2013. Ameren has filed a Petition for Interlocutory Review contesting that decision, and the ALJs have also put forward the question of whether there should be an additional 75-day extension granted, consistent with the extension previously granted in this matter.

I would ask if either or both of Judges Albers and Yoder are here for this one. Good morning, gentlemen.

JUDGE ALBERS: Good morning.

JUDGE YODER: Good morning.

CHAIRMAN SCOTT: It is a little scary when you
bring the book with you, too. My question is on the
75 days, Judge. And, before, that was brought as a
motion from Staff to us. And my question is, if we
were inclined to grant 75 days again as of a
restarted date, hypothetically, if that were
something that would come from the case, is that
something that would require another motion to be
brought or is that something that the Commissioners
could do, that we could do through just a motion?

JUDGE ALBERS: I don't think the statute
requires anyone to ask for it. I think Subparagraph
G provides for the 30-day -- I am sorry, the 75-day
extension, and the language in there simply indicates
that it has to be done within -- any extension
granted has to be done within 30 days of the
application being filed. And if you consider the
application having been filed on January 7, then you
are well within 30 days.

CHAIRMAN SCOTT: So we could do that on our
own?

JUDGE ALBERS: On your own.

CHAIRMAN SCOTT: On our own motion.
JUDGE ALBERS: Yeah.

CHAIRMAN SCOTT: Okay. And the rationale, as I understood it before when we voted on this, the rationale was that because of the complex nature of the evidence involved in this and the number of landowners that are involved, the potential for alternative routes and other things, that the 75 days would be necessary for both the persons that are affected by it as well as for Staff to do all the work that was necessary to make that work.

JUDGE ALBERS: Oh, yes, absolutely.

CHAIRMAN SCOTT: Further questions of the Judges?

COMMISSIONER O'CONNELL-DIAZ: Judge Albers, with regard to what the company suggested is an inadvertent neglect with the 130 landowners not being notified of this, under the statute what is the dismissal possibilities in such a situation where appropriate notice is not given in the initial filing by the applicant?

JUDGE ALBERS: I don't think the statute has anything explicit on that question. Judge Yoder, do
you recall anything?

JUDGE YODER: Well, there is the one provision -- I can't remember if it is in the rules or in the statute -- that failure to notice parties would not invalidate a Final Order. So I guess the question becomes, when it is found this early in the process and notice can be given to those parties and with the relatively short delay that we have contemplated within the whole process, is that an appropriate remedy.

JUDGE ALBERS: Right.

JUDGE YODER: It is not where we are finding people after the Order has already been entered with the Commission.

JUDGE ALBERS: Right. I think it is in our rules, too. 200.150(h), I believe, is the provision in the rule that has what he is referring to.

COMMISSIONER O'CONNELL-DIAZ: Again, I am not suggesting that that's -- but when we have what I would suggest is deficient notice here, prospectively we should be looking at, you know, there is 130 landowners that are affected by not being noticed up
on this and now we are going to remedy that deficient filing, in my estimation, to allow extra time for them to in fact be properly notified and participate in this proceeding.

But going forward when we have situations like this, I mean, it is incumbent upon the company to come to us with a full and complete filing. And if I recall, I think that this filing -- Judge Wallace can correct me if I am wrong -- but this caused mayhem in our Clerk's office, this filing.

Is that correct, Judge Wallace?

JUDGE WALLACE: Yes, it did.

COMMISSIONER O'CONNELL-DIAZ: So, you know, I just think it is a very important filing, but the I's need to be dotted and the T's need to be crossed when you are talking about landowner rights. And this is troubling to me as I look at this filing. I mean, are we going to have another one next week where there are 65 other landowners that are inadvertently not included? These are important parts of the filing that should have been occasioned and studied
before it was actually given to our Clerk's office.

So that's -- I am not commenting in opposite of what has been recommended or what was contemplated in this, but going forward I think it is incumbent upon any company coming to this Commission to file as complete as possible filing so that we are not asking to tailor things after it's been filed, especially when you are talking about landowner issues.

CHAIRMAN SCOTT: I agree with that, and I think that restarting the clock makes perfectly good sense in this case. I think the 75-day, the rationale for it that we voted on at the end of November previously, the same rationale for that applies now to the 130 landowners who weren't included in this petition. There is no question, as Commissioner O'Connell-Diaz just said, that in this case it is the company's error. They are obviously admitting to that as well. And I think the burden for that needs to remain on them for the reasons that Commissioner O'Connell-Diaz stated. Notice is incredibly important. The property owners' rights in this and
any similar case are extremely important, and I think
to give everyone the same opportunity to move
forward, it makes sense both to restart the clock and
add the 75 days on.

And so I would move to deny Ameren
Transmission Company's Petition for Interlocutory
Review and grant the additional 75-day extension. Is
there a second to that motion?

COMMISSIONER McCabe: Second.

CHAIRMAN SCOTT: Any further discussion on
that?

(No response.)

All in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN SCOTT: Any opposed?

(No response.)

The vote is four to nothing, and the
Petition for Interlocutory Review is denied and the
additional 75 days are granted.

Thank you very much, gentlemen.

JUDGE ALBERS: Thank you.

