BEFORE THE
ILLINOIS COMMERCE COMMISSION

BENCH SESSION

(PUBLIC UTILITY)

Springfield, Illinois

Wednesday, June 26, 2013

Met, pursuant to notice, at 10:30 a.m.
in Hearing Room A, First Floor, Leland Building, 527
East Capitol Avenue, Springfield, Illinois.

PRESENT:

MR. DOUGLAS P. SCOTT, Chairman
MR. JOHN T. COLGAN, Commissioner
MS. ANN McCabe, Commissioner
MR. MIGUEL DEL VALLE, Acting Commissioner
MS. SHERINA MAYE, Acting Commissioner

L.A. COURT REPORTING
By Carla J. Boehl, Reporter
CSR #084-002710
CHAIRMAN SCOTT: Pursuant to the provisions of the Open Meetings Act, I now convene a regularly scheduled Bench Session of the Illinois Commerce Commission. With me in Springfield is Commissioner Colgan, Commissioner McCabe, Acting Commissioner del Valle and Acting Commissioner Maye. I am Chairman Scott. We have a quorum.

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 Commission meetings. According to the Chief Clerk's Office we have no requests to speak at today's Bench Session.

(The Transportation portion of the proceedings was held at this time and is contained in a separate transcript.)
CHAIRMAN SCOTT: Moving now to the Public Utility agenda, we will begin with the Electric portion.

Item E-1 concerns our investigation into customer refunds made under invalidated ComEd Riders AMT and AMTCA. Staff recommends entry of an Order initiating the investigation. This item will be held for disposition at a future Commission proceeding.

Item E-2 is Docket Number 11-0571. This is Jason Freeman's complaint against ComEd regarding billing charges. ALJ Teague recommends entry of an Order denying the complaint.

Is there any discussion?

(No response.)

Is there a motion to enter the Order?

COMMISSIONER McCabe: So moved.

CHAIRMAN SCOTT: Is there a second?

ACTING COMMISSIONER Maye: Second.

CHAIRMAN SCOTT: It's been moved and seconded.

Is there any further discussion?

(No response.)
All in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN SCOTT: Any opposed?

(No response.)

The vote is five to nothing, and the Order is entered and the complaint is denied.

We will use this five to nothing vote for the remainder of today's Public Utility agenda, unless otherwise noted.

Item E-3 is Docket Number 12-0590.

This is ComEd's petition for the expedited approval of modifications to its Rate GAP - Government Aggregation Protocol, tariff. ALJ Haynes recommends entry of an Order dismissing the proceeding.

Is there any discussion?

(No response.)

Are there any objections?

(No response.)

Hearing none, the Order is granted, and the proceeding is dismissed.

Item E-4 is Docket Number 13-0034.

This is Phase 2 of the FutureGen Clean Coal Project
and Sourcing Agreement arising out of the Commission's Order in the recent power procurement plan proceeding. This item will be held to the end of today's Public Utility agenda.

Item E-5 is Docket Number 13-0080.

This is our emergency rulemaking proceeding for Title 83, Part 281 of the Administrative Code regarding military service member disconnection rules. Given the second notice period is now ended, ALJ Wallace recommends entry of an Order adopting the proposed rules with an effective date of July 1, 2013.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered, and the proposed rules are adopted.

Items E-6 and E-7 (13-0147, 13-0148) can be taken together. These items are petitions for the confidential and/or proprietary treatment of petitioners' compliance reports. In each case ALJ Teague recommends entry of an Order granting the
requested protective treatment.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Orders are entered.

Item E-8 is Docket Number 13-0276.

This is ComEd's petition for the confidential treatment of portions of its annual AMI Implementation Report. ALJ Sainsot and Kimbrel recommend entry of an Order denying the petition and encouraging ComEd to refile its petition with additional information to justify the requested confidential treatment.

Is there any discussion?

(No response.)

Is there any objection?

(No response.)

Hearing none, the Order is entered, and petition is denied.

Item E-9 is Docket Number 13-0285.

This is our investigation regarding ComEd's 2013
Smart Grid Annual Implementation and Progress Report.
ALJs Sainsot and Kimbrel recommend entry of an Order approving ComEd's AMI plan. Edits have been proposed by Commissioner McCabe's office.

Commissioner McCabe?

COMMISSIONER McCabe: Yes. We are making edits to two sections that don't change the conclusions, just the surrounding rationale. I move for their adoption.

