BEFORE THE
ILLINOIS COMMERCE COMMISSION

BENCH SESSION

Springfield, Illinois
Wednesday, December 2, 2009

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

PRESENT:

MR. CHARLES E. 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
Carla J. Boehl, Reporter
CSR #084-002710
CHAIRMAN BOX: Pursuant to the provisions of the Illinois Open Meetings Act, I now convene a regularly scheduled bench session of the Illinois Commerce Commission. With me in Springfield are Commissioners Elliott and Colgan. Joining us via video conference in Chicago are Commissioners Ford and O'Connell-Diaz. I am Chairman Box. We have a quorum.

I think last week on the 24th I was absent and our new commissioner was welcomed by Commissioner Ford, and this is the first time I think all five of us have been together since Commissioner Lieberman left in early June, I think, of this year.

Before moving into the agenda, 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 the bench session. According to the Chief Clerk's office, there are no requests to speak.

We will begin with the Transportation
agenda. We have minutes to approve from the October 7, 2009, bench session. Is there a motion to approve the minutes?

COMMISSIONER ELLIOTT: So moved.

CHAIRMAN BOX: Is there a second?

COMMISSIONER O'CONNELL-DIAZ: Second.

CHAIRMAN BOX: It's been moved and seconded.

All in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN BOX: Any opposed?

The vote is 5-0 approving the minutes.

Starting with the Railroad agenda,

Items RR-1 through RR-4 (T09-0051, T09-0095, T09-0113, T09-0120) will be taken together. These are petitions to make safety upgrades at various railroad crossings around the state. No Grade Crossing Protection Funds will be used.

Administrative Law Judges Jackson and Kirkland-Montaque recommend entering the orders granting the petitions. Is there a motion to enter the orders?

COMMISSIONER O'CONNELL-DIAZ: So moved.
CHAIRMAN BOX: Is there a second?

COMMISSIONER ELLIOTT: Second.

CHAIRMAN BOX: It's been moved and seconded.

All in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN BOX: Opposed?

The vote is 5-0. The orders are entered.

We will use this 5-0 roll call vote for the remainder of the Transportation agenda, unless otherwise noted.

Items RR-5 and RR-6 (T09-0127, T09-0128) will be taken together. These are stipulated agreements for upgrades at two railroad crossings. $434,908 in Grade Crossing Protection Funds will be used. Staff recommends entering the orders approving the stipulated agreements. Is there any discussion? Any objections? Hearing none, the orders are entered.

Item RR-7 is Docket T04-0084 Supplemental. This is a request for extension of time by the Coffeen and Western Railroad Company to
complete improvements at at-grade crossings in Montgomery County. Administrative Law Judge Jackson recommends entering the supplemental order approving the extension of time to September 13, 2010. Is there any discussion? Any objections? Hearing none, the supplemental order is entered.

Item RR-8 is Docket T08-0026, Second Supplemental. Petitioners are requesting that the Commission vacate the order authorizing this project. Administrative Law Judge Jackson recommends entering the second supplemental order granting the motion to vacate the order of August 16, 2006. Is there any discussion? Any objections? Hearing none, the second supplemental order is entered.

That concludes the Railroad portion of today's agenda.

Turning to the Motor Carriers, Items MC-1 through MC-22 (08-0864, 08-0950, 08-1014, 08-1163, 08-1247, 08-1311, 08-1517, 09-0461, 09-0465, 09-0513, 09-0595, 09-0673, 09-0683, 09-0706, 09-0769, 09-0901, 09-0980, 09-0872, 09-0924, 09-1040, 09-1048, 09-1084) will be taken together. These are
stipulated settlement agreements with for-hire motor
carriers operating without Commission authority or
with revoked, suspended or otherwise insufficient
Commission authority. Staff recommends accepting the
stipulated settlement agreements. Is there any
discussion? Any objections? Hearing none, the
stipulated agreements are accepted.

Item MC-23 is Docket 158051 MC. This
is an application by New City Moving, Inc., for a
certificate to operate as a mover of household goods.
Administrative Law Judge Kirkland-Montaque recommends
entering the order granting the application. Is
there any discussion? Any objections? Hearing none,
the order is entered.

