BEFORE THE

ILLINOIS COMMERCE COMMISSION

REGULAR OPEN MEETING

PUBLIC UTILITY

Tuesday, December 22, 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?

CHIEF CLERK: Yes, we are.

CHAIRMAN SHEAHAN: Pursuant to the Open Meetings Act, I call to order the December 22, 2015 Regular Open 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 and will, therefore, move into our Regular Open Meeting agenda. We have no minutes to approve this morning.

So moving on to our Public Utility agenda, Item E-1 concerns revisions to MidAmerican Street Lighting ("Rate SL") to include a 400-watt equivalent light-emitting diode ("LED") base rate, as well as rates for customer-owned LED street lighting.

Are there any objections to not suspending the filing?

(No response.)

Hearing none, the filing is not
suspended.

Item E-2 concerns a complaint filed against ComEd. There are both substantive and non-substantive edits to this Order. I believe Commissioner McCabe has a statement to make.

COMMISSIONER McCabe: Yes. Thank you to Commissioner Rosales' office for their help on these edits.

These edits do not change the proposed Order's ultimate conclusion. They correct the description of what may happen in the event the complainant does not comply with ComEd's request. In that case, ComEd would have the right to discontinue service but it is not obligated to.

The edits note that the record indicates that ComEd did not receive permission before entering the complainant's neighbor's property, but the lack of permission does not affect this proceeding's outcome.

Last, the edits urge the parties to resolve any remaining differences and work with all others who may be able to achieve resolution. Thank
you.

CHAIRMAN SHEAHAN: Would you like to move those edits, Commissioner?

COMMISSIONER McCabe: So move.

CHAIRMAN SHEAHAN: Is there a second?

COMMISSIONER ROSALES: Second.

CHAIRMAN SHEAHAN: Any further discussion?

(No response.)

All those in favor, say aye.

(Chorus of ayes.)

Opposed, say nay.

(No response.)

The edits are adopted unanimously.

Is there a motion to approve the Order as edited?

COMMISSIONER del VALLE: So move.

CHAIRMAN SHEAHAN: Is there a second?

COMMISSIONER McCabe: Second.

CHAIRMAN SHEAHAN: Is there any discussion?

(No response.)

All those in favor, say aye.

(No response.)
The ayes have it. I'm sorry. I didn't ask for nays. Are there nays?

(No response.)

No nays. The ayes have it and the edits are adopted.

Item E-3 concerns ComEd's request for special permission to file revised tariff pages on less than 45 days' notice to establish an access in retrieval tenant's rates.

Are there any objections to granting the request for special permission?

(No response.)

Hearing none, the request for special permission is granted.

Moving on to our gas agenda, Items G-1 and 2 concern merger compliance revisions to Peoples and North Shore Gas' large volume transportation pooling.

Are there any objections to considering these items together and not suspending the filings?

(No response.)
Hearing none, the filings are not suspended.

Moving on to T-1 concerns emergency amendments to standards of service applicable for 9-1-1 emergency systems which have been made necessary by recent amendments to the Emergency Telephone System Act.

There are substantive edits recommended by Staff. Commissioner McCabe is going to handle presentation of those edits.

COMMISSIONER McCabe: I have just got to move the edits.

CHAIRMAN SHEAHAN: Okay. Is there a second?

COMMISSIONER del VALLE: Second.

CHAIRMAN SHEAHAN: Is there any discussion?

(No response.)

All those in favor, say aye.

(Chorus of ayes.)

Opposed, say nay.

(No response.)

The ayes have it and the edits are adopted.
Is there a motion to enter the Order as edited?

COMMISSIONER McCabe: So move.

COMMISSIONER Maye Edwards: So move.

Chairman Sheahan: Is there a second?

Commissioner Rosales: Second.

Chairman Sheahan: Is there any discussion?

(No response.)

All those in favor, say aye.

(Chorus of ayes.)

Opposed, say nay.

(No response.)

The ayes have it and the Order as edited is approved.

