BEFORE THE
ILLINOIS COMMERCE COMMISSION

BENCH SESSION
(PUBLIC UTILITY)

Springfield, Illinois
Wednesday, July 27, 2011

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 teleconference)
MS. ERIN M. O'CONNELL-DIAZ, Commissioner
(Via teleconference)
MR. SHERMAN J. ELLIOTT, Commissioner
MR. JOHN T. COLGAN, Acting Commissioner

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 regularly scheduled Bench session of the Illinois Commerce Commission. With me in Springfield are Commissioner Elliott and Acting Commissioner Colgan. Joining us from Chicago are Commissioner Ford and Commissioner O'Connell-Diaz. 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 the bench session. 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
CHAIRMAN SCOTT: We will move on to the Public Utility agenda and start with the approval of the minutes from the prior Commission meeting. We have minutes from our June 22 Bench session. I understand amendments have been forwarded. Is there a motion to amend the minutes?

ACTING COMMISSIONER COLGAN: So move.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER ELLIOTT: 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 amendments to the June 22 minutes are adopted.

Now is there a motion to approve the minutes as amended?

ACTING COMMISSIONER COLGAN: So move.

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 the June 22 Bench session minutes as amended are approved.

Turning now to the Electric portion of today's agenda, Items E-1 and E-2 (11-0546, 11-0547) can be taken together. These items concern the evaluation of ComEd and Ameren's experimental residential real-time pricing programs. Staff recommends entering Orders initiating these proceedings.

Is there any discussion?

(No response.)

Is there a motion to enter the Orders initiating the proceedings?

COMMISSIONER ELLIOTT: So move.

CHAIRMAN SCOTT: Is there a second?

ACTING COMMISSIONER COLGAN: 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

Orders are entered.

We will use this five to nothing vote

for the remainder of the Public Utility agenda unless

otherwise noted.

Items E-3 and E-4 (11-0548, 11-0549)

can be taken together. They concern 2009 reliability

reports concerning the reliability performance of

AmerenIP and the Mt. Carmel Public Utility Company

prepared by Staff pursuant to Section 16-125(D) of

the Public Utilities Act and Part 411.140 of the

Administrative Code. Staff recommends entry of

Orders adopting the reports.

Is there any discussion?

(No response.)

Any objections?

(No response.)
Hearing none, the Orders are entered.

Item E-5 concerns a filing by MidAmerican Energy Company to modify Rate Number 57, Cogeneration and Small Power Production Facilities, to provide the avoided-cost energy credits. Staff recommends not suspending the filing.

Commissioner Elliott, I understand you have some questions for Staff?

COMMISSIONER ELLIOTT: Yes, Mr. Chairman. It is not so much a question, but I do believe we have someone here from Staff that may be able to address this.

I see no reason to suspend the filing or to hold this up. My only question regarding this issue is whether it comports with similar filings of the other regulated utilities, ComEd and Ameren. I know that most of those in terms of avoided production costs reference the MISO or PJM market prices in some context. And in this case MidAmerican is only referencing their production costs. And they have recently joined the Midwest ISO as a market member.
So I am just trying to get some context. I would like Staff to explore whether or not we should take a look at seeing whether they should be referencing MISO market prices in any way, shape or form, or if it just generally comports with the others, if we are being consistent with our approaches here.

So if I could have them take a look at that with Commission support and report back to us, if that's agreeable, and we can move forward on this and then they can let us know what their options are at some future point.

CHAIRMAN SCOTT: Is there any discussion from Chicago?

COMMISSIONER FORD: I defer to my fellow Commissioners.

COMMISSIONER O'CONNELL-DIAZ: So just so I am clear, so we are going to vote on this today and then we are going to get --

COMMISSIONER ELLIOTT: Yeah, I don't see any reason to hold this up in any way. I just wanted to make sure that we are doing things the same way
across the board. And circumstances with MidAm and MISO have changed in the recent years and I just wanted to make sure we are connecting all the dots and just let Staff take a look at that.

COMMISSIONER O'CONNELL-DIAZ: Good point.

MR. HENDRICKSON: Certainly Ameren's tariff references MISO LMP's prices.

COMMISSIONER ELLIOTT: We know ComEd does.

MR. HENDRICKSON: For PJM.

COMMISSIONER ELLIOTT: Right.

MR. HENDRICKSON: MidAmerican's does not currently specifically state or address anything related to MISO.