CHAIRMAN SCOTT: Okay. I appreciate you including our pending amendment to that as well. It's been moved to adopt the revisions. Is there a second?

COMMISSIONER COLGAN: Second.

CHAIRMAN SCOTT: It's been moved and seconded. Is there any discussion on the revisions?

(No response.)

All in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN SCOTT: Any opposed?

(No response.)
CHAIRMAN SCOTT: The vote is five to nothing, and the revisions are approved. Is there a motion now to enter the Order as amended?

COMMISSIONER COLGAN: So moved.

CHAIRMAN SCOTT: Is there a second?

ACTING COMMISSIONER DEL VALLE: Second.

CHAIRMAN SCOTT: It's been moved and seconded. Any further discussion?

(No response.)

All in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN SCOTT: Any opposed?

(No response.)

The vote is five to nothing, and the Order as amended is entered.

Item E-10 is Docket Number 13-0339.

This is ComEd's petition seeking approval of specific housekeeping and technical corrections to its delivery services rate formula. ALJ Jorgenson recommends entry of an Order granting the petition.

Is there any discussion?
Any objections?

(No response.)

Hearing none, the Order is entered.

Turning now to Natural Gas, Item G-1 is Docket Number 12-0357. This is C. John Mann's complaint against Ameren Illinois Company as to billing charges. ALJ Von Qualen recommends entry of an Order denying the complaint. My office proposed some edits to this Order that don't change the conclusion or the underlying rationale, just made some cosmetic changes to the wording, the verbiage, involved there, and I would move for the adoption of these revisions.

COMMISSIONER COLGAN: Second.

CHAIRMAN SCOTT: It's been moved and seconded.

Is there any discussion on the revisions?

(No response.)

All in favor of the revisions vote aye.

COMMISSIONERS: Aye.
CHAIRMAN SCOTT: Any opposed?

(No response.)

The vote is five to nothing, and the amendments are approved.

Is there now a motion to enter the Order as amended?

ACTING COMMISSIONER MAYE: So moved.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER McCabe: 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 the Order as amended is approved and the complaint is denied.

Item G-2 is Docket Number 12-0636 which is our citation proceeding initiated pursuant to Section 7 of the Illinois Gas Pipeline Safety Act to determine whether Ameren failed to comply with certain federal rules for the establishment of
minimum safety standards. ALJ Jones recommends entry
of an Order approving a stipulation between Ameren
and Staff.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered,
and the stipulation is approved.

Item G-3 is Docket Number 13-0369.

This is EMEX Power, LLC's, application for a
Certificate of Service Authority under Section 19-110
of the Public Utilities Act to operate as an
alternative gas supplier. EMEX has filed a motion to
withdraw its application which ALJ Von Qualen
recommends we grant.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the motion is granted.

Item G-4 is Docket Number 12-0569.
This is Nicor Gas' proposed establishment of Rider 17, Purchase of Receivables for Consolidated Billing. RESA and IGS have requested oral argument. The proceeding was initiated pursuant to Section 9-201 of the Public Utilities Act. Thus, we are obligated to grant RESA and IGS' request. We will send a notice to the parties with a date for the oral argument and the issues to be considered.

Moving on to Telecommunications, Item T-1 is Docket Number 12-0550. This is Sprint's petition for arbitration pursuant to Section 252(b) of the Telecommunications Act, and before us today is a proposed Arbitration Order.

Is there any discussion?

(No response.)

Is there any objection?

(No response.)

Hearing none, the Arbitration Order is entered.

Item T-2 is Docket Number 13-0251. This is Grafton Telephone Company and US Cellular Operating Company of Chicago's joint petition seeking
approval of an amendment to an existing interconnection agreement. ALJ Baker recommends entry of an Order approving the amendment.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered.

Item T-3 is Docket Number 11-0225.

This is our citation of Brian Esterman for failure to file an Annual Report. Because the respondent has now filed the required report, Staff and the Chief Clerk recommend entry of an Order reopening the proceeding and then dismissing the proceeding.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered.

The record is reopened, and the proceeding is dismissed.

Item T-4 is Docket Number 12-0479.
This is our rulemaking proceeding for Title 83, Part 757 of the Administrative Code amending the rules applicable to the telephone assistance program. ALJ Riley recommends entry of an Order adopting the proposed amendments.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered, and the amendments are adopted.