Item M-1 concerns the adoption of rules concerning the rate case treatment of charitable contributions. There are non-substantive edits throughout the proposed Order and substantive edits concerning the supplemental information provided by utilities.

Commissioner Edwards, I believe you are going to handle this item.
COMMISSIONER MAYE EDWARDS: Thank you, Mr. Chairman.

The overall substance of the edits that I propose state that any portion of the rule must assist the Commission in reviewing donations under Section 9-227 which requires the Commission to ensure, one, that the purpose of the donation is lawful and, two, that the amount is reasonable.

In Section 2 regarding definitions, the edits remove the terms and definitions from management as well as the parent company as neither term is included in the rule as edited.

In Section 3 regarding the supplemental information to be provided regarding charitable contributions, our edits adopt all the Staff's reporting requirements, except for 325.30A8, A9, B2, and B3.

The remaining reporting requirements are adopted including 325.30A3 which requires a utility to include a written description of why a donation is reasonable in amount.

In Section 5 regarding required
disclosures, our edits do not adopt any of Staff's
proposed required disclosures.

We argue that such disclosures are
beyond the scope of corporate rulemaking in Section
9-227 because they require communications with
charitable organizations, customers and the public,
focused on disclosures to the Commission.

The proposed required disclosures have
no bearing upon the Commission's review of
reasonableness under 9-227.

Lastly, in Section 7 regarding
disclosures for donations for charitable
contributions made in compliance with requirements
of Article 9 and Section 16-108.5, our edits strike
the portion of Staff's proposal that requires the
certification related to Sections 9-224 and 9-225
for those utility filings in Article 9 rate
proceedings.

Sections 9-224, 9-225 and 9-227 are
distinct from one another and should be treated as
such. Expenses addressed in 9-224 and 225 have no
bearing on and contribute no information to the
required reasonableness review under 9-227.

Thank you very much also to the Chairman's office for his contributions in these edits.

With that, I move for the adoption.

CHAIRMAN SHEAHAN: Is there a second?

COMMISSIONER McCabe: Second.

CHAIRMAN SHEAHAN: We have discussion on the edits, Commissioner del Valle.

COMMISSIONER del VALLE: Thank you, Mr. Chairman.

I can certainly appreciate all the work that's gone into this edit and this Order, having had personal experience -- first-hand experience with this area both as executive director of a non-for-profit organization, as well as having been involved in fund-raising efforts for other non-for-profits as a board member, or a volunteer, and also as a legislator for 20 years.

I have to say that I have strong disagreement here. With all due respect, every year the utility spends over 10 million ratepayer dollars on charitable contributions and, in some cases, a
donation to a single entity can be hundreds of thousands of dollars.

The companies are perceived by many, including many legislators, by the way, as taking these donations out of their profits when it is, in fact, ratepayers that are involuntarily paying extra in their bills to cover these amounts.

In the past the Commission has been frustrated by lack of transparency and supporting evidence which has limited our prudence and reasonableness review. This rulemaking was initiated to increase the details available for each donation when the company first files for a rate case.

Unfortunately, I received these most recent proposed edits at the close of business yesterday 16 hours before I was expected to vote on them.

At this point, Mr. Chairman, I would like to make a recommendation, and I realize that all of our staff work very hard, and we have excellent people on the staff, but I want to
recommend that when we are dealing with sub-edits, substantive edits, that there be at least 24 hours given to the Commissioners to review these edits.

Now I have no problem with non-sub-edits being dropped at the very, very last minute, but in a case like this where it was well-known -- because I had a conversation with Commissioner Maye, and I had problems with the edits and the original edits -- we should allow a little more time so that we can prepare our review.

Having time for only a quick review, I can still see these edits with regard to the rule-making purposes, and I think Staff and the ALJ did a very good job of dealing with a very important issue -- a controversial issue.

