BEFORE THE
ILLINOIS COMMERCE COMMISSION
BENCH SESSION
(PUBLIC UTILITY)
Wednesday, July 9, 2014
Chicago, Illinois

Met, pursuant to notice, at 10:30 A.M.,
at 160 North La Salle Street, Chicago, Illinois.

PRESENT:
DOUGLAS P. SCOTT, Chairman
JOHN T. COLGAN, Commissioner
ANN MCCABE, Commissioner
SHERINA E. MAYE, Commissioner
Miguel Del Valle, Commissioner

SULLIVAN REPORTING COMPANY, by
PATRICIA WESLEY
CSR #084-002170
CHAIRMAN SCOTT: Pursuant to the provisions of the Open Meetings Act, I now convene the regularly scheduled Bench session of the Illinois Commerce Commission. With me in Chicago are Commissioner Colgan, Commissioner McCabe, Commissioner del Valle and 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.

Moving on to the Public Utilities agenda, we'll begin with the approval of minutes from our June 11th Bench session. I understand the amendments have been forwarded.

Is there a motion to amend the minutes?
COMMISSIONER COLGAN: So move.
CHAIRMAN SCOTT: Is there a second?
COMMISSIONER McCabe: Second.
CHAIRMAN SCOTT: Moved by Commissioner Colgan and seconded by Commissioner McCabe.

All in favor, say aye.
(Chorus of ayes.)

Any opposed?
(No response.)
The vote is 5 to nothing and the amendments are adopted.

CHAIRMAN SCOTT: Is there now a motion to approve the minutes as amended?
COMMISSIONER MAYE: So move.
CHAIRMAN SCOTT: Is there a second?
COMMISSIONER COLGAN: Second.
CHAIRMAN SCOTT: Moved by Commissioner Maye and seconded by Commissioner Colgan.

All in favor, say aye.
(Chorus of ayes.)

Any opposed?
(No response.)
The vote is 5 to nothing. The minutes from our June 11th Bench Session, as amended, are approved. Now we have approval of the minutes from our June 17th Regular Open Meeting. I understand amendments have been forwarded. Is there a motion to amend the minutes?

COMMISSIONER McCabe: So move.

CHAIRMAN Scott: Is there a second?

COMMISSIONER Maye: Second.

CHAIRMAN Scott: Moved by Commissioner McCabe and seconded by Commissioner Maye.

All in favor, say aye.

(Chorus of ayes.)

Any opposed?

(No response.)

The vote is 5 to nothing and the amendments are adopted.

Is there now a motion to approve the minutes as amended?

COMMISSIONER del Valle: So approve.
CHAIRMAN SCOTT: Is there a second?

COMMISSIONER McCabe: Second.

CHAIRMAN SCOTT: Moved by Commissioner del Valle and seconded by Commissioner McCabe.

All in favor, say aye.

(Chorus of ayes.)

Any opposed?

(No response.)

The vote is 5 to nothing and the minutes from our June 17th Regular Open Meeting, as amended, are approved.

Now to the electric portion of today's agenda. Item E-1 is Docket No. 13-0075. This is Ameren Illinois' compliance filing per a December 5, 2012 Order in Docket No. 12-0293. It appears the parties have resolved the issues and entered into a stipulation, which ALJ Yoder recommends we approve.

Is there any discussion?

(No response.)

Is there a motion to enter the Order?

COMMISSIONER McCabe: Move.
CHAIRMAN SCOTT:  Moved by Commissioner McCabe --

CHAIRMAN COLGAN:  Second.

CHAIRMAN SCOTT:  -- and seconded by Commissioner Colgan.

Any further discussion?

(No response.)

All in favor, say aye.

(Chorus of ayes.)

Any opposed?

(No response.)

The vote is 5 to nothing and the Order is entered. We will use this 5 to nothing vote for the remainder of today's public utility agenda unless otherwise noted.

Item E-2 is Docket No. 13-0266. This is Ameren Illinois' petition for approval of the initial reconciliation period of the Utility Consolidated Billing ("UCB") and Purchase of Receivables ("POR") Program, pursuant to Section 16-118 of the Illinois Public Utilities Act. ALJ Von Qualen recommends entry of an Order approving the reconciliation.
Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered.

Item E-3 is Docket No. 13-0484. This is iMEx Energy's Application for Licensure as an Agent, Broker and Consultant under Section 16-115(c) of the Public Utilities Act. ALJ Kimbrel recommends entry of an Order denying the requested certificate.

Is there any discussion?

(No response.)

Any objections.

(No response.)

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

Item E-4 is Docket No. 13-0657. This is ComEd's Application for a Certificate of Public Convenience and Necessity, pursuant to Section 8-406.1 of the Illinois Public Utilities Act, and an Order, pursuant to Section 8-503 of the Illinois Public Utilities Act, to construct, operate and
maintain a new 345kV transmission line in various counties across Illinois.