Item T-5 is Docket Number 13-0288 which is ExteNet System's petition for the confidential and/or proprietary treatment of its Annual Report. ALJ Von Qualen recommends entry of an Order granting the requested relief for a period of two years.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered.
We have one miscellaneous item on the agenda today which concerns our proposed rulemaking to adopt proposed amendments to 83 Illinois Code 285 which are the standard information requirements for public utilities/telecommunication carriers in filing for an increase in rates. Staff recommends entry of an Order initiating the proceeding and authorizing the first notice period.

Is there any discussion?

I appreciate that Staff suggested in this case information be provided electronically. I think that's a very good one in this day and age. That's the right choice environmentally. It will cut down on rate costs as well, so it is a good choice for the ratepayers. Because it's cutting down costs of printing and storage and other things that are probably unnecessary in today's day and age, and so it is helpful on a lot of fronts. So I appreciate Staff's suggestion there.

Are there any objections?

(No response.)

Hearing none, the Order is entered.
We have three petitions for rehearing to consider today. PR-1 is Docket Numbers 01-0705, 02-0067 and 02-0725 Consolidated. This is Nicor's petition for rehearing and for a stay of a portion of the Commission's decision, specifically on the issue of delivered service storage capacity withdrawals. ALJs Dolan and Haynes recommend entry of an Order denying both the petition for rehearing and for stay. Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is granted, and the request for rehearing and stay are denied.

Item PR-2 is Docket Number 11-0588. This is ComEd's petition for rehearing regarding the applicability of Section 16-125(e) liability to events caused by the summer of 2011 storm systems pursuant to Section 16-125 of the Public Utilities Act. ALJ Dolan recommends that the application for rehearing be denied. Is there any discussion?
(No response.)

Any objections?

(No response.)

Hearing none, the request for rehearing is denied.

Item PR-3 is Docket Number 11-0662.

This is ComEd's petition for rehearing regarding applicability of Section 16-125(e) liability to events caused by February 1, 2011, storm systems pursuant to Section 16-125 of the Public Utilities Act. ALJ Dolan recommends that the application for rehearing be denied.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the request for rehearing is denied.

We have three other items of business today. The first item concerns the Commission's approval of the proposed benchmarks for the FutureGen Clean Coal Project. This item concerns a
confidential filing, so any discussion of the
benchmark should be limited to information that is
public.

Is there any discussion?
(No response.)

Are there any objections?

COMMISSIONER McCabe: Yes. I am voting against
the benchmark. In December of last year I voted
against the amendment to include FutureGen into the
IPA procurement plan, given the impact on ratepayers.
In this case it does not appear that the outside
consultant retained by Illinois Power Agency engaged
in any significant analysis of its own in developing
the benchmarks. Rather, the consultant set out
benchmarks that merely restate FutureGen's own
numbers.

While it is certainly difficult to
have precise numbers for a project like this, I
cannot support benchmarks that will cost ratepayers
about ten times the going rate of current electricity
even after all federal subsidies are applied.

CHAIRMAN Scott: Since there is an objection,
we need a motion to approve the benchmark then. Is there a motion?

COMMISSIONER COLGAN: So moved.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER DEL VALLE: Second.

CHAIRMAN SCOTT: It's been moved and seconded to approve the benchmark.

Any further discussion?

(No response.)

All in favor of approving the benchmark vote aye.

COMMISSIONERS: Aye.

CHAIRMAN SCOTT: Opposed?

COMMISSIONER McCABE: No.

CHAIRMAN SCOTT: The vote is four to one, and the benchmarks are approved.

The second item of other business today is our review of the Annual Report on cable and video service deployment by providers granted state-issued cable and video service authorization.

Any discussion of the report?

(No response.)
Any objections to accepting the report?

(No response.)

Hearing none, the report is accepted.

The third item of other business today is a FERC item regarding comments on Section 203, application of Ameren Energy Generating Company and other Ameren entities seeking FERC approval for the transfer of merchant generating assets to Dynegy.

This item has been worked out and has been withdrawn from today's agenda.

Lastly, we will address Item E-4 which was held earlier during this session. Item E-4 is Docket Number 13-0034. This is Phase 2 of FutureGen's Clean Coal Project and Sourcing Agreement arising out of the Commission's Order in the recent power procurement plan proceeding. Commissioner Colgan and I have some edits to propose.