As a matter of fact, there was legislation introduced on March 11th by Senator Duffy to get the problem of contributions being made -- donations being made in a way that some may feel are questionable in ways that are questionable, and it's the Commission's role to protect ratepayers.
I personally want to see even more contributions made to non-for-profits, but I want to make sure that they're made in the appropriate manner, and we have to question whether someone being honored, a president of a company is being honored -- agencies or non-for-profit organizations that decide that they're going to honor someone, because they know that in honoring someone -- a utility president, for example -- they are able then to get a large contribution.

And, technically, I don't see anything wrong with that, but if the utilities are going to be able to use these contributions to get positive press coverage and to continue to build their image and these contributions are being paid for by ratepayers, then the ratepayers should be aware of where those contributions are going and how much of their money is being used for this purpose.

The elements required by Staff's proposed rule form a required determination in the just and reasonable analysis that expenditures are reasonable and prudently incurred. These edits also
delete an entire section of the proposed rule concerning disclosure to donators and ratepayers severely limiting the transparency and accountability of more than 10 million a year in ratepayer money.

And, for this reason, I, with all due respect, will be voting no on the edits and will also be filing a dissenting vote on this Order.

Thank you.

CHAIRMAN SHEAHAN: Thank you, Commissioner.

Any other discussion? Commissioner Rosales.

COMMISSIONER ROSALES: Mr. Chairman, the statute and the Supreme Court's interpretation of the statute provides very clear parameters for the Commission with respect to charitable contributions, and, with that, I would be voting yes on both the edits and on the Order.

CHAIRMAN SHEAHAN: Thank you.

Any further discussion?

COMMISSIONER MAYE EDWARDS: Mr. Chairman, I did want to apologize for the tardiness of the edits. I
apologize to all of the other offices about that.

CHAIRMAN SHEAHAN: I don't know that an apology is necessary. I think that's something we can talk about as a Commission.

I would note -- I would just note, and I think that this is important, you know, these contributions are legal under the Illinois law. That is a decision that the legislature and Governor made. Efforts over the years to amend and change those provisions have failed. The legislation that is currently before the legislature didn't get out of the Rules Committee in the Senate.

The fact is that the Commerce Commission has a very limited role by statute in reviewing the propriety of these contributions is limited determining their purpose and making sure that the purpose is within statutorily-prescribed areas and, second, that the contributions are reasonable in amount.

And so to the extent that there are parties who wish to have more information than that, you know, there are avenues to amend the statute
legislatively and expand our authority to request that information, and I think many other Commissioners think that, you know, this rule ought to keep closely to the statute out of respect to our legislatively mandated role, and I think to the contrary some statements made, you know, this rule requires significantly more information from the utilities, and it's a good step, and I think it's good amendments, and I commend Commissioner Edwards for her work on this.

Is there any other discussion before we have a vote on the edits?

(No response.)

With that, all those in favor of adopting the edits, say aye.

(Chorus of ayes.)

Those opposed, say nay.

COMMISSIONER del VALLE: Nay.

CHAIRMAN SHEAHAN: The vote is 4 to one and the edits are adopted.

I would like to entertain a motion to approve the Order as edited.
COMMISSIONER ROSALES:  So move.

CHAIRMAN SHEAHAN:  Is there a second?

COMMISSIONER McCABE:  Second.

CHAIRMAN SHEAHAN:  Is there any discussion?

(No response.)

(No response.)

All those in favor, say aye.

(No response.)

Opposed, say nay.

COMMISSIONER del VALLE:  Nay.

CHAIRMAN SHEAHAN:  The motion on the Order as edited is 4 to one and the Order as edited passes.

Item PR-1 concerns Petitions for Rehearing filed regarding Grain Belt Express Clean Line's Application for a Certificate of Public Convenience and Necessity. There are several matters before us this morning. The first is a motion to deny the Farm Bureau Concern Citizens' request for Oral Arguments.

Is there a motion?

COMMISSIONER McCABE:  So move.

CHAIRMAN SHEAHAN:  Is there a second?

COMMISSIONER MAYE EDWARDS:  Second.
CHAIRMAN SHEAHAN: Is there any discussion?

All those in favor of denying the request for Oral Arguments, say aye.

