BEFORE THE
ILLINOIS COMMERCE COMMISSION
.
REGULAR OPEN MEETING
(PUBLIC UTILITY)
Chicago, Illinois
Tuesday, April 9, 2013

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

PRESENT:
MR. DOUGLAS P. SCOTT, Chairman
MR. JOHN T. COLGAN, Commissioner (by phone)
MS. ANN McCabe, Commissioner
MR. MIGUEL del VALLE, Acting Commissioner
MS. SHERINA E. MAYE, Acting Commissioner

L.A. COURT REPORTERS by
Kari Wiedenhaupt, Reporter
CSR# 084-004725
CHAIRMAN SCOTT: Is everything ready in Springfield?

JUDGE WALLACE: Yes, Chairman. We are good to go here.

CHAIRMAN SCOTT: All right. Good. Thanks.

Pursuant to the provisions of the Open Meetings Act I now convene a Regular Open Meeting of the Illinois Commerce Commission. With me in Chicago are Commissioner McCabe, Acting Commissioner delValle and Acting Commissioner Maye. We have -- I am Chairman Scott. We have a quorum.

We need to allow -- because we can't see Commissioner Colgan, we are going to vote to allow him to participate by phone.

So I would move that we allow Commissioner Colgan to participate by phone. Is there a second?

COMMISSIONER MCCABE: Second.

CHAIRMAN SCOTT: All in favor, say aye.

(Chorus of ayes.)

CHAIRMAN SCOTT: Any opposed?
CHAIRMAN SCOTT: The vote is four to nothing.
Commissioner Colgan can now join us by phone.
Welcome, Commissioner.

COMMISSIONER COLGAN: Thank you.

CHAIRMAN SCOTT: Before moving into the agenda, according to Section 1700.10 of Title 2 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 the Commission meetings. According to the Chief Clerk's Office, we had one request to speak at today's meeting; however, no requests have been granted.

Moving on to the agenda for today. Item 1 concerns initiating a proceeding to investigate ComEd's progress in implementing its Advanced Metering Infrastructure Deployment Plan, pursuant to Section 16-108.6(e) of the Public Utilities Act. Staff recommends entry of an Order initiating the proceeding.
Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Is there a motion to enter the Order?

COMMISSIONER MCCABE: So moved.

CHAIRMAN SCOTT: Is there a second?

ACTING COMMISSIONER DEL VALLE: Second.

CHAIRMAN SCOTT: It's been moved and seconded.

All in favor, say aye.

(Chorus of ayes.)

CHAIRMAN SCOTT: Any opposed?

(No response.)

CHAIRMAN SCOTT: The vote is five to nothing, and the Order is entered. We will use this five to nothing vote for the remainder of today's Regular Open Meeting unless otherwise noted.

Item 2 is Docket No. 12-0499. This is HIKO Energy's application for certification as an alternative retail electric supplier. This matter is on rehearing before the Commission, and ALJ VonQualen recommends entry of an Order on Rehearing granting the requested certificate subject to conditions
recommended by Staff. There are some revisions to be proposed.

Commissioner Colgan?

COMMISSIONER COLGAN: Thank you, Chairman. In conjunction with you and Commissioner McCabe, I am proposing amendments to the Commission Conclusion section of the HIKO Order on Rehearing. Our joint edits change the Commission's decision from approving to denying HIKO's request to expand its ARES certificate to allow it to offer the sale of electricity and power to eligible residential and nonresidential customers in the entire state of Illinois.

As you will recall, the Commission denied HIKO's request to amend its certificate without prejudice in the initial phase of this docket in October of 2012. And at that time the Commission was concerned about the number of complaints HIKO had received from customers in New York and in ComEd's service territory in Illinois. The Commission subsequently granted rehearing, which we are deciding here today.
While our edits acknowledge the very recent customer service improvements implemented by HIKO, we continue to be concerned about complaints about HIKO's improper marketing, HIKO's failure to access all sales records for review when there are allegations of improper marketing and HIKO's ability to identify issues in its third-party verification process.

In order to address these substantial concerns, the Commission maintains that HIKO should not only continue the customer service improvements it has recently implemented, but also comply with the conditions recommended by Staff and agreed to by HIKO and incorporated into its marketing, training and quality assurance program. I believe it is incumbent upon the Commission and its consumer services division to make sure that these improvements are consistently and continuously implemented.

In denying HIKO's amended certificate without prejudice, we are allowing HIKO to repetition the Commission at a future time. However, HIKO's re-filing cannot occur sooner than six months from
today, and must contain an additional six months of complaint data from both the ComEd service territory in Illinois and the other states in which it operates and an update regarding its implementation of its training and quality assurance program.

This will provide the Commission with the opportunity to determine the effectiveness of HIKO's recent customer service improvements and conditions agreed to in this docket based on data accumulated over a more substantial timeframe.

Illinois has established a legal framework designed to incent a competitive marketplace for electricity. In ensuring that this objective is met, however, the Commission must ensure that consumers are adequately protected from potential bad actors.