Item MC-24 is Docket 145059 MC, et al.
This is a petition for an employment permit to
operate as a dispatcher. The sponsoring employer has
notified the administrative law judge that the
petitioner no longer works at the company.
Administrative Law Judge Jackson recommends entering
the order dismissing the application, without
prejudice. Is there any discussion? Any objections?
Hearing none, the order is entered.

Item MC-25 is Docket RTV-A-49. This is a petition to increase tow and storage rates. In response to the Commissions' actions in another docket effectively superseding this case, the petitioner has moved to withdraw the request. Administrative Law Judge Jackson recommends entering the order granting the motion to withdraw, without prejudice. Is there any discussion? Any objections? Hearing none, the order is entered.

Item MC-26 is Docket 206 RTV-R, et al. This is a petition for renewal of a commercial relocator's license that has expired. Administrative Law Judge Jackson recommends entering the order granting their renewal. Is there any discussion? Any objections? Hearing none, the order is entered.

Items MC-27 through MC-30 (149 RTV-R, 213 RTV-R, 120 RTV-R, 156 RTV-R) will be taken together. These are petitions to renew commercial relocation licenses. Staff recommends granting the renewals. Is there any discussion? Any objections? Hearing none, the renewal requests are granted.
That concludes the Transportation agenda. Ms. Kelly, anything else to come before us today?

MS. KELLY: That's all. Thank you.

CHAIRMAN BOX: Thank you. Changing of the guard.

(Whereupon the meeting concluded matters pertaining to Transportation.)
(Whereupon the meeting turned to Public Utility matters.)

Under the Public Utility agenda we have minutes to approve from the October 6, 2009, Pre-bench, the October 7, 2009, Bench Session and the October 14, 2009, Special Open Meeting. We also have to approve the transcript of the October 6, 2009, Gas Policy Meeting.

I have one correction to the October 7, 2009, Public Utility minutes. We have circulated -- I think the transcript indicated there was an RFP -- I am sorry, an RFD and it should have been an RFP. Some people think that's substantive enough for us to make that correction.

COMMISSIONER FORD: Very substantive.

CHAIRMAN BOX: Yeah, we won't talk about that. Is there a motion to amend the October 7, 2009, minutes to reflect that it should read RFP?

COMMISSIONER ELLIOTT: So moved.

CHAIRMAN BOX: Is there a second?

COMMISSIONER FORD: Second.
CHAIRMAN BOX: It's been moved and seconded.

All in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN BOX: Any opposed?

The amendment is passed 5-0.

Is there a motion to adopt the minutes as amended?

COMMISSIONER ELLIOTT: So moved.

CHAIRMAN BOX: Is there a second?

COMMISSIONER O'CONNELL-DIAZ: Second.

CHAIRMAN BOX: It's been moved and seconded.

All in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN BOX: Opposed?

The vote is 5-0. The minutes are approved as amended.

Beginning with the Electric agenda,

Item E-1 (09-0592) is a rulemaking governing consumer protections for customers of ARES and of electric utilities serving customers outside of their service territories. Staff recommends entering the order establishing the first notice period. Is there a
motion to enter the order?

    COMMISSIONER O'CONNELL-DIAZ: So moved.

    CHAIRMAN BOX: Is there a second?

    COMMISSIONER ELLIOTT: Second.

    CHAIRMAN BOX: It's been moved and second. All in favor say aye.

    COMMISSIONERS: Aye.

    CHAIRMAN BOX: Opposed?

    The vote is 5-0. The order is entered.

    We will use this 5-0 roll call vote for the remainder of the Public Utilities agenda, unless otherwise noted.

    Item E-2 is Docket 08-0389. This is a complaint by Geraldine Davenport against Commonwealth Edison Company. The complainant has informed the administrative law judge that she no longer intends to pursue her complaint. Administrative Law Judge Moran recommends entering the order dismissing the complaint, with prejudice. Is there any discussion? Any objections? Hearing none, the order is entered.