(Chorus of ayes.)

Opposed say nay.

(No response.)

The ayes have it and the request is denied.

Is there a motion to deny the Applications for Rehearing on the issue of Public Utility Status? And, for the record, I would just note that there are multiple requests for rehearing from multiple parties and we are going to treat these motions by subject matter rather than by itself.

So this is a motion to deny Applications for Rehearing all of them on the issue of Public Utility Status. Is there a motion?

COMMISSIONER MAYE EDWARDS: So move.

CHAIRMAN SHEAHAN: Is there a second?

COMMISSIONER ROSALES: Second.

CHAIRMAN SHEAHAN: Is there any discussion?
All those in favor of denying the Applications for Rehearing, say aye.

(Chorus of ayes.)

Opposed say nay.

COMMISSIONER MAYE EDWARDS: Aye.

COMMISSIONER del VALLE: No.

COMMISSIONER McCABE: No.

COMMISSIONER ROSALES: Aye.

CHAIRMAN SHEAHAN: Aye.

The vote is 3 to 2 and the Motions for Rehearing on the issue of Public Utility Status are denied.

Is there a motion to deny the Applications for Rehearing on all other issues by all other parties?

COMMISSIONER MAYE EDWARDS: So move.

CHAIRMAN SHEAHAN: Is there a second?

COMMISSIONER ROSALES: Second.

CHAIRMAN SHEAHAN: Is there any discussion?

(No response.)

All those in favor of denying the
Applications for Rehearing, say aye.

(Chorus of ayes.)

Opposed, say nay?

(No response.)

Any abstentions?

(No response.)

The vote is 4 ayes with no nays and no abstentions, and the motion is --

COMMISSIONER MAYE EDWARDS: Mr. Chairman --

CHAIRMAN SHEAHAN: -- adopted.

COMMISSIONER MAYE EDWARDS: -- I'm not sure we have 4 ayes and no nays and no abstentions.

CHAIRMAN SHEAHAN: Sure. We have a Commissioner who doesn't vote, doesn't abstain, so we had a motion on the issue of the Public Utilities to deny those, and this is to deny all of the other motions.

COMMISSIONER del VALLE: Okay. I vote nay.

CHAIRMAN SHEAHAN: Let the record reflect the vote is 4 to one, 4 ayes, one nay, and the motions are denied.

COMMISSIONER del VALLE: Okay.

CHAIRMAN SHEAHAN: Finally, we have a --
COMMISSIONER del VALLE: I'm sorry. My no vote was under Public Utility Status --

CHAIRMAN SHEAHAN: Okay. We have got that.

COMMISSIONER del VALLE: -- and yes on all the others.

CHAIRMAN SHEAHAN: Oh, yes, on all the others?

COMMISSIONER del VALLE: Yes. Yes, for the record.

CHAIRMAN SHEAHAN: So the record should reflect that the vote to deny all the other Applications for Rehearing by all other parties is 5 to zero.

So now we are on the vote for the mandatory Order.

Is there a motion to adopt the mandatory Order?

COMMISSIONER MAYE EDWARDS: So move.

CHAIRMAN SHEAHAN: Is there a second?

COMMISSIONER ROSALES: Second.

CHAIRMAN SHEAHAN: Is there any discussion?

(No response.)

All those in favor of approving the mandatory Order, say aye.
(Chorus of ayes.)

Opposed, say nay.

COMMISSIONER McCABE: Nay.

CHAIRMAN SHEAHAN: The vote is 4 to one and the mandatory Order is entered.

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

JUDGE KIMBREL: There's nothing further,

Mr. Chairman.

CHAIRMAN SHEAHAN: Commissioners, do any of you have any other business to bring before the Commission this morning?

Commissioner del Valle.

COMMISSIONER del VALLE: Just one. I wish everyone a Merry Christmas and a happy holiday.

CHAIRMAN SHEAHAN: Thank you. I would second that.

Unless there's anything else, we stand adjourned. Thank you.

(Whereupon, the above matter was adjourned.)