COMMISSIONER ELLIOTT: Right. So to the extent that maybe we should, in the future you can come back to us with --

MR. HENDRICKSON: I can look into that and see if it needs to be.

CHAIRMAN SCOTT: Very good. Thank you.

COMMISSIONER ELLIOTT: Thanks, John.

CHAIRMAN SCOTT: Is there any additional discussion?
(No response.)

Any objections?
(No response.)

Hearing none, the filing is not suspended.

Item E-6 is Docket Number 08-0264.

This is King's Walk Condominium Association's complaint alleging overcharges by ComEd. ALJ Sainsot recommends that the Commission enter an Interim Order dismissing a set of the complaint allegations pursuant to the statute of limitations in Section 9-252 of the Public Utilities Act.

Is there any discussion?
(No response.)

Any objections?
(No response.)

Hearing none, the Interim Order is entered.

Items E-7 through E-9 (10-0722, 11-0007, 11-0084) can be taken together.

These items all concern customer complaints filed against AmerenIP and ComEd. In each case the parties
have apparently settled their differences and have
brought Joint Motions to Dismiss which the ALJs
recommend we grant.

Is there any discussion?
(No response.)
Any objections?
(No response.)
Hearing none, the Joint Motions to
Dismiss are granted.

Item E-10 (11-0329) concerns Jeff
Grady's complaint against Ameren Illinois. ALJ
Albers recommends that we enter an Order granting
Ameren Illinois' Motion to Dismiss.

Is there any discussion?
(No response.)
Any objections?
(No response.)
Hearing none, the Order is entered.

Items E-11 and E-12 (11-0468, 11-0474)
can be taken together. These items concern customer
complaints filed against ComEd. In each case the
parties have apparently settled their differences and
have brought Joint Motions to Dismiss which ALJ Benn recommends we grant.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Joint Motions to Dismiss are granted.

Item E-13 (11-0213) concerns James Smith's complaint against ComEd. Judge Riley recommends that we enter an Order dismissing the case with prejudice.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered.

Items E-14 through E-20 (11-0152, 11-0304, 11-0408, 11-0428, 11-0429, 11-0450, 11-0463) can be taken together. These items are applications for Licensure as an Agent, Broker and Consultant under Section 16-115(C) of the Public Utilities Act.
In each case ALJ Yoder recommends that the Commission enter an Order granting the requested certificate. Is there any discussion? (No response.) Any objections? (No response.) Hearing none, the Orders are entered and the certificates are granted.

E-21 (11-0479) is Clearview Electric Incorporated's application for a Certificate of Service Authority under Section 16-115 of the Public Utilities Act to operate as an alternative retail electric supplier. ALJ Yoder recommends that we enter an Order granting the requested Certificate of Service Authority.

Commissioner Colgan, I understand you have a few questions for Judge Yoder?

ACTING COMMISSIONER COLGAN: Yeah, I do.

CHAIRMAN SCOTT: Okay. Is the Judge available?

Good morning.

JUDGE YODER: Good morning.
ACTING COMMISSIONER COLGAN: In reviewing this application for the ARES Certificate of Authority, I came up with a few questions. I think the whole Commission in general really believes that we are encouraged about the development of the competitive market, and we want to see a robust and healthy market there. But as companies come into this marketplace, I think it is -- I feel responsible, and I know others do, too, that we make sure we are bringing good players into the market.

And after reading your memo I dug into the record, Attachment D, and found a decision that was entered by the Connecticut Commission against this company for violations of nine state statutes, including not maintaining records, confirming customer's desire to be switched, not cooperating with Commission investigation, not filing quarterly reports, not filing any annual report regarding renewable energy, not meeting filing requirements that indicate the company's capability to exchange data with the electric distribution company, complying with maintenance of customer complaint
records, complying with the filing requirements regarding disclosure of information, not complying with the requirement regarding posting of rates and charges, resource mix percentages and err emissions, and not complying with a requirement to provide timely notice regarding change of contact information.

And then I was pretty struck by a comment they made in the civil penalties section where they say, "In general Clearview's multiple violations of regulatory requirements as set forth in this notice indicate a broad and intentional disregard for regulatory, public policy, protection and disclosure measures. Clearview's failure to comply is so extensive that the department can only conclude that it never had an intention of observing any customer protection, regulatory or market discipline measures."

