BEFORE THE
ILLINOIS COMMERCE COMMISSION

REGULAR OPEN MEETING

Springfield, Illinois
Tuesday, April 10, 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

MS. ANN McCABE, Acting Commissioner
(Via audiovisual conference)

SULLIVAN REPORTING COMPANY, by
Carla J. Boehl, Reporter
CSR #084-002710
CHAIRMAN SCOTT: Pursuant to the provisions of the Illinois Open Meetings Act, I now convene a Regular Open Meeting of the Illinois Commerce Commission. With me in Springfield is Commissioner Colgan and with us in Chicago are Commissioners Ford and O'Connell-Diaz and Acting Commissioner McCabe. I am Chairman Scott. We have a quorum.

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 our Commission meeting.

According to the Chief Clerk's Office, we have no requests to speak at today's Regular Open Meeting.

Moving on to our agenda for today, Item 1 is Docket Number 11-0689. This item concerns evaluation of our state's On-Bill Financing Programs. Before us today is a motion by Staff regarding
start-up dates related to an Evaluation Report due to the General Assembly. ALJ Haynes recommends adoption of Staff's Option 1 resulting in a single Evaluation Report being submitted to the General Assembly.

Is there any discussion?

(No response.)

Is there a motion to confirm adoption of Staff's Option 1?

COMMISSIONER COLGAN: So moved.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER O'CONNELL-DIAZ: 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 Staff's Option 1 regarding the start-up dates for the Evaluation is adopted.

We will use this five to nothing vote for the remainder of today's agenda, unless otherwise noted.
Item 2 is Docket Number 11-0661. This is American Transmission Company's petition for a certificate to construct, operate and maintain a new transmission line in Lake County. ALJ Teaque recommends entry of an Order granting the requested certificate authorizing the project.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered.

Item 3 is Docket Number 12-0180. This is HIKO Energy's application for a Certificate of Service Authority to operate as an alternative retail electric supplier. ALJ Albers 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 4 was Docket Number 12-0203.
This item has since been withdrawn.

Item 5 is Docket Number 12-0205. This is IDT Energy’s application for a Certificate of Service Authority to operate as an alternative retail electric supplier. The applicant now seeks to withdraw its application, and ALJ Albers recommends dismissing this matter without prejudice.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, this matter is dismissed without prejudice.

Item 6 is Docket Number 10-0690. This is Mt. Carmel’s reconciliation case concerning revenues collected under gas adjustment charges. ALJ Jones recommends entry of an Order approving the reconciliation, subject to adjustments proposed by Staff.

Is there any discussion?

(No response.)

Any objections?
(No response.)

Hearing none, the Order is entered.

Item 7 is Docket Number 11-0710. This is Chicago Clean Energy's sourcing agreement matter on rehearing. Before us today is a Petition for Interlocutory Review filed by CCE and EDI regarding denial of their Motion in Limine.

Is there any discussion?

COMMISSIONER O'CONNELL-DIAZ: Mr. Chairman?

CHAIRMAN SCOTT: Yes, Commissioner O'Connell-Diaz?

COMMISSIONER O'CONNELL-DIAZ: I would just note that I think the Commission was very clear in suggesting that we needed to have a full record. Commissioner Colgan was very erudite with regard to that. And due to the compressed schedule that we were presented with, we didn't have that. And so the petition was granted and now it appears that the party in this case is suggesting that there should be some other expedited treatment that in fact would deny due process to everyone that is not in agreement with their position.
As we stated, or I stated, I would be watching the procedural aspects of this case, and it is clear from the Commission's statement from the bench that we want a clear and complete record with regard to these important issues. And so I was quite surprised as I read through the petitions that were filed in this matter, and I would just suggest that counsel should think about things before they file them as being according to our rules, and I find that there is nothing in this Petition for Rehearing that would support where they would like the Commission to go.

We want to have a full record. We want to have that before us, and Judge Wallace has created a schedule pursuant to our expressed intent, and I think that's where the Commission wants to go.

So, you know, again I will be watching the procedural aspects of this case and all the filings of the lawyers, as I am sure all of the other Commissioners will be doing. But I would suggest that some of the language and styling of certain arguments were specious at best.
So I just wanted to say that for the record.

CHAIRMAN SCOTT: Commissioner Colgan?

COMMISSIONER COLGAN: Yeah. I voted no on the Commission's final sourcing agreement and I encouraged the parties to seek rehearing on this case.