    Item E-3 is Docket 08-0401. This is a
complaint by Malibu Condominium Association against Commonwealth Edison Company. The order on rehearing provides greater justification for the conclusion that a formal complaint tolls the clock, not an informal complaint. Administrative Law Judge Moran recommends entering the order on rehearing. Is there any discussion?

COMMISSIONER COLGAN: Mr. Chairman, on this order I intend to vote present because it's been going on for awhile and I am not clear on all the positions in light of the controversial points of view.

CHAIRMAN BOX: Any other discussion? Any objections? Hearing none, the order on rehearing is entered, and the record will reflect that Commissioner Colgan abstained.

Item E-4 is Docket 09-0373. This is the 2010 electricity procurement filed by the Illinois Power Agency. The Commission will not be voting on this today, but I would like to ask Administrative Law Judge Jones to explain the order very briefly. I think this is due by the end of
year, and we will talk about this probably later in the meeting when we discuss our meeting schedule. Right now we are scheduled to meet on the 15th, 16th and the 22nd. There had been some thought of potentially cancelling some of those meetings, but because of this item and others, we might need all those dates. But we will talk about that.

COMMISSIONER FORD: The 22nd I won't be here. I won't be in the city the 22nd.

CHAIRMAN BOX: Okay, that's why we talk about them ahead of time.

Judge Jones, will you just brief us on this matter?

JUDGE JONES: Thank you, Mr. Chairman, and Steve Hickey is here, too, as you can see.

This, of course, is the Illinois Power Agency's second annual procurement plan filing. In that filing they outline a procurement strategy for obtaining electric supply and related services for the eligible retail customers of ComEd and the Ameren Illinois Utilities, the again proposed use of an RFP bid process to meet residual load requirements, those
being ones not already under prior contract. The time period covered is a five-year horizon, with the first or planned period being June 2010 through May 2011. The eligible customers are those who are under a fixed-price bundled electric service other than ones who have been declared competitive by statute or otherwise. The IPA again proposes to use a laddered approach to procurement where some contracts would be two years out, one year out and then about the remaining third in the procurement year.

In terms of party participation in the process, statutorily parties had the opportunity to file objections to the filed plan, which some did. After that, by ruling there were responses to objections filed and then replies to responses. Through that process there were a fairly large number of contested issues. The most contested of the issues was the proposed procurement of long term renewable resources.

In an effort to eliminate some of those concerns and provide some clarification for the proposal, the IPA at that point filed a motion to
submit supplemental recommendations for the plan on the long term renewable issue. That was intended to address and resolve the issues raised by the utilities, the Attorney General, and the Commission staff. It contained more detail than previously and also specified a number of terms pertaining to the length of the contracts, the bundling of renewable energy and associated RECs, renewable energy credits, use of an RFP process. It spelled out the benchmark process and also contained some terms for supplier credit requirements.

After that, parties were given a chance to file responses and replies. ComEd, Ameren Illinois Utilities and the AG filed responses all supporting approval of those recommendations submitted by the IPA. The Commission staff made a filing that indicated it did not object to them, although it raised concerns on a couple of points relating to supplier credit requirements. A number of other parties do not support the proposal, as indicated in the filings that were made.

After that, a proposed order was
issued and DOEs were filed by seven parties, although not all on taking issue with substantive matters. The post-exceptions order which is before the Commission at this time was an issue. The proposed order and the post-exceptions order would approve the proposal for long term renewable acquisition as presented by the IPA in its supplemental recommendations and supported by several other parties.

Another issue that continues to be in dispute relates to demand response. Although I believe any disagreements over the applicable statutory tests have been resolved at this point, there is still disagreement over whether the IPA should be permitted to pursue and go forward with a supplemental demand response acquisition beyond that currently acquired for ComEd through the PJM, RPM auction process. If allowed, the IPA's efforts would be directed more specifically at ComEd's eligible retail customers. But the proposal remains one that is contested. As drafted, the proposed order would permit the IPA to pursue that, subject to certain
requirements and conditions.