So I see that you are recommending that we allow this company to come into the Illinois marketplace, and I am kind of picking up that you feel like they have corrected these violations and
have changed their ways as a company. But I would
like to just kind of get your thoughts on that.

JUDGE YODER: Sure. The Commission, I think it
was about a year and a half ago or so, directed us to
start asking about complaints and complaint histories
in other jurisdictions, and in fact we have now added
it to the application for ARES, AGS and ABCs. So
this was all obviously in their application. It
appeared -- you know, otherwise they were clear.

It appeared from a review of this that
obviously Clearview did have problems back in like
late 2009 and very early 2010 when the Connecticut
proceeding began, and they also had a brief
proceeding with the Texas Public Utility Commission.

There is obviously no objective
requirement for looking at complaints and
determining, you know, you have had 20 before, you
are not managerially or technically qualified to be
able to be certified as an ARES in this application.
So it is obviously subjective.

It appeared from a review of the
complaint history that they had had a problem
obviously in that period, and then going forward they
appeared to have corrected those. Connecticut also
in their order indicated that they believed that
Clearview had instituted staffing and policy changes
responsive to the matters investigated in that
proceeding, and the complaints had decreased and they
have taken efforts to more closely comply with
licensing requirements.

So overall, viewing the application,
it appeared that Clearview has addressed their issues
that had arisen in that brief period of time, which
like some of them were from marketers that they
weren't clearly or adequately overseeing. Obviously,
that is still Clearview's requirement to oversee
those. But in a subjective overview of what they had
done in response to those, these proceedings and to
the complaints that had arisen, decreasing -- several
months they had none, one month I think they had two
complaints. They are a fairly large company. As a
subjective call in my opinion they had addressed
their complaint history adequately.

ACTING COMMISSIONER COLGAN: Okay. Reading
through the finding that they were in violation of
nine state statutes, it creates a big concern that
they are a company that might not be that interested
in all the requirements that they would have to
follow in Illinois. I know that the Staff here is
plenty busy without having to track a company that's
not a good player.

And I respect your point of view and I
saw those indicators that you mentioned, too. But,
you know, I think we need to keep an eye on this
company as they come in. I mean, they have had
problems in the past and I am not -- well, maybe I
would like to hold this, if we could, for a week or
until I have had a chance to look at it a little bit
closer.

COMMISSIONER O'CONNELL-DIAZ: Mr. Chairman?

JUDGE YODER: Yeah, they had to re-publish so
the deadline is not until August 28.

CHAIRMAN SCOTT: Yes, Commissioner

O'Connell-Diaz.

COMMISSIONER O'CONNELL-DIAZ: I would like to
address this through the record in this because I
consider the flagging of it by Commissioner Colgan to have brought it to my radar screen. I noticed that our Staff was not involved in the -- did not file an appearance in this. So I might suggest if we could get one of our Staff personnel to take a look-see at this.

I notice that the deadline date is the 28th of August, and I think that may assuage the concerns that we have with regard to their activities in other states and how can we be assured that they will comport and not act in the manner that they did, albeit two years ago, but they were acting like that. So that might ease the Commission's comfort in granting this or denying it, based upon our expert Staff.

And I am not suggesting that Judge Yoder does not have an appropriate review before us, but for comfort levels that might be a way, a route, for us to go.

COMMISSIONER ELLIOTT: No, I may --

JUDGE WALLACE: Commissioner, if I could just interject. Apparently, I am off camera so you can
just see my hand.

We don't go to hearing on these, and we do get Staff from Finance and Staff from Engineering and also Steve Hickey assists us on these. So they are given Staff review. With a 45-day deadline we have determined a long time ago we simply don't have time to go to hearing.

So it is all a -- everyone looks at them. If we see something wrong, we send out a ruling saying this is wrong. So I am unclear at this point what other Staff we could assign.

COMMISSIONER ELLIOTT: Well, just to follow up on the point that Commissioner O'Connell-Diaz raised, I think that when Commissioner Colgan raised this issue with me and we discussed the points in the Connecticut issue, it seemed to me that from a managerial point at that particular time they weren't very conversant in regulatory compliance and didn't seem to have dedicated staff that was responsible to meet those types of regulatory requirements.

