BEFORE THE

ILLINOIS COMMERCE COMMISSION

BENCH MEETING

PUBLIC UTILITY

Wednesday, November 18, 2015

Chicago, Illinois

Met, pursuant to notice, at 10:30 A.M.,
at 160 North La Salle Street, Chicago, Illinois.

PRESENT:

BRIEN J. SHEAHAN, Chairman

ANN MCCABE, Commissioner

SHERINA E. MAYE EDWARDS, Commissioner

MIGUEL DEL VALLE, Commissioner

JOHN R. ROSALES, Commissioner

SULLIVAN REPORTING COMPANY, by
PATRICIA WESLEY
CSR NO. 084-002170
CHAIRMAN SHEAHAN: Good morning. Are we ready to proceed in Springfield?

EXECUTIVE DIRECTOR SMITH: Yes, we are, Mr. Chairman.

CHAIRMAN SHEAHAN: Pursuant to the Open Meetings Act, I call to order the November 18, 2015 Bench Meeting of the Illinois Commerce Commission. Commissioners McCabe, del Valle, Edwards and Rosales are present with me in Chicago. We have a quorum.

We have no requests to speak. Moving on to our Public Utility Agenda, we have no Minutes to approve today. Item E-1 concerns updates to Ameren's tariffs complying with the new Illinois Administrative Code Part 280.

Are there any objections to not suspending the filing?

(No response.)

Hearing none, the filing is not suspended.

Items E-2 and 3 concern various
complaints filed against ComEd.

Are there any objections to considering these items together and granting the Joint Motions to Dismiss?

(No response.)

Hearing none, the Joint Motions to Dismiss are granted and the complaints are dismissed.

Item E-4 concerns a complaint filed against Ameren. Are there any objections to granting the Motion to Dismiss?

(No response.)

Hearing none, the motion is granted and the complaint is dismissed.

Item E-5 concerns the Commencement of Reconciliation Proceedings regarding MidAmerican's Fuel Adjustment Charges.

Are there any objections to approving the proposed Order?

(No response.)

Hearing none, the Order is approved.

Item E-6 concerns Illinois Department
of Transportation's Petition to Authorize Use of Eminent Domain.

Are there any objections to approving the proposed Order?

(No response.)

Hearing none, the Order is approved.

Item E-7 concerns SmartEnergy Holdings' Application for a Certificate of Service Authority.

Are there any objections to approving the proposed Order?

(No response.)

Hearing none, the Order is approved.

Item E-8 concerns CMC Electric's Application for Certification of an Installer of Distributed Generation Facilities.

Are there any objections to approving the proposed Order?

(No response.)

Hearing none, the Order is approved.

Item E-9 concerns a Joint Petition for Approval of Amendment No. 2 to the Service Area
Agreement between EIEC and Ameren Illinois.

Are there any objections to approving the proposed Order?

(No response.)

Hearing none, the Order is approved.

Items E-10 through 14 concern various Joint Petitions for Approval of Residential Customer Releases.

Are there any objections to considering these items together and approving the proposed Orders?

(No response.)

Hearing none, the Orders are approved.

Item E-15 involves Ameren's Request to Authorize the Issuance of up to $200 million in principal amount of Senior Secured Notes.

Are there any objections approving the proposed Order?

(No response.)

Hearing none, the Order is approved.

Moving on to our Gas Agenda, Item G-1 concerns Peoples Gas' motion to modify its Gas
Tariff to comply with Code Part 280.

Are there any objections to not suspending the filing?

(No response.)

Hearing none, the Order is approved.

Item G-2 concerns North Shore Gas' Filing to Modify its Gas Tariff to Comply with Code Part 280.

Are there any objections to not suspending the filing?

(No response.)

Hearing none, the Order is approved.

Item G-3 concerns a penalty assessed to Peoples Gas for violation of the Illinois Gas Pipeline Safety Act.

Commissioner del Valle, I believe you have some questions.

COMMISSIONER del VALLE: Yes. Thank you, Mr. Chairman.

I believe Mr. Smith is available to answer questions.

MR. BEYER: This is Gene Beyer and not
Matt Smith of the Pipeline Safety Program.

COMMISSIONER del VALLE: Good morning.

MR. BEYER: Good morning.

Commissioner del VALLE: Gene, we discussed this at length yesterday, and, as I indicated to you, I have a couple of questions.

We did forward some questions to you and you indicated that you will get a response to us, because at the time Mr. Smith wasn't available, but let me ask you these three questions, and if you don't have a response, I will be glad to wait for a written answer when it's possible.

