BEFORE THE
ILLINOIS COMMERCE COMMISSION

BENCH SESSION
(PUBLIC UTILITY)

Springfield, Illinois
Tuesday, October 17, 2012

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. LULA M. FORD, Commissioner
(Via audiovisual conference)

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

MR. JOHN T. COLGAN, Commissioner
(Via teleconference)

MS. ANN McCabe, Commissioner
(Via audiovisual conference)

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 us in Chicago are Commissioner O'Connell-Diaz, Commissioner Ford and Commissioner McCabe. I am Chairman Scott in Springfield.

Apparently there was something I said; I am here by myself. And we have a quorum.

We also have Commissioner Colgan available by phone. Under the Commission's rules we will have to vote to allow Commissioner Colgan's participation by phone. I move to allow Commissioner Colgan's participation by phone. Is there a second?

COMMISSIONER FORD: 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 Commissioner Colgan may participate by phone.
Commissioner, are you there?

COMMISSIONER COLGAN: I am here, thank you.

CHAIRMAN SCOTT: Very good. Welcome.

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: Turning now to the Public

Utility agenda, we will begin with the approval of

minutes from our September 19 Bench Session. I

understand amendments have been forwarded.

Is there a motion to amend the

minutes?
COMMISSIONER O'CONNELL-DIAZ: So moved.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER FORD: 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 five to nothing, and the amendments are adopted.

Is there a motion to approve the minutes as amended?

COMMISSIONER O'CONNELL-DIAZ: So moved.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER McCabe: 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 five to nothing, and the September 19 Bench Session minutes as amended are
Moving into the Electric portion of today's agenda, Items E-1 through E-3 can be taken together. These items concern tariff changes proposed by Ameren and ComEd. In each case Staff recommends allowing the Company's request by not suspending the filing.

Is there any discussion?

(No response.)

Is there a motion to not suspend the filings?

COMMISSIONER FORD: So moved.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER McCABE: 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 five to nothing, and the filings will not be suspended.

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

Item E-4 is Docket Number 10-0537.
This is ComEd's reconciliation case for revenues
collected under its Energy Efficiency Rider. ALJ
Hilliard recommends entry of an Order approving the
reconciliation with an incentive compensation
adjustment recommended by Staff.

Is there any discussion?
(No response.)

Are there any objections?
(No response.)

Hearing none, the Order is entered.

Item E-5 is Docket Number 12-0063.
This is ComEd's reconciliation proceeding for
revenues collected under coal tar riders in 2011.
ALJ Haynes recommends entry of an Order approving the
reconciliation.

Is there any discussion?
(No response.)

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

Item E-6 is Docket Number 11-0547.

This matter concerns the Commission's evaluation of Ameren's residential real-time pricing program. ALJ Albers recommends entry of an Order determining that Ameren's real-time pricing program is beneficial to customers and directing its continuation.

Is there any discussion?

COMMISSIONER O'CONNELL-DIAZ: Mr. Chairman, I did not request for this to be held, but I would like it held just until the next Bench, please.

CHAIRMAN SCOTT: That will be fine.

COMMISSIONER O'CONNELL-DIAZ: Thank you.

CHAIRMAN SCOTT: So Item E-6 will be held.

Thank you, Commissioner.

Item E-7 is Docket Number 11-0770.

This is Lisa Smith's complaint against ComEd. ALJ Teague recommends entry of an Order dismissing the complaint without prejudice for want of prosecution.

Is there any discussion?

(No response.)

Any objections?
(No response.)

Hearing none, the Order is entered.

Item E-8 is Docket Number 11-0600.

This is William and Sheila Jegen's complaint against ComEd. The respondent has moved to dismiss this matter without prejudice for want of prosecution, and ALJ Hilliard recommends granting the Motion to Dismiss.

Is there any discussion?

(No response.)

Are there any objections?

(No response.)

Hearing none, the Motion to Dismiss is granted.

Items E-9 through E-11 (12-0306, 12-0473, 12-0436) can be taken together. These are customer complaints 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.)
Any objections?

(No response.)

Hearing none, the Joint Motions to Dismiss are granted.

Item E-12 is Docket Number 12-0132.

This concerns the evaluation of MidAmerican's energy efficiency programs being run under Section 8-408 of the Public Utilities Act. ALJ Haynes recommends entry of an Order allowing the programs to continue through December 2013.

Is there any discussion?

COMMISSIONER McCabe: Mr. Chairman?

CHAIRMAN SCOTT: Yes, Commissioner.

COMMISSIONER McCabe: I just want to say I support the Order's recommendation to allow most of MidAmerican's energy efficiency programs to continue and file a new energy efficiency plan for Commission approval in the future. Two of the six programs do not currently satisfy the cost benefit analysis test. The Order states that MidAmerican can include these programs in its 2013 filing with a cost effectiveness demonstration, and I hope they do so. The new
residential construction program, for example, has relatively low costs. But given the current market for new construction is weak, that could change in the future so there may be a cost benefit analysis there. Thank you.