It might be worthwhile, and perhaps if they have rectified that situation and, you know,
brought in staff to dedicate to these types of regulatory compliance issues in the state, that we make just an inquiry to the company to see whether they do have dedicated staff, who that staff person is and, you know, just develop a contact list for who is responsible for maintaining regulatory requirements and compliance issues in Illinois.

COMMISSIONER O'CONNELL-DIAZ: Well, to that point, what I would suggest is someone from our Office of Retail Market Development would be the appropriate personnel, with no disrespect to those, Mr. Hickey and the others, that have been involved in it up to this point of time.

And I think it is hampering to us that there isn't a transcript, but this is how the legislation is and this is how we have it. So we have to work within those confines. Because if there was a transcript, then we would know everything that Judge Yoder had done in his thorough review, and that wasn't clear from looking at the e-Docket because you can't read a transcript.

We still have time under the 45-day
time period, and so I would suggest that it would be
someone from our Retail Market Development to do
exactly what Commissioner Elliott just suggested.

COMMISSIONER FORD: And just a frame of
reference, we still have jurisdiction. Even if we
grant it, we could always come back in and bring them
before us again and take the certificate. So we
still have jurisdiction.

COMMISSIONER O'CONNELL-DIAZ: She just got her
law degree a few months ago. And that's absolutely
correct.

CHAIRMAN SCOTT: No, I was going to say I think
the suggestion to hold it and then along the lines of
Commissioner O'Connell-Diaz and Commissioner Elliott,
what you were suggesting makes a lot of sense just
from a comfort level standpoint on this since there
has been a track record, even if it looks like they
may have cleared it up. That makes sense to me.

ACTING COMMISSIONER COLGAN: Yes, I think
exactly what Commissioner Elliott said, it is clear
that somebody was asleep at the wheel. They didn't
have people assigned to make sure that these things
happen. Didn't even maybe read the mail when they
got notice that they hadn't done anything.

But, you know, I would like for -- I
would like the assurance that, when they sign off on
that litany of things that they have agreed to do in
the Illinois market, it was not just a perfunctory
check the boxes all yes and move on and then get out
into this marketplace. And by the time we find out
what's going on, they have -- you know, and I am not
accusing this company of anything, other than a bad
player could do a lot of damage in a short period of
time. So I would appreciate those assurances.

JUDGE YODER: Just so I'm clear, do the
Commissioners anticipate a report being filed by the
Office of Retail Market Development or how is it that
you want that information communicated to the
Commission?

COMMISSIONER O'CONNELL-DIAZ: Is the record
closed? Is that the problem?

JUDGE YODER: No.

JUDGE WALLACE: We can handle this by sending
out an ALJ ruling from Judge Yoder seeking additional
information. I am really unclear what our other
office would add at this time. Since you have laid
out your concerns, we can handle it just, you know,
within the record that is. I mean, that's what we
normally do. We send out rulings saying respond to
something and then they do. You know, we just have
never gone to hearing.

COMMISSIONER ELLIOTT: That's fine.

COMMISSIONER COLGAN: Yeah.

COMMISSIONER ELLIOTT: Procedurally that's fine
with me. You have a sufficient idea of the questions
they asked, I think.

CHAIRMAN SCOTT: Thanks, Judge. So that will
be held then for this morning then.

So we'll move to Items E-22 and E-23
(11-0494, 11-0503). Those can be taken together.

These regard North Shore Consulting and Summit Energy
Services' petitions for confidential treatment of
portions of their 2010 ABC recertification reports.

ALJ Yoder recommends that we enter Orders granting
the requested relief.

Is there any discussion?
(No response.)

Any objections?

(No response.)

Hearing none, the Orders are entered and the requested relief is granted.

Item E-24 (11-0513) is Southwestern Electric Cooperative, Inc., and Ameren Illinois' Joint Petition for approval of Amendment Number 12 of the Service Area Agreement dated August 20, 1970, between Southwestern Electric Cooperative, Inc., and Ameren Illinois. Chief Judge Wallace recommends that we enter an Order approving the petition.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered and the Joint Petition is granted.

Item E-25 (11-0358) concerns Ameren Illinois' proposed tariff language pertaining to the purchase of uncollectible receivables pursuant to Section 16-118 Sub E of the Public Utilities Act.
Before the Commission today is a Resuspension Order further suspending the proposed tariff language for six months.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Resuspension Order is entered.

