BEFORE THE

ILLINOIS COMMERCE COMMISSION

PUBLIC UTILITY REGULAR OPEN MEETING AGENDA

Chicago, Illinois
Tuesday, December 22, 2009

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

PRESENT:

MR. CHARLES BOX, Chairman

MS. LULA M. FORD, Commissioner

MS. ERIN M. O'CONNELL-DIAZ, Commissioner

MR. SHERMAN J. ELLIOTT, Commissioner

MR. JOHN T. COLGAN, Commissioner

SULLIVAN REPORTING COMPANY, by

Rocio Garcia, CSR

License No. 084-004387
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With me in Chicago are Commissioners O'Connell-Diaz, Elliott and Colgan and I'm Chairman Box. We have a quorum. Commissioner Ford is joining us by a remote hookup.

Is there a motion to include Commissioner Ford in this meeting?

COMMISSIONER O'CONNELL-DIAZ: So moved.

CHAIRMAN BOX: Is there a second?

COMMISSIONER ELLIOTT: Second.

CHAIRMAN BOX: All in favor say aye.

COMMISSIONER COLGAN: Aye.

CHAIRMAN BOX: Opposed?

The vote is 4 to 0.

Commissioner Ford is now part of this meeting.

Before moving into the agenda, this is the time allowed for members of the public to address the Commission. Members of the public
wishing to address the Commission must notify the Chief Clerk's Office in 24 hours prior to the bench session. According to the Chief Clerk's Office there have been no requests to speak.

We have three items on today's agenda and let me take them out of order. Item number two is Docket 09-0166 and 09-0167 consolidated. This is the Peoples Gas Light & Coke Company, North Shore Gas Company rate case. The Attorney General has requested oral argument and pursuant to Section 9-201 of the Act, the Commission will honor the AG's request for oral argument. Oral argument will be scheduled for Tuesday, January 5th, 2010, after prebench.

Going back to item number one. The first item would be 09-0373. The Illinois Power Agency, petition for approval of the monitor procurement plan. The Commission will be convening oral argument after the meeting on this matter after this meeting at 11:30.

Judge Jones, are you available for a few questions that will not --
JUDGE JONES: I am, Mr. Chairman.

CHAIRMAN BOX: -- be covered?

The oral argument is concerning only the long-term contracts. I have a question concerning the short-term renewables.

It is my understanding that staff opposed having a simultaneous auction or Request for a Proposal. They indicated certain things were done and change that could work to be acceptable; is that correct?

JUDGE JONES: I didn't quite hear, Mr. Chairman.

(Off the record.)

JUDGE JONES: Mr. Chairman, I think, again, raised as far as their concerns the fact that there were some unknowns, the hearing was unclear how the process would work so to that extent if those matters were clarified to staff's satisfaction then they might have taken a different final decision.

CHAIRMAN BOX: And that could be -- and I think the information was that could be done between now and the time the RFPs went out.

Were all the parties participating?
JUDGE JONES: I think it is possible,
Mr. Chairman. I don't know that they were really
suggesting that the RFP not clarify that until -- at
a later point but having said that I think that's
correct. It could be done.
CHAIRMAN BOX: Okay.
Any other questions for Judge Jones?
Commissioner O'Connell-Diaz.
COMMISSIONER O'CONNELL-DIAZ: Yes.
Judge Jones, just in reference to the
last section of your memo where you refer to the
benchmark for the long-term renewables and that the
prices would be set -- that could be competitive RFP
process.
Could you just clarify for me, Appendix K
provides that the procurements administrator in
consultation with the IPA and procurement monitor
and ICC staff shall develop the content of
benchmarks whereas the statutory provisions only
references the procurement administrator
consultation with Commission staff agency and
procurement. . .
Could you just clarify what your order provides.

JUDGE JONES: Yes, Commissioner. Let me take a quick look at that.

Well, on this particular item it would accept the benchmark proposal contained in Appendix K so it would involve the participants and the roles as set out on page 2 of Appendix K.

COMMISSIONER O'CONNELL-DIAZ: Do we need to be concerned that that does not single out with the statutory provisions?

JUDGE JONES: I think by adding some additional staff involvement that it would essentially supplement it. I don't think that's too dissimilar from what has happened, at least with some of the other issues where in the past I know additional staff involvement ordered into the process by Commission order.

COMMISSIONER O'CONNELL-DIAZ: So in order to arrive at that point we would need to include in our order an amendment to Appendix K on that issue?

JUDGE JONES: Commissioner, I think that's
covered by -- we can certainly clarify that or add some language to make it more clear.

COMMISSIONER O'CONNELL-DIAZ: Okay. Thank you.

CHAIRMAN BOX: Any other questions for Judge Jones?

Judge, thank you very much.

JUDGE JONES: Thank you, Mr. Chairman.