CHAIRMAN SCOTT: Thank you, Commissioner.

Further discussion?

(No response.)

Are there any objections to entering the Order?

(No response.)

Hearing none, the Order is entered.

Item E-13 is Docket Number 12-0307.

This is Integrys Energy Service's petition for the confidential and/or proprietary treatment of its continuing compliance report. ALJ Jones recommends entry of an Order granting the requested protective treatment.

Is there any discussion?

(No response.)

Are there any objections?

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

Item E-14 is Docket Number 12-0421.

This is a petition by the Illinois Department of Transportation seeking eminent domain authority in connection with the Interstate 80 improvement project in Will County. ALJ Hilliard recommends entry of an Order granting the petition.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered.

Item E-15 is Docket Number 12-0515.

This is MRDB Holdings' petition to cancel its certificate to operate as an Agent, Broker and Consultant. ALJ Albers recommends entry of an Order cancelling the certificate.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered.
Item 16 is Docket Number 12-0466.

This is the Village of Melrose Park's petition requesting that the Commission promulgate use tax rates pursuant to Title 83 Part 418 of the Administrative Code. The Village has requested to withdraw its petition, and ALJ Hilliard recommends granting withdrawal by dismissing this docket without prejudice.

Is there any discussion?

(No response.)

Are there any objections?

(No response.)

Hearing none, the matter is dismissed.

Item E-17 is Docket Number 11-0708.

This is a citation proceeding against Evolving Energy Systems for failure to file its Annual Compliance Recertification Report. ALJ Kimbrel recommends entry of an Order revoking the company's Certificate of Authority.

Is there any discussion?

(No response.)

Are there any objections?
(No response.)

Hearing none, the Order is entered.

Items E-18 and E-19 (12-0521, 12-0538) can be taken together. These items concern applications 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.

Turning now to Natural Gas, Item G-1 (12-0509) concerns a filing by Nicor seeking to add a rider for PORCB. Staff recommends that the filing be suspended and set for a docketed proceeding through the entry of a Suspension Order.

Is there any discussion?

(No response.)

Any objections?

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

Item G-2 is Docket Number 11-0633. This is George Fehringer's complaint against Nicor. The parties have apparently settled their differences and brought a Joint Motion to Dismiss which ALJ Dolan recommends we grant.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Joint Motion to Dismiss is granted.

Item G-3 is Docket Number 12-0085. This is Michael Kieta's complaint against Nicor. ALJ Teague recommends entry of an Order dismissing this matter for want of prosecution.

Is there any discussion?

(No response.)

Are there any objections?

(No response.)

Hearing none, the Order is entered.
Item G-4 is Docket Number 12-0396.

This is FTR Energy Services' application for a certificate to operate as an Alternative Gas Supplier. We will hold this item for disposition at a future Commission proceeding.

Items G-5 and G-6 (12-0460, 12-0461) can be taken together. These are petitions by Peoples and North Shore Gas seeking a protective order over information at issue in their rate case. The companies now seek to withdraw their petitions, and ALJs Dolan and Teague recommend granting withdrawal.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Motions to Withdraw are granted.

Moving on to Telecommunications, Items T-1 through T-3 (12-0133, 12-0376, 12-0405) can be taken together. These are citation proceedings against telecommunications carriers for failure to
maintain their corporate status. In each case ALJ Kimbrel recommends entry of an Order revoking the certificate.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Orders are entered.

Item T-4 is Docket Number 12-0443.

This is Bandwidth.com's application for a Certificate of Service Authority to provide resold non-prepaid commercial mobile radio service in Illinois. ALJ Von Qualen recommends entry of an Order granting the requested certificate.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered.

Item T-5 is Docket Number 12-0504.

This is AT&T's application for a Certificate of Prepaid Calling Service Provider Authority to operate
as a telecommunications carrier in Illinois. ALJ Riley recommends entry of an Order granting the requested certificate.

Is there any discussion?

(No response.)

Are there any objections?

(No response.)

Hearing none, the Order is entered.

Item T-6 is Docket Number 11-0685.

This is Jamal Shehadeh's complaint against Consolidated Communications. ALJ Yoder recommends denying the complainant's oral argument request and entry of an Order granting Consolidated's Motion to Dismiss the complaint.

I'll take the oral argument request first. Is there any discussion on the oral argument request?

(No response.)

Are there any objections to denying the oral argument request?

(No response.)

Hearing none, the request for oral
argument is denied.

On the Order dismissing the complaint, is there any discussion?

(No response.)

Are there any objections to the entry of that Order?

(No response.)

Hearing none, the Order is entered, and the complaint is dismissed.

Item T-7 is Docket Number 12-0447.