Turning now to Natural Gas, Items G-1 through G-3 (10-0032, 11-0050, 11-0149) can be taken together. These items concern customer complaints filed against Just Energy, Nicor and Peoples Gas. In each case the parties have apparently settled their differences and have brought Joint Motions to Dismiss which the ALJs recommend we grant.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Joint Motions to Dismiss are granted.
Item G-4 (11-0477) concerns Peoples Gas' petition for an Order authorizing the purchase of certain securities and resale of those securities pursuant to Section 7-102 of the Illinois Public Utilities Act. Apparently, Peoples Gas has decided not to proceed with these actions, and ALJ Hilliard recommends granting the Motion to Withdraw.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Motion to Withdraw is granted.

Item G-5 (11-0520) will be held for consideration at a future date.

Moving now to Telecommunications, Item T-1 (10-0701) will be held for consideration at a future date, but I understand, Commissioner Elliott, you had a few questions regarding this item?

COMMISSIONER ELLIOTT: Yeah, this one has been a real puzzle to me, looking through the record. And being a non-lawyer, I would prefer to hold this. And
if I could get the Office of General Counsel to
provide a legal assistant, preferably someone with
federal pre-emption experience.

MS. STEPHENSON SCHROEDER: Yeah. Well, Tom
Stanton will be your assistant.

COMMISSIONER ELLIOTT: I am sorry? Tom
Stanton?

COMMISSIONER O'CONNELL-DIAZ: Mary Stephenson
is responding to your question. There is no room at
the table right now.

MS. STEPHENSON SCHROEDER: Yes, we can provide
somebody. And Tom Stanton has that expertise and he
will be your assistant.

COMMISSIONER ELLIOTT: Thank you. Then I will
direct some questions to Tom.

CHAIRMAN SCOTT: That item will be held for
consideration at a future date.

Item T-2 (11-0246) concerns Global
Crossing Telemanagement's petition for cancellation
of its Certificate of Authority to provide basic
local exchange telecommunication services. ALJ
Teague recommends entering an Order granting the
petition.

Is there any discussion?

(No response.)

Any objections?

(No response.)

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

Items T-3 through T-5 (11-0414, 11-0432, 11-0451) can be taken together. These items each concern petitions by telecommunication carriers for Certificates of Service Authority under Section 13-401 through 13-404 of the Public Utilities Act. In each case the ALJ recommends entry of an Order granting the requested authority.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Orders are entered and the certificates are granted.

Item T-6 (11-0368) is Chicago Jack Services' complaint against Primus
Telecommunications. The parties have apparently settled their differences and have brought a Joint Motion to Dismiss which ALJ Benn recommends that we grant.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Joint Motion to Dismiss is granted.

Item T-7 (11-0093) is a Motion to Dismiss the citation proceeding against Raza Telecom. ALJ Teague recommends granting the motion.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Motion to Dismiss is granted.

Items T-8 through T-11 (11-0237, 11-0238, 11-0240, 11-0241) can be taken together. They regard the revocation of certificates for
failure to file Annual Reports. ALJ Benn recommends entering Orders revoking the certificates.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Orders are entered and the certificates are revoked.

Items T-12 through T-14 (11-0292, 11-0315, 11-0349) can be taken together. These items concern petitions for confidential and/or proprietary treatment of the petitioners' 2007 Annual Reports. In each case ALJ Baker recommends that the Commission enter an Order granting the requested relief for a period of two years from the initial filing dates for the petition.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Orders are entered and the protective relief is granted.
Item T-15 (11-0444) is Illinois Consolidated Telephone Company's petition for consent and approval of the Equipment Location Agreement with Illinois Network Alliance, LLC, pursuant to Section 7-102 of the Public Utilities Act. Chief Judge Wallace recommends that we enter an Order approving the petition subject to the conditions agreed to by the parties.

Is there any objection?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered and the Equipment Location Agreement is approved.

We have one Petition for Reconsideration today. Item PR-1 (11-0083) is Big River Telephone Company's Petition for Reconsideration of an Arbitration Agreement with AT&T Illinois in Docket 11-0083. Chief Judge Wallace recommends denying the petition.

Is there any discussion?

(No response.)
Any objections?

(No response.)

Hearing none, the petition is denied.

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

JUDGE WALLACE: That's all today, Mr. Chairman.

CHAIRMAN SCOTT: Thank you very much, sir.

Hearing none, this meeting stands adjourned.

MEETING ADJOURNED