I had concerns that the Commission may be over-reaching its statutory authority and the legislative intent of the General Assembly, and I had these concerns because the statute to me, despite strong opinions to the contrary, is not clear in several ways. And a couple of respected legislators were raising concerns, and the General Assembly, as we all know, has passed resolutions on this case, which seemed to me to be a unique situation, so.

I also expressed that I had an interest in this case because I am interested in commercial-scale CO2 capture and sequestration, and that's part of this project. But there were other comments, and I think I made comments about this, too, that this is really novel territory for us. And
we really -- the constraint in timelines that we had
to operate within had to put a lot of pressure on
everybody involved.

So I actually agree with Commissioner
O'Connell-Diaz that I asked for a rehearing because I
wanted to hear the arguments on this case.

I also think it is important to point
out that the schedule that the parties have agreed to
in this case has cut the time frame from 150 days to
basically in half. So in that regard I think to try
to give everybody a little bit of time to think
through and respond and then respond to other
people's comments, I think that that's -- you know,
we are trying to expedite this.

And, finally, I just wanted to say
that I think we are trying to do our best here with
this issue, and I believe that Chief ALJ Wallace is
doing his very best, as he always does, to be fair
and transparent and impartial. But, you know,
regardless of what the Chief ALJ recommends, the
Commission has the final say in this case and, you
know, I think we have it cued up and it is moving
through and, you know, where it all comes out, we
still have to see all the discussion. So, you know,
I actually don't --

COMMISSIONER FORD: I certainly concur with
you. I also voted no with you, Commissioner Colgan,
and for those same reasons, that I wanted it to be
fair, impartial and certainly transparent.

I would hope that with this new
hearing that we are going to have -- and this time
certainly has been expedited from 150 days or
whatever, to half the time. So I am looking forward
to hearing all the evidence that's going to be
presented in this case so that we can make a
decision. Even though we are creatures of the
legislature and we do listen to -- we have to go by
law, but they certainly have sent resolutions over
here to influence us. But I am glad that we are
still an independent agency.

CHAIRMAN SCOTT: Commissioner McCabe?

COMMISSIONER McCabe: I am going to abstain as
this is still early in my tenure here.

CHAIRMAN SCOTT: Very good. All right. I just
want to add, I agree with the comments that have been said so I won't reiterate them. Although I do want to say that I think Judge Wallace has gone to great lengths and steps to get the information out that we said we wanted through the rehearing and to do that in a timely fashion and to do it in a way that is fair to all of the parties, and I think that this motion circumvents that.

In the year I have been here, to me this is the most disappointing motion that I have seen because what it does is, it is not an academic exercise. It might be interesting to talk about if we were just talking about these things theoretically. These are real motions that require a lot of parties to use resources to talk about them, as well as Staff time and Commission time. It just goes against what, as the other Commissioners eloquently stated, we were looking for when we did the rehearing in the first place.

So I agree with the comments that have been stated, and we will obviously not be supporting the motion.
Are there any objections to denying the Petition for Interlocutory Review?

(No response.)

Hearing none, the petition is denied by a four to nothing vote.

Item 8 is Docket Number 12-0082. This is Direct Energy Service's petition seeking confidential and/or proprietary treatment of its compliance report. ALJ Von Qualen recommends entry of an Order granting the requested protective treatment.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered.

Item 9 was Docket Number 12-0145. This item has been withdrawn.

Item 10 is Docket Number 12-0224. This is YMax Communications' petition seeking confidential and/or proprietary treatment of its Annual Report. ALJ Von Qualen recommends entry of an
Order granting the requested protective treatment.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered.

Item 11 is Docket Number 07-0566.

This is ComEd's 2007 rate case on remand from the Appellate Court, and before us today is a rehearing request filed by CUB and the AG. ALJ Haynes recommends denying the rehearing request.

Is there any discussion?

COMMISSIONER McCabe: Mr. Chairman, I am going to abstain on this one, also.

CHAIRMAN SCOTT: Thank you, Commissioner McCabe.

Are there any objections to denying the rehearing application?

(No response.)

Hearing none, the rehearing is denied by a four to nothing vote.

Judge Wallace, are there any other
matters to come before the Commission today as far as this agenda?

JUDGE WALLACE: No, Mr. Chairman.

CHAIRMAN SCOTT: Thank you. Hearing none, this meeting stands adjourned. We will commence our Emergency Special Open Meeting to address a procurement issue shortly.

MEETING ADJOURNED