This is a joint petition for the approval of an amendment to an Interconnection Agreement between New Cingular Wireless PCS and Illinois Consolidated Telephone Company. ALJ Jorgensen recommends entry of an Amendatory Order making a minor correction to the Order previously entered by the Commission.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Amendatory Order is entered.
Item T-8 is Docket Number 12-0462.
This is a joint petition by CenturyLink and Access Point seeking approval of a resale agreement. ALJ Jorgensen recommends entry of an Order approving the resale agreement.

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

Items T-9 through T-11 (12-0452, 12-0453, 12-0474) can be taken together. These are joint petitions by telecommunications carriers seeking the approval of amendments to Interconnection Agreements. In each case ALJ Jorgensen 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-12 is Docket Number 11-0668.
This is Dex One's petition for a variance from the requirements of Title 83 Section 735.180 of the Administrative Code. We will hold this item for consideration at a future Commission meeting.

Item T-13 through T-15 (12-0191, 12-0207, 12-0246) can be taken together. These items are petitions for the confidential and/or proprietary treatment of the petitioners' Annual Reports. In each case ALJ Jones 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.

Item T-16 is Docket Number 12-0439.

This is Megatel International's petition to cancel its previously-issued Certificate of Prepaid Calling Service Provider Authority. ALJ Teague recommends entry of an Order granting the petition for cancellation.

Is there any discussion?
Any objections?  (No response.)  

Hearing none, the Order is entered.  

On to Water and Sewer, Item W-1  

(12-0510) concerns initiating an investigation into the service adequacy of Nunda Utility Company under Section 8-102 of the Public Utilities Act. Staff recommends entry of an Order initiating the investigation.  

Is there any discussion?  

(No response.)  

Are there any objections?  

(No response.)  

Hearing none, the Order is entered.  

Item W-2 is Docket Number 11-0264.  

This is Illinois-American Water Company's reconciliation proceeding for its qualifying infrastructure plant surcharges in 2010. ALJ Jones recommends entry of an Order approving the reconciliation.  

Is there any discussion?
Are there any objections?

Hearing none, the Order is entered.

Moving on to Miscellaneous items, Item M-1 is Docket Number 06-0703 and this is the rulemaking proceeding for Title 83 Part 280 of the Administrative Code. We will be holding this item for disposition at a future Commission proceeding.

We have one Petition for Rehearing to consider today. Item PR-1 is Docket Number 12-0001. This is Ameren's initial formula rate proceeding, and the Commission entered an Order in this matter on September 19. The Commission has filed a petition for rehearing on five issues, and ALJs Albers and Yoder recommend denying that petition in part and granting it in part.

Is there any discussion?

I would make a motion to deny the petition in its entirety. Is there a second?

COMMISSIONER McCabe: Second.
CHAIRMAN SCOTT: It's been moved and seconded.

Is there any discussion on that motion?

(No response.)

All in favor of that motion vote aye.

COMMISSIONERS: Aye.

CHAIRMAN SCOTT: Opposed?

COMMISSIONER O'CONNELL-DIAZ: No.

CHAIRMAN SCOTT: Commissioner Ford, I am sorry, I didn't hear your vote.

COMMISSIONER FORD: Aye.

CHAIRMAN SCOTT: You vote aye?

COMMISSIONER FORD: Aye.

CHAIRMAN SCOTT: Okay, thank you. The vote is four to one, and the motion denying the petition in its entirety is granted.

Last up we have two items of Other Business today. These items concern pending litigation. We will go into Closed Session to address them.

Is there a motion to go into Closed Session?

COMMISSIONER McCabe: So moved.
CHAIRMAN SCOTT: Is there a second?

COMMISSIONER FORD: 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 five to nothing, and the Commission will now go into Closed Session. Please let us know when the room is ready in Chicago.

(Whereupon at this point pages 25 - 57 of the proceedings are contained in a separate closed transcript.)
CONTINUATION OF PROCEEDINGS

CHAIRMAN SCOTT: In Closed Session the Commission discussed making a filing in FERC Docket ER12-2708. Is there a motion to make that filing with FERC?

COMMISSIONER O'CONNELL-DIAZ: So moved.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER McCabe: 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 five to nothing, and the comments on ER12-2708 will be filed with FERC.

With respect to IN12-7 is there a motion to continue to allow Staff to continue negotiations with AG and CUB?

COMMISSIONER McCabe: So moved.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER Ford: Second.

CHAIRMAN SCOTT: Is there any further
discussion?

(No response.)

It's been moved and seconded.

All in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN SCOTT: Any opposed?

(No response.)

The vote is five to nothing, and Staff is authorized to continue negotiations with AG and CUB on IN12-7.

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

JUDGE WALLACE: No, I don't believe so, Mr. Chairman.

CHAIRMAN SCOTT: Thank you, sir. This meeting stands adjourned.

MEETING ADJOURNED