We have an Order that was not available on E-docket that I'm going to read from the Bench and ask for comments on. This is concerning the motion to file an Amended Petition, which was filed by Commonwealth Edison.

"By the Commission: On May 1, 2014, Commonwealth Edison Company ("ComEd") filed a supplement to its verified petition ("Supplement to Petition").

On May 28, 2014, the Administrative Law Judges ("ALJs") issued a Notice of Administrative Law Judges' Ruling ("ALJ Ruling") stating that subject to the reopening of the record by the Chief Administrative Law Judge, ComEd's voluntary request to reopen and supplement the record is granted. The ALJ Ruling made ComEd's supplement to the record, as well as staff's or any parties' responses thereto, a part of the evidentiary record.

In response to this Ruling, on May 29,
2014, ComEd filed its Motion for Leave to File an Amendment to its Petition ("Motion") to plead the additional facts contained in its supplemental filing. A schedule was set for responses and replies to ComEd's Motion to be filed by June 6 and 13, 2014 respectively. No parties filed responses or replies and the ALJs have not yet ruled on ComEd's motion.

ComEd's motion states that the need for this amended petition arose from the filing of notice by the petitioner to a landowner who was not the record landowner at the time the records of the relevant county assessor were inspected.

Section 200.150(h), of the Commission's rules (83 Ill. Admin Code, Section 200.150(h)), requires that a person filing an application under Section 8-406 of the Public Utilities Act ("Act") for a Certificate of Public Convenience and Necessity to construct facilities upon or across privately-owned tracts of land, or filing under Section 8-503 of that Act, shall include with the application when filed with the
Commission a list containing the name and address of each owner of record of the land as disclosed by the records of the tax collector of the county in which the land is located as of not more than 30 days prior to the filing of the application.

In this case, the petitioner has indicated that in collecting the landowner records, they began this collection three days earlier than the required period. As a result ComEd proposed to extend the schedule beyond the statutory deadline to address this error and agreed to waive any right to demand, whether by motion or separate action, a more rapid decision or otherwise assert that the reopening was error, based on the adoption of this new schedule.

Section 8-406.1(g) of the Act (220 ILCS 5/8-406.1(g) states that the Commission shall issue its decision with findings of fact and conclusions of law granting or denying the application no later than 150 days after the application is filed, with the option to extend the 150-day deadline upon notice by an additional
75 days if, on or before the 30th day after the filing of the application, the Commission finds that good cause exists to extend the 150-day period.

Some may suggest that because the expedited timeline inures to the benefit of the petitioner, their waiver should suffice. It does not. The statute is clear in terms of the deadline and provides only for a one-time extension which may be granted by the Commission for good cause, as it already has been in this case. We are bound by the deadlines in this and many other types of cases, and unless there is authority to waive them, the Commission cannot create new timeliness.

Even if all the parties have agreed to a waiver, it does not appear to the Commission that the Act allows for such an outcome in this proceeding. All who participate in matters before the Commission have the right to know when their cases will be decided based on the applicable portion of the Act.

In this case, the acceptance of an amended petition rectifying the prior notice issue
triggers a new 150-day deadline.

The Commission notes its responsibility to ensure that in proceedings such as this all affected parties are afforded the opportunity to be heard. That duty may even be enhanced in expedited transmission cases, which have an incredibly short deadline.

We have spoken in the past regarding how the expedited nature of transmission cases filed under Section 8-406.1 of the Act make it difficult to adequately assess the merits of the case and this instance is no exception. The problem is exacerbated by lack of timely notice to affected landowners. The Commission must do what it can to make sure landowner rights are protected. These concerns further validate a reset of the statutory timeline based on the motion to file an amendment to the petition.

Based on the forgoing, and pursuant to its authority under Section 10-110 of the Public Utilities Act, the Commission grants ComEd's motion to file its amended petition pleading new facts with
regard to notice. The 150-day statutory deadline shall be reset to begin on May 29, 2014, the date ComEd filed its motion.

The Commission finds that the procedural schedule set in the ALJ Ruling on May 28, 2014 is reasonable and shall be adopted with the limits to the parameter and scope set out in the ALJ Ruling except that the final deadline for Commission action is October 27, 2014.

The remaining schedule is as follows:

Tuesday, July 15, 2014, ComEd can file surrebuttal testimony on reopening, if necessary; July 23 or 24, 2014, one-day hearing, if necessary; Thursday, August 7, 2014, briefs on issues presented in reopening; Friday, August 15, 2014, reply briefs on issues presented in reopening; Thursday, September 4, 2014, ALJ's Proposed Order on all issues; Monday, September 15, 2014, briefs on exceptions addressing all issues; Tuesday, September 23, 2014, reply briefs on exceptions addressing all issues; and Monday, October 27, 2014, deadline for ICC action. By Order of the Commission
this 9th day of July 2014."