Commissioner Colgan?

COMMISSIONER COLGAN: Thank you, Chairman. The General Assembly established in the IPA Act that it is the goal of the State of Illinois that by January
1, 2025, 25 percent of the electricity used in this state shall be generated by cost-effective clean coal facilities.

In furtherance of that goal, in December the Commission entered an Order approving the procurement plan which included the FutureGen 2 project, and in my opinion the FutureGen 2 project is a significant first step in attaining this very important goal for the state of Illinois.

Because certain issues were unresolved at that time, the Commission initiated the current docket to address the outstanding issues regarding FutureGen's sourcing agreement. And, in fact, the Commission was quite specific in both the Procurement Order and in the Initiating Order in this docket when it stated that issues resolved in Phase 1 shall not be litigated in Phase 2 of this process.

With these objectives in mind, I am proposing amendments today to the Commission's Analysis and Conclusions sections under both the Benchmarks and the Levelized Fixed Carrying Charge Rate. My edits to the Benchmarks section refer to
the determination just made by the Commission regarding the FutureGen benchmark, and direct ComEd and Ameren to sign the sourcing agreement within 60 days.

And, Mr. Chairman, I understand that you have additional edits to this section regarding the benchmark confidentiality.

CHAIRMAN SCOTT: Yes. On the benchmark confidentiality there was a lot of discussion about that particular issue, and the amendments that I am suggesting rewrite the last paragraph of that section appreciating the arguments that have been put forth by all the parties but distinguishing confidentiality in this type of procurement from confidentiality in the other types of procurements that we deal with which have a specific confidentiality requirement that is actually set forth in the statute.

So without having that, the Commission believes, according to the revision, that the interest of transparency compels disclosure of the benchmark and the underlying methodology. However, in so doing that, we also recognize that there may be
particular pieces of information in the benchmark methodology that warrant the protection of confidentiality. So these revisions would give the parties an opportunity, upon completion of the signing of the sourcing agreement, a period of time in which they may petition the Commission and ask that certain items be made confidential, reiterating what Commissioner Colgan said, that the scope of this filing is limited only to issues of confidentiality. Now, we are not re-litigating the benchmarks in any such filing that would come before us.

And those are the revisions to that portion, I believe. You have some on Levelized Fixed Carrying Charges, I believe.

COMMISSIONER COLGAN: Right. Yeah, my edits to the LFCCR section change the methodology used for the LFCCR and adopt FutureGen's position that the approved ten percent return on equity is a nominal rate.

It is indisputable that in the final 2013 Procurement Order the Commission expressly considered and approved certain elements to be used
to calculate the LFCCR as proposed by FutureGen, namely the ten percent annual return on common equity and the 55/45 debt to equity capital structure.

My proposed edits affirm these prior decisions and provide FutureGen with an annual fixed project payment sufficient to attract the capital necessary for the construction and operation of the FutureGen project.

While the Commission has previously approved the FutureGen project in the procurement plan, I believe the Commission must now allow the project to succeed. So, Mr. Chairman and Commissioners, along with your proposed edits I request support for these joint edits and move that they be approved.

CHAIRMAN SCOTT: Is there a second?

ACTING COMMISSIONER DEL VALLE: Second.

CHAIRMAN SCOTT: The joint edits have been moved and seconded.

Discussion on the edits themselves?

(No response.)

All in favor of the edits vote aye.
COMMISSIONERS: Aye.

CHAIRMAN SCOTT: Any opposed?

COMMISSIONER McCabe: No.

CHAIRMAN SCOTT: The vote is four to one, and the edits are adopted.

Is there now a motion to enter the Order as amended?

COMMISSIONER COLGAN: So moved.

CHAIRMAN SCOTT: Is there a second?

ACTING COMMISSIONER DEL VALLE: Second.

CHAIRMAN SCOTT: It's been moved and seconded.

Any discussion on the Order as amended?

(No response.)

All in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN SCOTT: Any opposed?

COMMISSIONER McCabe: No.

CHAIRMAN SCOTT: The vote is four to one, and the Order as amended is adopted.

Judge Wallace, are there any other matters to come before the Commission today?
JUDGE WALLACE: No, that's all there is, Mr. Chairman.

CHAIRMAN SCOTT: Thank you very much, sir. That being the case, nothing further to come before the body, this meeting stands adjourned. Thank you, everyone.

BENCH SESSION CONCLUDED