CHAIRMAN SCOTT: Appreciate it. Item E-13 is
Docket Number 12-0672. This is Zone Energy's application to expand the territory it serves as an alternative retail electric supplier to now include the Ameren service territory. ALJ Von Qualen recommends entry of an Order granting the expanded authority.

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 Docket Number 10-0398, and we will be holding this item for disposition at a future Commission proceeding. I believe I will also have some questions to submit to the parties in this matter.

Item G-2 is Docket Number 12-0326. This is Liberty Energy's petition seeking authority to enter into an intercompany loan agreement. ALJ Yoder recommends entry of an Order granting the requested authority.

Is there any discussion?
(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered.

Item G-3 is Docket Number 12-0569.

This is Nicor's Purchase of Receivables with Consolidated Billing case. Up for consideration today is a Resuspension Order allowing an additional six months for the case's completion.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Resuspension Order is entered.

Item G-4 is Docket Number 12-0692.

This is a request by Ameren seeking a waiver of requirements in Title 83, Part 285 of the Administrative Code concerning the accounting guide relied upon in preparing documents for its gas rate case. ALJ Yoder recommends entry of an Order granting the requested waiver.
Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered.

Moving on to Telecommunications, Item T-1 is Docket Number 12-0607. This item will be held for disposition at a future Commission proceeding.

Item T-2 is Docket Number 12-0612. This is Sage Telecom's application for a Certificate of Service Authority under Section 13-401 of the Public Utilities Act. ALJ Riley recommends entry of an Order granting the certificate.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered.

Item T-3 is Docket Number 12-0600. This is a Joint Petition for the approval of an amendment to an Interconnection Agreement between telecommunication carriers. Petitioners have moved
to withdraw this docket, and ALJ Baker recommends

dismissing this matter without prejudice.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the matter is dismissed.

Items T-4 through T-9 (12-0606, 12-0608, 12-0614, 12-0615, 12-0616, 12-0617) can be
taken together. These items are Joint Petitions for
the approval of amendments to Interconnection
Agreements between telecommunications carriers. In
each case ALJ Baker recommends entry of an Order
approving the amendment.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Orders are entered.

Item T-10 is Docket Number 12-0618.

This is a Joint Petition for the approval of an
Interconnection Agreement between telecommunications
carriers. ALJ Jorgensen recommends entry of an Order approving the agreement.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered.

Items T-11 through T-17 (12-0543, 12-0631, 12-0632, 13-0001, 13-0002, 13-0024, 13-0025) can be taken together. These items are petitions for the confidential and/or proprietary treatment of petitioner's Annual Report. In each case the ALJ recommends entry of an Order granting the requested protective treatment.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Orders are entered.

On to Water and Sewer, Item W-1 is a filing by Aqua Illinois seeking tariff changes to alter the way water and sewer charges are incurred
for lawn irrigation. 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 W-2 is Docket Number 12-0570.

This is our investigation of Nunda Utility Company under Section 8-102 of the Public Utilities Act.

This item will be held for disposition at a future Commission proceeding.

Item W-3 is Docket Numbers 12-0603 and 12-0604 Consolidated. This is the rate case for Apple Canyon Utility Company and Lake Wildwood Utilities Corporation. Before us today is an Amendatory Order amending the date named in the November Orders suspending these filings for further investigation.

Is there any discussion?

(No response.)
Any objections?

(No response.)

Hearing none, the Amendatory Order is entered.

We have two miscellaneous items up for consideration today. Item M-1 (13-0080) concerns initiating an emergency rulemaking proceeding for Title 83, Part 281 of the Administrative Code regarding military service member disconnection rules. Staff recommends entry of an Order initiating the proceeding and adopting the rules on an emergency basis.

Is there any discussion?

(No response.)

Are there any objections?

(No response.)

Hearing none, the Order is entered.

Item M-2 is Docket Number 06-0703.

This is the rulemaking proceeding for Title 83, Part 280 of the Administrative Code, and this item will be held for disposition at a future Commission proceeding.
Judge Wallace, are there any other matters to come before the Commission today?

JUDGE WALLACE: No, sir, that's all. In regards to Nunda, when would you like to see that back on? We did receive a response to the Commissioner data requests that were sent out.

CHAIRMAN SCOTT: I would suggest -- because the next meeting is so short, I would suggest February 14.

JUDGE WALLACE: All right.

CHAIRMAN SCOTT: And, Commissioner O'Connell-Diaz, you can't see this, but Chief Judge Wallace, in honor of Robert Burns Day, came today wearing, not only his Scottish tie, but also his kilt.

COMMISSIONER O'CONNELL-DIAZ: Oh, my goodness. Don't you make scones, too?

JUDGE WALLACE: Yes, yes.

CHAIRMAN SCOTT: There were scones and a Robert Burns' poem reading in the Commission offices earlier this morning. So as a Scotsman I think that was perfectly acceptable and proper.
COMMISSIONER O'CONNELL-DIAZ: Well, I won't ask him to do the Highland Fling.

CHAIRMAN SCOTT: Very good. Hearing nothing else to come before the Commission, this meeting stands adjourned. Thanks, everyone.

HEARING CONCLUDED AT 11:00 A.M.