One other issue that remains in dispute, at least between a couple of the parties, relates to hedging in peak periods, also known as over subscription, during the July and August peak periods. It is proposed at a level of ten percent, which is the same as was approved by the Commission last year as well as the year before, but at this time that issue remains in dispute.

By and large the other issues were either resolved through the filing processes or by the lack of any objections or exceptions stated in the BOEs following issuance of the proposed order. As the Chairman noted, the deadline for this matter is December 29 and that is the date, of course, by which the Commission will either confirm or modify the procurement plan.

Thank you.

CHAIRMAN BOX: Thank you, Judge. As indicated, we just got this order, I think, yesterday. So hopefully this will be on the pre-bench schedule for the 15th. Hopefully, the Commission is going to have
their questions and any other thoughts either communicated before that time or at that particular hearing.

And we can also talk about the meeting on the 22nd with the schedule. Commissioner Ford has indicated she will not be available. I don't know about the other commissioners. Commissioner Elliott and I started talking about this yesterday. So we will know at least by the 15th or 16th what our meeting schedule will be to meet the deadline of the 29th.

Any questions for the Judge or Mr. Hickey at this point? Okay. Thank you very much, Judge.

JUDGE JONES: Thank you, Mr. Chairman.

CHAIRMAN BOX: Item E-5 is Docket 09-0467.

Eagle Industrial Power Services, LLC, seeks a certificate to serve non-residential customers with consumption greater than 15,000 kilowatts. Petitioner also seeks single billing authority. Administrative Law Judge Yoder recommends entering the order granting the certificate with single
billing authority. Is there any discussion? Any objections? Hearing none, the order is entered.

Items E-6 through E-10 (09-0470, 09-0471, 09-0474, 09-0476, 09-0477) will be taken together. These are applications by the various parties for ABC licenses. Administrative Law Judge Yoder recommends entering the order granting the applications. Is there any discussion? Any objections? Hearing none, the orders are entered.

That concludes the Electric portion of today's agenda.

Turning now to Natural Gas, Items G-1 and G-2 (09-0246, 09-0393) will be taken together. These are complaints that have settled. Administrative Law Judge Kimbrel recommends dismissing these dockets, with prejudice. Is there any discussion? Any objections? Hearing none, the dockets are dismissed, with prejudice.

That concludes the Natural Gas portion of today's agenda.

Turning to Telecommunications, Items T-1 through T-3 (TRM #516, TRM #582, TRM #584) will
be taken together. These filings by Illinois Bell Telephone Company modify competitive retail and noncompetitive wholesale services and to reclassify a service from noncompetitive to competitive. Staff recommends that these filings not be investigated and/or suspended. Is there any discussion? Any objections? Hearing none, the filings will not be investigated or suspended.

Items T-4 through T-6 (09-0242, 09-0465, 09-0466) will be taken together. These are petitions for certificates of authority to provide various telecommunication services. Administrative Law Judges Tapia and Riley recommend entering the orders granting the certificates. Is there any discussion? Any objections? Hearing none, the orders are entered.

Item T-7 is Docket 09-0518.

Telecommunications Systems Corporation of Maryland seeks to cancel its certificate of service authority. Administrative Law Judge Benn recommends entering the order granting the petition. Is there any discussion? Any objections? Hearing none, the order
is entered.

Item T-8 is Docket 06-0761. Apps Communications, Inc., filed a complaint against Illinois Bell Telephone Company. The order finds that complainant failed to state a cause of action in which relief can be granted under the Public Utilities Act. Administrative Law Judge Dolan recommends entering the order dismissing the complaint, with prejudice. Is there any discussion? Any objections? Hearing none, the order is entered dismissing the complaint, with prejudice.

Item T-9 is Docket 06-0814. The Village of Bellwood petitions for eminent domain for property owned by Illinois Bell Telephone Company for public purposes. Due to unforeseen circumstances, Bellwood has delayed the project and thus has moved to dismiss this case. Administrative Law Judge Sainsot recommends granting the motion and dismissing this docket, without prejudice. Is there any discussion? Any objections? Hearing none, the motion is granted and the case is dismissed, without prejudice.
Item T-10 (09-0593) is a resolution adopting the annual report form for telecommunications carriers that only offer competitive services. Staff recommends entering the resolution adopting the report form. Is there any discussion? Any objections? Hearing none, the resolution is entered.