In the March 24th letter the company indicates it will modify the engineering basis for the blocking procedure. The question is how has Staff confirmed that the new engineering procedures satisfies the intent of Staff's corrective action number three?

MR. MATT SMITH: This is Matt Smith, and I can answer that by saying that on July 31st 2015 Peoples Gas submitted a letter to us that included new procedures and with that the attachments had the
procedure that engineering basically included the weight of the thrust log and the pressure of the exhibit on the end cap, and this clearly identified that the new procedure met the requirement.

COMMISSIONER del VALLE: You say the new procedure met the requirement, but this case before us demonstrates that the procedures surrounding the blocking mechanism is not adequate. This issue was brought up after the first case. I'm talking about the case that led to a death; is that correct?

MR. MATT SMITH: These procedures -- the procedures that were in place when this incident occurred were adequate. The problem that we identified is that they failed to follow the procedures. There was an issue, and the supervisor and personnel they did reference in one of the letters inadequate procedures, but that was referencing a shutdown procedure instead of a locking and braking procedure.

So their letter did appear to kind of confuse the situation by talking about a different procedure that was inadequate.
COMMISSIONER del VALLE: So what mechanisms do we have in place for ensuring ongoing compliance?

MR. MATT SMITH: Currently what we would do is to conduct field audits and construction audits at Peoples Gas in Chicago to verify that the procedures are followed as they evolve. That is the mechanism that we are using.

COMMISSIONER del VALLE: Again, if Peoples agreed with Staff's recommendations and penalties as recorded in the letter dated April 29, 2015, that was the $200,000 penalty amount as well as the implementation of four out of five recommendations, can you explain why we are seeing this more than six months later if there's a general agreement? Staff had reached the agreement with Peoples and Peoples and indicated they were ready to pay the fine.

MR. BEYER: This is Gene Beyer. Allow me to address that. By getting these matters in before you for your action is ultimately my responsibility. I think our track record for previous submissions involve them timely, and I have no doubt we are going to be timely down the road.
For this one, for whatever reason, I just didn't submit in a timely manner.

Again, that's not indicative of past or future practice, and I believe I could have gotten it to you probably the July Bench Session. A few months late isn't acceptable. I will make sure that I correct that. That is primarily my responsibility to get it on the Bench.

COMMISSIONER del VALLE: Thank you.

CHAIRMAN SHEAHAN: Thank you, Commissioner.

Are there any objections to approving the proposed Order?

(No response.)

Hearing none, the Order is approved.

Items G-4 and 5 involve complaints filed against Peoples Gas regarding billing in Chicago.

Are there any objections to considering these items together and approving the parties' Joint Motions to Dismiss?

(No response.)

Hearing none, the motions are granted.
Item G-6 concerns an Order Initiating
an Investigation Concerning Alleged Violations of
Section 5-202.1 of the Public Utilities Act.

Today the ICC will initiate a formal
investigation into whether Peoples Gas and its
parent companies knowingly misrepresented or
withheld material facts to the Commission concerning
the estimated long-term cost of the Accelerated
Replacement Program.

While the Commission must refrain from
prejudging the case, the allegation first raised by
an Illinois Commerce Commission auditor is serious
and goes to the fundamental issue of public trust
and integrity of companies that provide vital
service to Illinois ratepayers.

Since 2013, the Commission has worked
diligently with the Attorney General, CUB, and
others to oversee this necessary public works
project, and we welcome their continued interest and
participation.

I also would like to thank our Staff
for their thoughtful and vigilant work over the
years. The Commission will ensure that Peoples Gas is forthcoming and that the process is transparent. Today's action will provide all parties the opportunity to seek answers the Commission and public deserve.

I move that we approve the Initiating Order.

Is there a second?

COMMISSIONER McCabe: Seconded.

CHAIRMAN SHEAHAN: I believe we have some discussion. Commissioner del Valle.

COMMISSIONER del VALLE: Thank you, Mr. Chairman. I believe the most important question to be answered is whether the Commission was knowingly misled in the merger proceeding. The Initiating Order before us purposefully avoids this question.

The Attorney General and CUB petition that was filed last week asks the question whether the Commission was knowingly misled in the 14-0496 Merger Docket and the May 20, 2015 Open Meeting.

This Initiating Order dismisses that petition.