And I would move for adoption of the Order.

Is there a second?

COMMISSIONER del VALLE: Second.

CHAIRMAN SCOTT: Seconded by Commissioner del Valle.

Discussion on the Order.

COMMISSIONER MAYE: I have a comment.

CHAIRMAN SCOTT: Commissioner Maye.

COMMISSIONER MAYE: Thank you. I believe that this is the second utility now to file under an expedited provision of this Act. I also believe this is the second time the notice of filing was severely botched.

I think that we had mentioned before that we cannot prevent or force anyone to file under the Commission's notice requirement and that we cannot stop them from filing under the expedited provision, but, at the very least, if you are going to file under the expedited provision and force this expedited deadline on the Commission, the very least
that you can do is to do your due diligence and come with all your ducks in a row. That has not happened yet.

So I'm going to say that I think that it is becoming clear that this expedited provision allows for 150 days to conduct such a large project with such a large size in latitude has become impossible, and I would hope that you take that into consideration and move forward.

CHAIRMAN SCOTT: Further discussion?

(No response.)

All in favor?

JUDGE WALLACE: Chairman, if I may --

CHAIRMAN SCOTT: Yes.

JUDGE WALLACE: -- may I interrupt for a minute?

CHAIRMAN SCOTT: Yes. Go right ahead.

JUDGE WALLACE: This is Judge Wallace. Would you mind terribly if we put in another sentence that this Order is not final and it's not subject to Administrative Review Law?

CHAIRMAN SCOTT: That's fine.

JUDGE WALLACE: Okay.

COMMISSIONER COLGAN: We need a motion to that effect.

CHAIRMAN SCOTT: We need to make a motion to amend and add that particular sentence.

COMMISSIONER COLGAN: Move.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER McCABE: Second.

CHAIRMAN SCOTT: Moved by Commissioner Colgan and seconded by Commissioner McCabe to add the sentence suggested by Judge Wallace.

All in favor, say aye.

(No response.)

Any opposed?

(No response.)

Vote is 5 to nothing and the amendment is approved.

And now we vote on the Order as amended. The motion to second still stands for that.
Is there any further discussion on the Order as amended?

(No response.)

All in favor, say aye.

(Chorus of ayes.)

Any opposed?

(No response.)

Vote is 5 to nothing and the Order, as amended, is adopted.

I want to thank, in a very quick time frame, all of the offices for all of their assistance on that, so thank you very much. We really appreciate it.

Item E-5 is Docket No. 13-0606. This is Raymond La Vigne's complaint against ComEd as to billing and/or charges in Palatine. ALJ Hilliard recommends entry of an Order dismissing the complaint with prejudice.

Is there any discussion?

(No response.)

Any objections?

(No response.)
Hearing none, the Order is entered and the complaint is dismissed.

Item E-6 is Docket No. 14-0344. This is Leticia Lopez's complaint against Starion Energy PA as to billing/charges in Prospect Heights. It appears the parties have settled their differences and have filed a Stipulation and Joint Motion to Dismiss, which ALJ Riley recommends we grant.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the motion is granted and the complaint is dismissed.

Item E-7 is Docket No. 14-0107. This is our citation against CRM Marketing Group for failure to file its compliance recertification report as required by 83 Ill. Adm. Code 454.110 and for failure to maintain corporate status. ALJ Kimbrel recommends entry of an Order canceling the respondent's certificate.

Is there any discussion?
(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered.

Item E-8 is Docket No. 14-0366. This is Wayne-White Counties Electric Cooperative and the City of McLeansboro's Joint Petition for approval of a territorial agreement that provides for exclusive electric service in Hamilton County. ALJ Von Qualen recommends entry of an Order granting the requested relief.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered.

Items E-9 through E-12 can be taken together. These items are applications for certification to install, maintain or repair electric vehicle charging station facilities under Section 16-128(a) of the Public Utilities Act. In each case ALJ Benn recommends entry of an Order
granting the certificate.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Orders are entered.

Item E-13 is Docket No. 14-0418. This is Pepco Energy Services' Petition to surrender its ARES certificate, which ALJ Riley recommends we grant.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered.

Turning now to Natural Gas, Items G-1 and G-2 can be taken together. These items are North Shore Gas Company and Peoples Gas, Light and Coke Company's petitions pursuant to the Rider UEA of schedule of rates for gas service to initiate a proceeding to determine the accuracy of Rider UEA reconciliation statement. In both cases,
ALJ Teague Kingsley recommends entry of an Order approving the reconciliation.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Orders are entered.