Item T-11 is Docket 09-0316. This is a citation proceeding against Nexus Communications, Inc., to determine whether its intrastate access rates are just and reasonable. Several parties intervened. After an exchange of data with Staff, Nexus filed a new tariff with lower access rates and petitioned to dismiss this proceeding. Staff and the intervenors do not object. Administrative Law Judge Benn recommends granting the motion to dismiss the proceedings, without prejudice. Is there any discussion? Any objections? Hearing none, the proceeding is dismissed, without prejudice.

Item T-12 is Docket 09-0353. Illinois Valley Cellular RSA 2-I Partnership and various affiliates petitioned that the Commission acknowledge
the merger among two of the affiliates and take steps in recognition of this fact. Administrative Law Judge Riley recommends entering the order granting the requested relief. Is there any discussion? Any objections? Hearing none, the order is entered.

Item T-13 is Docket 09-0511. This is a petition by the Illinois Attorney General to initiate a rulemaking modifying Section 200.520 of the Commission regulations governing the process for interlocutory reviews. The rule modification is the product of negotiations among various parties. Administrative Law Judge Riley recommends entering the interim order granting the petition and establishing a rulemaking. Is there any discussion? Any objections? Hearing none, the order is entered.

Items T-14 through T-17 (09-0444, 09-0445, 09-0446, 09-0510) will be taken together. These are interconnection agreements or amendments to interconnection agreements. The administrative law judges recommend entering the orders approving the agreements and the amendments to the agreements. Is there any discussion? Any objections? Hearing none,
the orders are entered.

That concludes the Telecommunications portion of today's agenda.

Turning to the Water and Waste Water, Item W-1 (WRM #028) is a filing by the Illinois-American Water Company to establish fire protection rates for the City of South Beloit. Staff recommends not suspending the filing. Is there any discussion?

COMMISSIONER O'CONNELL-DIAZ: Chairman, I just have a question. Is there somebody from the Staff that can answer a question? Sorry I didn't notice this beforehand.

As I read this now, currently the City of Beloit, there is an annual charge of the City of Beloit to cover the use of the mains and hydrants. So does the company receive payment from the City of Beloit and now it is going to be transferred to individual ratepayers accounts?

MR. HENDRICKSON: Yes, that's correct.

COMMISSIONER O'CONNELL-DIAZ: And so is the city communicating this to the citizens of the area,
that this is no longer going to be something that the city is paying for, that it's going to show up on their individual bills that they receive every month?

MR. HENDRICKSON: I believe that's correct, yes. Plus, as far as the city is concerned, it's part of an ordinance. So it would be public information from the city.

COMMISSIONER O'CONNELL-DIAZ: Well, I just think it should be clear that the city is also out there communicating to its residents that this charge, which I don't know how they were collecting it, but it may not be clear to residents and now they are going to be seeing this on their bills. So since they have the agreement with the company to have this charge now assessed to the individual ratepayers, I think that the city should, you know, kind of give us some information with regard to what they are doing about communicating that to their residents.

As I see it, people are going to be getting their bills and now they are going to see this additional charge that they weren't seeing before and it is going to be pursuant to our actions
here today. So since this is an agreement between the city and the company, I think it should be clear and out there. I am not clear as to what a public notice is. Is it something that is buried in the back of the newspapers?

MR. HENDRICKSON: Typically that's the notice or they post it in their offices.

COMMISSIONER FORD: The ordinance was voted on by the city council, wasn't it?

MR. HENDRICKSON: Yes.

COMMISSIONER O'CONNELL-DIAZ: I just think the city should make it clear to their residents, as opposed to that it is our Commission order that has now changed how people are going to be billed for this fire protection service that obviously they need, that it is going to be a different billing methodology.

MR. HENDRICKSON: I can talk to the company about that. I don't know how much authority we have over the city and how much they have to notify the citizens.