In its place this Initiating Order
states: "It is, therefore, ordered that, pursuant to Section 5-202.1 and 10-101 of the Public Utilities Act, a proceeding of a specified scope and duration be initiated to determine whether Peoples Gas, Integrys or WEC or any employee, agent or representative thereof knowingly misled or withheld material information from the Commission at its May 20, 2015 Open Meeting." That's it.

The Merger Docket has been specifically excluded from the scope. While the Initiating Order directs Peoples and Wisconsin Energy Corporation to provide a broad range of information, if that information is not directly related to the May 20, 2015 Open Meeting, it is immaterial and falls outside the scope of this investigation.

By reducing the scope of this investigation to exclude an 11-month proceeding and only include a 30-minute Open Meeting, the Commission is disregarding the most important question and redirecting the focus to whether two individuals made knowing misrepresentations
specifically at the May 20, 2015 Open Meeting.

Staff's report and the Initiating Order names Wisconsin Energy and its agents as part of the investigation, despite the fact that Wisconsin Energy did not own Peoples Gas at the time of the May 20 meeting and had no legal authority, liability, responsibility over the AMRP program, its costs or representations thereof at that time.

Wisconsin Energy and its agents were, however, parties to and witnesses to an ongoing proceeding, and their representations in that proceeding are relevant to the underlying question of whether the Commission was knowingly misled.

I'm afraid that by initiating this investigation and dismissing AG/CUB's petition, we are frustrating the purpose of a Section 5-202.1 investigation, which is to root out knowing misrepresentations that impedes the Commission's ability to exercise its duties under the Act.

The Attorney General and CUB's petition spells out the scope and breadth of such an investigation. This Initiating Order does not.
I had proposed a change to this Initiating Order that would have addressed the concerns I have just outlined; however, it was refused by a simple majority. Instead, we have an Initiating Order for a proceeding whose scope is excessively limited, and dismisses the AG/CUB petition which would have allowed the Commission to get at the truth of whether we were misled in the merger docket.

I, therefore, cannot vote to accept this Initiating Order and will be voting no.

CHAIRMAN SHEAHAN: Thank you, Commissioner.

Commissioner Edwards, I believe you would like to make a comment.

COMMISSIONER MAYE EDWARDS: I do. Thank you, Mr. Chairman.

I echo the comments and definitely speak to the seriousness of the allegations.

I would like to briefly add though that given the history and the ongoing nature of this issue, time is of the essence and I'm confident that the investigation will lead to a fair and
expeditious resolution of this important matter.

I just want to stress that I do hope we can move forward quickly, efficiently, and to use as little of the resources of our consumers as possible. Thank you.

CHAIRMAN SHEAHAN: Thank you, Commissioner.

Commissioner McCabe.

COMMISSIONER McCabe: While I share some of Commissioner del Valle's concerns, I support this investigation to determine whether the Commission was misled about the estimated long-term cost of Peoples' Accelerated Main Replacement Program, or AMRP.

Staff's report and the proposed Order calls for information to be provided within 14 days and the inquiry to be completed within 180 days.

Given the recent notice of a $8 billion AMRP cost estimate and the findings by Liberty, the larger issues, which will not be resolved in this investigation, are (1) how to handle pre-merger cost overruns and possible mismanagement in future rate case and QIP dockets.
and (2) how to refocus and restructure the AMRP's goals and timelines to ensure safety and minimize rate impacts on Peoples' customers. Thank you.

CHAIRMAN SHEAHAN: Thank you.

Commissioner Rosales.

COMMISSIONER ROSALES: Thank you, Mr. Chairman.

It is extremely concerning when we hear allegations that parties before us have made misrepresentations to the Commission.

As a regulatory body, we can only make decisions based on the information that is put before us. It is our job to ensure that Illinois utility customers receive adequate, efficient, reliable, environmentally safe, and least cost service, and that job is virtually impossible when the parties involved do not give us all of the information necessary to make a sound decision.

I want to be clear, we will not tolerate such behavior from parties before this Commission, and we plan to do a thorough and fair investigation into these allegations.

If our investigation reveals that the
parties involved made misrepresentations to the Commission, there will be repercussions. During this process, we expect all parties involved to cooperate fully and to be forthcoming with information that we request.

Thank you, Mr. Chairman.

CHAIRMAN SHEAHAH: Thank you.

Is there any other discussion?

(No response.)

All those in favor, say aye.

Aye.

COMMISSIONER McCabe: Aye.

COMMISSIONER Maye Edwards: Aye.

COMMISSIONER Rosales: Aye.

CHAIRMAN SHEAHAN: Opposed, say nay.

COMMISSIONER del Valle: No.