I believe that denying HIKO's request to expand its ARES certificate without prejudice is the appropriate manner in which to meet the objective of fostering a competitive marketplace while at the same time protecting consumers. And I would also like to thank Judge VonQualen for her efforts in this docket and thank Staff for its thoughtful suggestions.
in dealing with these important issues.

With that, fellow Commissioners, we request your support for these edits, and I move that they be approved.

CHAIRMAN SCOTT: The revisions have been moved.

Is there a second?

COMMISSIONER MCCABE: Second.

CHAIRMAN SCOTT: It's been moved and seconded.

Any further discussion on the revisions themselves?

(No response.)

CHAIRMAN SCOTT: All in favor of the revisions, say aye.

(Chorus of ayes.)

CHAIRMAN SCOTT: Any opposed?

(No response.)

CHAIRMAN SCOTT: The vote is five to nothing, and the revisions are adopted.

Is there any further discussion on this matter?

(No response.)

CHAIRMAN SCOTT: I will then move for the adoption of the Order as revised.
Is there a second?

COMMISSIONER COLGAN: Second.

CHAIRMAN SCOTT: It's been moved and seconded.

Any further discussion?

(No response.)

CHAIRMAN SCOTT: All in favor, say aye.

(Chorus of ayes.)

CHAIRMAN SCOTT: Any opposed?

(No response.)

CHAIRMAN SCOTT: The vote is five to nothing, and the Order as revised is adopted. Thank you, Commissioner Colgan and Commissioner McCabe for your work on those revisions. Thank you very much.

Item 3 is Docket No. 12-0620. This is Bonnie and Mike Nichols' complaint against ComEd. The parties have apparently settled their differences and have brought a Joint Motion to Dismiss, which ALJ Kimbrel recommends we grant.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Is there any objections?

(No response.)
CHAIRMAN SCOTT: Hearing none, the Joint Motion to Dismiss is granted.

Items 4 and 5 can be taken together. These items concern applications for licensure as an agent, broker and consultant under Section 16-115C of the Public Utilities Act. In each case, the ALJ recommends entry of an Order granting the certificate.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Are there any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Orders are entered.

Item 6 is Docket No. 13-0197. This is Caterpillar's application for a certificate to operate as an alternative retail electric supplier in Illinois, pursuant to Section 16-115 of the Public Utilities Act. ALJ VonQualen recommends entry of an Order granting the requested certificate.

Is there any discussion?

(No response.)
CHAIRMAN SCOTT: Are there any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Order is entered.

Item 7 is Docket No. 13-0154. This is Best Power's Motion to Withdraw its amended application for licensure as an agent, broker and consultant under Section 16-115C of the Public Utilities Act. ALJ Kimbrel recommends we grant the company's motion.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Are there any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Motion is granted.

Item 8 is Docket No. 13-0241. This is Constellation NewEnergy's petition for emergency relief requesting the confidential and/or proprietary treatment of its 2012 Net Metering Report. ALJ VonQualen recommends entry of an Order granting the requested treatment.
Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Are there any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Order is entered.

Item 9 is Docket No. 11-0762. This is Mt. Carmel's reconciliation of revenues collected under its gas adjustment charges with actual costs prudently incurred. ALJ Jones recommends entry of an Order approving the reconciliation.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Order is entered.

Item 10 is Docket No. 12-0506. This is Nicor's petition for approval of their Rider 26 Reconciliation Statement. ALJ Jorgenson recommends entry of an Order approving the reconciliation.

Is there any discussion?
CHAIRMAN SCOTT: Any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Order is entered.

Item 11 is Docket No. 12-0594. This is Glorietta Jones' complaint against Peoples Gas. The parties have apparently settled their differences and have brought a Joint Motion to Dismiss, which ALJ Kimbrel recommends we grant.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Joint Motion to Dismiss is granted.

Items 12 and 13 can be taken together. These items are complaints against Consolidated Communications regarding telephone service at Logan Correctional Center. In each case, ALJ VonQualen recommends entry of an Order dismissing the complaint with prejudice.
Is there any discussion?

(No response.)

CHAIRMAN SCOTT: I had a couple comments to make on these cases. First of all, I think -- I am going to support the Orders in both cases, but -- and while I understand that the contractual issue controls here -- I think that's very clear -- and I also understand that the complainants may not be the most sympathetic of all the complainants that come before the Commission, but I do have to say that I was troubled by the response of the company in these cases and not only setting up behind the legal argument -- that's their right to do that. I understand that, but on the substantive issue of whether or not the service actually works, they basically say that it's not their fault. It's the DOC's or the individual prison's fault, and anyway, the prisoners have no rights here because they are not paying for the calls, which that legally may be true, but in terms of service providing is a fairly cold answer.

With any service we have a
responsibility to see that the service being paid for is being delivered, and it's clear here at least from the record in these two cases that it isn't in all cases. If this were a water case and every time someone turned on a faucet at Logan Correction Center and some sort of green slime came out instead of water, that would also be an issue for us. It's no less of an issue because the service provided here is a phone service.