COMMISSIONER O'CONNELL-DIAZ: Well, they have
executed an agreement with the City of Beloit, and I think it is important that the residents understand how their fire protection services are going to be paid for and that it is now going to be appearing on their bill. And getting something buried in the back of the newspaper is not -- I don't find that to be sufficient, but that's just my opinion.

COMMISSIONER FORD: So maybe, Tim, maybe you can get a news something out on -- is it Randy Nehrt? Randy Nehrt could get something out on a press release...

MR. ANDERSON: We can do that.

COMMISSIONER FORD: .explaining the intricacies of this new ordinance and explaining how we are responding to it, because it was an ordinance agreed to by the city of Beloit.

MR. ANDERSON: Yeah, we can make it clear that the City acted first.

COMMISSIONER FORD: This is not the Commission doing this ungodly deed.

CHAIRMAN BOX: It shouldn't be that difficult, either. South Beloit is not that large.
COMMISSIONER ELLIOTT: Isn't it up by Wisconsin?

CHAIRMAN BOX: Yes, near Wisconsin, yeah, right across the border from Beloit.

MR. ANDERSON: South.

CHAIRMAN BOX: Yeah, south, right, way to go, Tim.

Any further discussion?

COMMISSIONER O'CONNELL-DIAZ: Thank you.

CHAIRMAN BOX: Thank you. Any objections?

Hearing none, the order -- I am sorry, staff recommends not suspending the filing. Is there any discussion? Any objections? Hearing none, the filing will not be suspended.

Items W-2 and W-3 (08-0269, 09-0181) will be taken together. Rockwell Utilities have petitioned for confidential and proprietary treatment of its 2008 and 2009 annual reports. Rockwell has now moved to withdraw their requests. Administrative Law Judge Benn recommends dismissing their proceedings without prejudice. Is there any discussion? Any objections? Hearing none, these
proceedings are dismissed without prejudice.

That concludes the Water and Waste Water portion of today's agenda.

There is a petition for rehearing on today's agenda. Item PR-1 is Docket 09-0263. The Village of Oak Park petitioned for late intervention and for the rehearing of the Commission's October 14, 2009, order and the Attorney General has also petitioned for rehearing of that order.

Administrative Law Judges Sainsot and Kimbrel, are you available? And if you could, could you just explain the concerns of Oak Park? We will start with them first.

JUDGE SAINSOT: Oak Park intervened a little bit less than a month after this Commission issued the final order in this docket. Oak Park is one of the participants, one of the -- let me rephrase that, one of the municipalities that will be tested pursuant to this AMI program.

And apparently the meters that are going to be installed have these little chips in there called "Zigbee Chips." And the Zigbee Chips
transmit the information that's necessary -- well, I shouldn't say necessary -- but useful in the demand response aspect. It's the real time pricing of the electricity.

And I think it is important to step back, this program doesn't supply -- is not a one size fits all kind of program. It is testing various different types of demand response kinds of things on different people. So some of these program participants would not be in the Zigbee Chip activated group.

And what Oak Park wants is an order from this Commission requiring ComEd to activate the Zigbee Chips for the Oak Park residents that have the equipment on their end to use that, the Zigbee Chip.

Now, having said that, ComEd seems perfectly willing to do that. It's just that ComEd needs a little time to figure out how best to do that. And as the memo points out to you, this is an experimental program. This is not -- Oak Park doesn't have a right to ask for certain kinds of equipment or use of the equipment. So that's pretty
COMMISSIONER O'CONNELL-DIAZ: Judge Sainsot, just as a preliminary matter, when this case was first filed at the Commission, there was notice sent to all the municipalities that were served by Commonwealth Edison, and Oak Park would have been one of those municipalities that would have been served a notice of the proceedings that we had when we adopted this order, correct?

JUDGE SAINSOT: Right. And also it is pretty clear that Oak Park knew about this.

COMMISSIONER O'CONNELL-DIAZ: Well, I mean, they had official notice from our Clerk's office?

JUDGE SAINSOT: Right.

COMMISSIONER FORD: So from reading this, even if we were to grant rehearing, some of the issues would not be resolved.