CHAIRMAN BOX: The last item this morning is Docket 08-0569. This is an order on rehearing under the Illinois Bell Telephone Company's petition to declare services to be competitive in several MSAs outside of Chicago.

I understand that their language has been circulated.

Commissioner O'Connell-Diaz.

COMMISSIONER O'CONNELL-DIAZ: Thank you, Chairman.

Yes, if you will recall that the Commission entered an order in which we provided that the similar requirements of the -- that will be approved in MSA-1 would be approved in this order and we found that the hearing and as -- I finally
looked at the evidence or lack of evidence to turn this Commission's mind with regard to our decision -- our unanimous decision early on. I have not found that and so I circulated the language which essentially states that while this decision stands on its own record versus that of MSA-1, our inquiry is similar whether competition is this for residential service in the greater Illinois MSA, not MSA-1. While we do agree with AT&T with regard to -- different. AT&T's assertion it's central office and outside plant cost will be substantially higher on a per customer basis than in greater was in the Chicagoland is consistent with our conclusion that while reclassification was and is appropriate sustainable competition is less certain greater LADA than MSA-1. We find that there is no evidence to demonstrate that while some customers in the greater Illinois MSA have broadband options many areas are grossly underserved but to accomplish the -- goal of substituting competition for regulations while insuring customer choice and in order to provide greater Illinois MSA symmetry with MSA-1, the
Commission properly imposed additional requirements under AT&T as a condition of the classification. So essentially what -- I guess what I'm suggesting is that we're back at the same place we were when we voted on the order. There's been nothing new and that the Commission's June 11th order should be sustained and the customers in MSA -- in the greater Illinois MSA should be treated on the same level as those with MSA-1. I think it's really a fairness issue but it is supported by the evidence in the record. So I was -- that Commissioners would support me on this.

CHAIRMAN BOX: We're trying to amend the briefs and the parties, AT&T that was the case they would be asking for more time.

COMMISSIONER O'CONNELL-DIAZ: Yes, Chairman.

Thank you.

Additionally, this does provide the company had requested until 2012 to accomplish what is ordered in this and that requested date is approved pursuant to this order.
JUDGE HILLIARD: If I recall correctly it was July 1 of 2012.

COMMISSIONER O'CONNELL-DIAZ: Thank you.

CHAIRMAN BOX: Is there a second to the motion by Commissioner O'Connell-Diaz?

COMMISSIONER COLGAN: Second.

CHAIRMAN BOX: It's been moved and seconded to amend the order.

All in favor of the amendment say aye.

COMMISSIONER COLGAN: Aye.

COMMISSIONER ELLIOTT: No.

COMMISSIONER O'CONNELL-DIAZ: Aye.

COMMISSIONER FORD: No.

CHAIRMAN BOX: The vote is 3/2 on the amendments.

Further discussion on this order as amended?

COMMISSIONER ELLIOTT: Mr. Chairman, I just like to point out that in the original order I did support the extension of this as a broad policy matter. After further review of the information and the response of the Judge in the rehearing case I come to the difficult conclusion that in my mind as
this was an -- MSA-1 was an agreement between AT&T
and the Citizens Utility Board and not a finding of
the Commission and while I think it's -- you know,
the extension of DSL service is a good policy, in --
I'm just not sure that as a requirement of the
Commission that we -- we aren't just picking winners
here and I'm not sure what the appropriate solution
would be so I've decided to vote no.

CHAIRMAN BOX: Okay. Further discussion?

COMMISSIONER FORD: My concern is anything we did
not amend compare to the fact that we were doing
broadband. . .

(Inaudible.)

CHAIRMAN BOX: Further discussion?

There's a motion to enter the order on
rehearing as amended.

Is there a second?

COMMISSIONER O'CONNELL-DIAZ: Second.

CHAIRMAN BOX: All in favor say aye.

COMMISSIONER O'CONNELL-DIAZ: Aye.

COMMISSIONER COLGAN: Aye.

CHAIRMAN BOX: Opposed?
COMMISSIONER ELLIOTT: No.

COMMISSIONER FORD: No.

CHAIRMAN BOX: The vote is 3 -- the vote is 3/2.

The order on rehearing as amended is entered.

This completes the Commission work on this case. I want to thank Judge Hilliard, our staff and all the parties for their hard work.

Anything else coming before us today?

JUDGE WALLACE: Mr. Chairman, I would just ask if you'd like a specific time for the Peoples oral argument on January 5th.

CHAIRMAN BOX: Okay. I thought it was after prebench. Let's say 2:00 o'clock.

JUDGE WALLACE: 2:00 o'clock. Thank you. That's all for today then.

CHAIRMAN BOX: All right. And we have oral argument. We'll start on the IPA matter at 11:30.

Let's take a recess.

(Whereupon, the meeting was adjourned.)

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