CHAIRMAN SHEAHAN: The vote is 4 to 1 and the motion is approved.

Item T-1 involves a complaint filed against AT&T regarding billing in Oak Park.

Commissioner Edwards, I believe you have a question for the ALJ.
COMMISSIONER MAYE EDWARDS: I do. Thank you.

So in reading this Order, I see the complaint was filed on June 22nd of this year and between that date and October 6th there was quite a bit of motion practice, and between June and October is not necessarily a long time, but my concern was there was, as I said, motion practice after motion practice, then the case was dismissed for want of jurisdiction.

So my concern is if you could just walk me through the process of when the complaint was filed and then the Order.

JUDGE CARDONI: Sure, Commissioner.

As you stated, the complaint was filed by Ms. Pierce on June 22nd of this year, and I sent a notice for a hearing about a month later on June 25th. The company filed a Motion to Dismiss on June 26th, and so I continued the status until July 28th, a week later, to allow for a response by the complainant and a reply by the company later that month.

I was not present on the July 28th
hearing. ALJ Jorgenson covered for me. I had my child that day. And at that hearing the complainant represented that she had not received the Motion to Dismiss, so ALJ Jorgenson gave an additional month for her to respond and then reply.

During that time period, Ms. Pierce had some difficulty making her filings to the Clerk's Office and there was a lot of back and forth between her, and the Clerk's Office, and Judge Jorgenson about procedurally how to make those accurate. So by the time the complaint or the responses were completed to that Motion to Dismiss, it was October 2nd.

ALJ Jorgenson filed her proposed Order on October 6th, and then there were no exceptions or replies to the exceptions, and then when I returned, I handled the proposed Order at that time.

COMMISSIONER MAYE EDWARDS: I want to be clear. I don't have an issue with it so long as it sounds reasonable. My only issue is that for this case to settle and ultimately dismiss for want of jurisdiction, that's not something that could have
been determined in June when we received the
complaint?

MS. CARDONI: When we received the complaint,
keep in mind it's a one-page-kind-of form that
complainant fills out and they only have the top
portion to handwriting usually what that issue is.

A lot of times we don't really have a
good sense of what that complaint is until we get
though the first status hearing. It said
in Ms. Pierce's complaint that it was an issue with
her 1495 Internet service, and, of course, that does
look like it would be something that we don't deal
with here at the Commission, but until we have that
first status, a lot of times we find out the
complainant has an issue with overbilling by a
utility, but then we get to hearing and there's a
tampering issue or a mixed-meter issue. We don't
have full information until we have that first
status hearing.

So in this case I think it was
appropriate to give some time to figure out what the
real issue was even though the company did file a
Motion to Dismiss right away.

COMMISSIONER MAYE EDWARDS: But then when you got
to the status hearing, you were able to get more
information -- I can't recall if you were at a
status hearing or not at that point in time -- then
it wasn't enough information to determine you have
jurisdiction?

MS. CARDONI: Not completely, and certainly we
wanted to afford Ms. Pierce due process. She filed
a complaint and there was a Motion to Dismiss and
she hadn't really responded at all to that Motion to
Dismiss, so it seemed reasonable to give her that
time to reply, and she did, in fact, file two
replies to that Motion to Dismiss.

COMMISSIONER MAYE EDWARDS: It just seems to me
if they're in the actual commission of due process,
you should be able to respond, but if it's a
procedural issue that's not in your jurisdiction, I
guess I'm not sure, and, again, I have never
practiced before the Commission. I'm not an
administrative law judge, and it just seemed to
me -- I know that over at the Daley Center this
would never work. At the time the complaint is filed and there's no jurisdiction, there would not be several briefs, you know, even for a defendant. I mean, she's spent -- I know she was pro se, but she still spent time going back and forth only to determine that we were not the correct venue.

JUDGE CARDONI: Ultimately, I agree with you, Commissioner, that there was some back and forth and there was some time spent, but, you know, the company had laid out their issue in the Motion to Dismiss and why there was no jurisdiction for the Commission.

We still allow Ms. Pierce to respond to those specific issues that the company brought up and I'm not certain that she would have had the wherewithal to do that at the status hearing. I think more about what her response would be.

COMMISSIONER MAYE EDWARDS: So it's the standard procedure of this Commission -- of our Administrative Law Division even if we determined from the start from looking at the complaint that we don't have jurisdiction, that's standard procedure
to allow briefing?