I think it's incumbent on us as a Commission to continue to monitor this. I would like our Staff to work with the DOC and the provider on this and other issues that are raised through these and a later case and let us know the progress. I think it's in everyone's interest in a high pressure environment like a correctional facility that services work when they are supposed to, and while legally the company is correct here, their responses left me wanting a little bit more from them in terms of being a service provider.

Further discussion? Commissioner delValle?
ACTING COMMISSIONER DEL VALLE: Mr. Chairman, I want to go on record here as supporting your well thought out statement. While inmates may not garner a lot of sympathy, the fact of the matter is that they are calling family members in many instances and friends and loved ones. Those individuals are directly affected by the lack of adequate services, and so I would like to be directly involved in working with Staff to look at the situation so that we don't have more complaints coming before the ICC.

CHAIRMAN SCOTT: Thank you, sir. Further comments?

(No response.)

CHAIRMAN SCOTT: Are there any objections to entering the Orders?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Orders are entered.

Item 14 is Docket No. 12-0413. This is Consolidated Communications' petition seeking a declaratory ruling concerning Section 13-901 of the Public Utilities Act, Title 83, Part 770 of the
Administrative Code.

ALJ VonQualen recommends entry of an Order providing a declaratory ruling that the inmate calling services at issue are operator services under the law.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: I just want to say that I am going to support the Order. I know it's gotten a lot of attention. I want to congratulate Judge VonQualen for her work. I think the Order is very well done. It's narrowly drawn and very well-reasoned, and I appreciate your work on that, and I am going to support the Order.

Further discussion?

(No response.)

CHAIRMAN SCOTT: Are there any objections to the Order?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Order is entered.

Item 15 is Docket No. 12-0679. This
is Frontier Communications' petition to cancel and reissue certificates of service authority previously granted to reflect a change in its corporate form. ALJ Baker recommends entry of an Order granting the requested relief.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Order is entered.

Item 16 is Docket No. 13-0126. This is a joint petition for the approval of an amendment to an interconnection agreement between Cellular Properties and Illinois Consolidated Telephone. ALJ Baker recommends entry of an Order approving the amendment.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Order is
Items 17 through 19 can be taken together. These are petitions for the confidential and/or proprietary treatment of the petitioner's annual report. In each case, the ALJ recommends entry of an Order granting the requested protective treatment.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Orders are entered.

Item 20 is Docket No. 10-0366. This is our management audit of Illinois-American Water Company. ALJ Jones recommends entry of an Order concluding the instant proceeding as requested by the parties, subject to the continuing applicability of provisions set forth in this matter's initiating Order.

Is there any discussion? Commissioner McCabe.
COMMISSIONER MCCABE: The Commission ordered this audit in Docket No. 09-0319 due to concerns with --

COMMISSIONER COLGAN: Chairman, I don't think her microphone is on.

CHAIRMAN SCOTT: Thank you.

COMMISSIONER MCCABE: Thank you.

The Commission ordered this audit on Docket No. 09-0319 due to concerns with Illinois-American Service Company fees. Commission Staff hired Northstar Consulting to perform the management audit, which was completed on January 11th, 2012.

In Illinois-American's next rate case, 11-0767, the Commission declined to order an investigation of affiliated interest issues largely because of this ongoing docket. Audits are time-consuming and expensive. As we close out this docket, the record includes a 176-page audit report by Northstar Consulting detailing 84 review results. Looking at one audit finding, competitive outsourcing could save an estimated 1.5 to 3.5 million annually,
which would more than cover the cost of the audit.

So I look forward to continuing to look at these issues in future proceedings. Thank you.

CHAIRMAN SCOTT: Thank you, Commissioner.

Further comments?

(No response.)

CHAIRMAN SCOTT: Are there any objections to the Order?

(No response.)

CHAIRMAN SCOTT: Hearing none, the Order is entered.

Item 21 is Docket No. 13-0235. This is a petition by the Illinois Department of Transportation seeking eminent domain authority to acquire certain property owned by Aqua Illinois in Kankakee County. ALJ Hilliard recommends we enter an Order granting the petition.

Is there any discussion?

(No response.)

CHAIRMAN SCOTT: Any objections? Hearing none, the Order is entered.

Judge Wallace, are there any other
matters to come before the Commission today?

MR. FEIPEL: Mr. Chairman, if I may quickly,
this is Feipel in Springfield. I wanted to note that
on Items 12 and 13, the DOC ISTC issue, Staff will
absolutely follow-up and Commissioner delValle, we'll
make sure you are included. Thanks.

CHAIRMAN SCOTT: Thank you, Mr. Feipel.

Judge Wallace?

JUDGE WALLACE: That's all there is.

CHAIRMAN SCOTT: Okay. Thank you, sir. I
apologize for having to shuffle between rooms. That
was my fault today, and it wasn't just because I
thought we all needed to run laps or anything and so
I apologize for that. If there is nothing else
coming before the Commission today, this meeting
stands adjourned. Thanks, everyone.

(END OF PROCEEDINGS.)