JUDGE SAINSOT: Right. It is really a question with Oak Park of ComEd exploring what technology works best with these residents. Granting rehearing isn't going to change that.

COMMISSIONER FORD: And, granted, this is a
pilot program.

JUDGE SAINSOT: Right.

COMMISSIONER FORD: We don't have to.

JUDGE SAINSOT: Right.

CHAIRMAN BOX: Any further questions for the judge? Is there a motion to deny the Village of Oak Park's petition for rehearing?

COMMISSIONER FORD: So moved.

CHAIRMAN BOX: Is there a second?

COMMISSIONER ELLIOTT: Second.

CHAIRMAN BOX: It's been moved and seconded.

All in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN BOX: Opposed?

COMMISSIONER COLGAN: Mr. Chairman?

CHAIRMAN BOX: Yes.

COMMISSIONER COLGAN: I am just a new commissioner that's trying to get my feet on the ground here. I saw a number of objections being raised in this, not just by the City of Oak Park but by the Attorney General. And I talked with you briefly about it and separately I talked with
Commissioner Elliott a little bit about it.

My concerns don't add up to a no vote, but I think I don't sufficiently understand all the issues at play here. So I think I would like to vote present on this.

CHAIRMAN BOX: The vote is 4-0 and one. I like the way he phrased that; he talked to me and then independently of that you talked to Commissioner Elliott. See, he's learned the rules of the Open Meetings law already.

COMMISSIONER ELLIOTT: It's nice to be able to talk to fellow commissioners.

CHAIRMAN BOX: That's right. Two of you can talk one on one but not the three of us together.

COMMISSIONER FORD: I see he didn't talk to me.

CHAIRMAN BOX: Next, Judge Sainsot and Kimbrel, could you explain the Attorney General's position on this same item?

JUDGE SAINT: Well, the Attorney General has raised several legal issues that all have to do with imposing the charge, the cost of this program, on ComEd's ratepayers. And the Attorney General's
position really is that ComEd should not impose this charge, that ComEd should pay for it out of its own pocket and not impose this charge on the ratepayers. And that is really the thread of the single issue ratemaking issue, the retroactive ratemaking issue and the test year rule issue in the Attorney General's petition for rehearing.

There are a couple of things. I guess the main point is that this charge will be, I think, imposed over three years or approximately three years. And it is pretty minimal. So if ComEd were to file a rate case, it could not receive all of the expenses back. It would just have to absorb whatever expenses were not covered in the test year for the rate case.

And, you know, the final order in this case specifically states, and I think this is important to keep in mind, that if you make a utility absorb the cost of a program that's really designed to help consumers, you are not providing that utility with any incentive to try new ways to cut costs for consumers.
CHAIRMAN BOX: Any questions for the judge?

Is there a motion to deny the Attorney General's petition for rehearing?

COMMISSIONER ELLIOTT: So moved.

CHAIRMAN BOX: Second?

COMMISSIONER FORD: Second.

CHAIRMAN BOX: It's been moved and seconded.

All in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN BOX: Any opposed?

COMMISSIONER COLGAN: I abstain.

CHAIRMAN BOX: The vote is 4-0 and 1. The Attorney General's petition for rehearing is denied.

Judge Wallace, anything else to come before us today?

JUDGE WALLACE: Well, actually nothing to come forward. Could we clarify, Commissioner Colgan, are you voting present or abstaining?

COMMISSIONER COLGAN: I am just voting present.

JUDGE WALLACE: And on E-1 also -- or E-3?

COMMISSIONER COLGAN: Correct.

JUDGE WALLACE: Thank you. There is nothing
further, Mr. Chairman.

CHAIRMAN BOX: At pre-bench on the 15th we will have the Illinois Power Agency's matter hopefully, and at that time we can decide what our meeting schedule should be for the rest of the year. And hopefully, all the Commissioners and their assistants will get together and they will know the schedules, and we can make sure we get this done by the end of the year, at the same time accommodating the holiday schedule for as many people as we can. Because I think the OGC and the ALJ party is the 15th. So we have to work around that, of course. Absolutely required.

Anything further? Meeting is adjourned.

MEETING ADJOURNED