    MS. CARDONI: I'm not sure if it's the standard procedure. I think every complaint is taken as it needs to be. I think there needs to be a lot of leeway. We are dealing with a lot of different kinds of complainants with a lot of different abilities to make responses and appear and participate using our rules.

    I think we always err on the side as much due process as possible. I think that was done in this case.

    COMMISSIONER MAYE EDWARDS: Okay.

    CHAIRMAN SHEAHAN: Other questions?

    Commissioner del Valle.

    COMMISSIONER del VALLE: I agree totally with Commissioner Edwards, because I had the same kind of questions when I read this, and I have asked this question before. How many individuals that file with us have legal representation? What's the percentage?

    JUDGE CARDONI: I would think it would be very slim.
COMMISSIONER del VALLE: Very slim. So most represent themselves?

JUDGE CARDONI: Yes.

COMMISSIONER del VALLE: How are they suppose to figure all this out and know what the different hoops are? I know it's got to be frustrating for many that are up against lawyers, on top of that, too, then at the end of it all say, well, you don't have jurisdiction. After having jumped through all kinds of hoops, I think it just, you know, leads me to thinking there has to be a better way, so I just want to support us looking for a better way.

JUDGE KIMBREL: I would just comment that the complainants are not very sophisticated, so we do give them more leeway.

COMMISSIONER del VALLE: I appreciate that, I really do, and I guess if we are going to make it better to be one that could eventually benefit the complainant, but when it's just obvious that we don't -- I wish we had jurisdiction, because we would see a ton of those complaints.

I know a lot of people talk to me all
the time about problems they have with AT&T, and
U-verse, and all kinds of things, and so I wish we
had jurisdiction. We don't. So we ought to let it
be known from the beginning when it's kind of
obvious. I'm speaking as a non-lawyer.

COMMISSIONER MAYE EDWARDS: I speak as a lawyer.

I agree with you.

JUDGE KIMBREL: I just think it's -- when a
company's engaged in motion practice, the
complainants are at a complete disadvantage, and
oftentimes we know when we have a reasonable course,
but we still try to give them the leeway to file
appropriately to have their day in court, but --

COMMISSIONER MAYE EDWARDS: I see what you are
saying, but to me if it's only to say that you don't
have jurisdiction anyway, that just doesn't sit well
and maybe it was something we can discuss
procedurally somehow. Outside of this, this doesn't
make sense.

JUDGE KIMBREL: We are certainly willing to
follow recommendations.

CHAIRMAN SHEAHAN: Are there any comments?
Are there any objections to approving the proposed Order dismissing the complaint?

(No response.)

Hearing none, the Order dismissing the complaint is approved.

Item T-2 involves the Village of Barrington's Petition for Approval of a Modification to its existing 9-1-1 Emergency Telephone System.

Are there any objections to approving the proposed Order?

(No response.)

Hearing none, the Order is approved.

Item W-1 concerns Illinois-American Water's Application seeking Approval to Purchase the Water System Assets of the Village of Ransom and seeking issuance of a Certificate of Public Convenience and Necessity to provide water service to the areas in La Salle County.

Are there any objections to approving the Interim Order?

(No response.)
Hearing none, the Interim Order is approved.

We have an item under other business regarding the Approval of the Procurement Administrator's Recommendations on Selection of Winning Bids as set forth in the Procurement Administrator's Confidential Report.

Is there a motion to approve the recommendations?

COMMISSIONER del VALLE: So moved.

CHAIRMAN SHEAHAN: Is there a second?

COMMISSIONER McCabe: Seconded.

CHAIRMAN SHEAHAN: Any comments or questions?

(No response.)

All those in favor of approving the recommendation, say aye.

(No response.)

Opposed, say nay.

(No response.)

The vote is 5 to 0 and the recommendations are approved.

Judge Kimbrel, do we have any other
matters to come before the Commission today?

JUDGE KIMBREL: There's nothing further.

CHAIRMAN SHEAHAN: Commissioners, do we have any business to discuss?

COMMISSIONER MAYE EDWARDS: Mr. Chairman, if I could make a comment, I just would like to put in front of you tomorrow's policy forum. I know we don't like to admit it but winter is coming. The first half of the policy session will be winter readiness and we'll have our RTOs, as well as our gas utilities, represented on that, and the second half of the policy forum will be on resource adequacy which is a very large issue not just in the Midwest but specifically for Illinois. So we look forward to you all here tomorrow for that.

Thank you, Mr. Chairman.

CHAIRMAN SHEAHAN: Thank you.

Without objection, we are adjourned.

(Whereupon, the above matter was adjourned.)