Item G-3 and G-4 can be taken together. These items are North Shore Gas Company and Peoples Gas, Light and Coke Company's proposed general increases in gas rates. In both cases staff recommends entry of a Resuspension Order extending the period of suspension for a further six months.

Is there any discussion?

(No response.)

Are there any objections?

(No response.)

Hearing none, the Resuspension Orders are entered.

On the Telecommunications, Item T-1 is Docket No. 11-0109. This is Clear Choice Telcom's application of public convenience and necessity to
provide resold long distance service throughout the State of Illinois. ALJ Judge Teague Kingsley recommends entry of an Order dismissing the application for want of prosecution.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered and the application is dismissed.

Item T-2 is Docket No. 11-0584. This is Infinity Business Solutions' application for a certificate to become a telecommunications carrier, which ALJ Teague Kingsley recommends we dismiss for want of prosecution.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered and the application is dismissed.

Item T-3 is Docket No. 14-0428. This
is the County of Champaign's Petition for
Modification of a 9-1-1 Emergency Telephone System,
which ALJ Haynes recommends we approve.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered.

Item T-4 is Docket No. 14-0348. This
is Intrado Communications' application for a
Certificate of Local and Interexchange Authority to
operate as a reseller and/or facilities-based
carrier of telecommunications services in Illinois.
ALJ Jorgenson 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 T-5 is Docket No. 14-0395. This
is Eos Mobile Holdings' Application for a
Certificate of Wireless Authority to operate as a reseller carrier of telecommunications services throughout the State of Illinois. ALJ Riley 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.

Excuse me.

Item T-6 is Docket No. 14-0436. This is Gigabit Squared Chicago’s request for withdrawal of local exchange carrier and interexchange carrier certificates. ALJ Riley recommends entry of an Order canceling the certificate.

Is there any discussion?
(No response.)

Any objections?
(No response.)

Hearing none, the Order is entered.

On to Water and Sewer, Item W-1 is
Docket No. 13-0373. This is Cherille Miles' complaint against Illinois-American Water Company as to billing/charges in Bolingbrook. The complainant has filed a voluntary dismissal stipulating that all issues have been resolved, which ALJ Baker recommends we grant.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the motion is granted and the complaint dismissed.

Item W-2 is Docket 14-0379. This is Illinois-American Water Company's application for a variance from Part 600.370 (c)(2) of the rules of the Illinois Commerce Commission and from LAWC's tariff in response to a request for water service at a property in Jersey County. ALJ Von Qualen recommends entry of an Order granting the requested variance.

Is there any discussion?

(No response.)
Any objections?  

(No response.)

Hearing none, the Order is entered.

Moving now to Miscellaneous, Item M-1 is Docket 06-0703. This item concerns our revision of 83 Ill. Adm. Code 280. ALJ Hilliard recommends entry of a Second Notice Order and revised rule.

Is there any discussion?  

(No response.)

Any objections?  

(No response.)

Hearing none, the Order is entered.

COMMISSIONER COLGAN: Chairman, I just need to recuse myself from voting on this.

CHAIRMAN SCOTT: So the vote on Item M-1 would be 4 to nothing. You are recused. Thank you, Commissioner Colgan.

Item M-2 and M-3 can be taken together. These items concern our amendments to 83 Ill. Adm. Code 210 and 220. In both cases, ALJ Baker recommends entry of an Order adopting the proposed amendment.
Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Orders are entered.

We have two sets of Petitions for Rehearing to consider today. Item PR-1 is Docket No. 13-0549. This is Nicor's application pursuant to Section 8-104 of the Public Utilities Act for consent to and approval of an energy efficiency plan.

Nicor filed an Application for Rehearing concerning its proposed adjustable savings goals and proposed housekeeping corrections on Findings 8 through 12 and 19 of the final Order. ALJ Benn recommends we deny the Application for Rehearing, as well as the company's proposal to strike Findings 8 through 12, and approve the amendment to Finding 19 of the Order.

Is there any discussion?

(No response.)

Is there any objections?
JUDGE WALLACE: Chairman --

CHAIRMAN SCOTT: Yes. Go ahead.

JUDGE WALLACE: -- this is Judge Wallace again.

I think, to be on the safe side, I need to present you with the Amended Order on the one change at the next meeting.

CHAIRMAN SCOTT: Okay. That will be fine. Thank you. We'll go ahead and vote on that change, and then you can present the Order with that change, correct?

JUDGE WALLACE: Yes.

CHAIRMAN SCOTT: Very good.

So the motion again we have before us today would be to deny Nicor's Application for Rehearing and, as a housekeeping correction, approve only with respect to Finding 19 of the Order.

That's the motion.

Is there any discussion?

(No response.)

Are there any objections?

(No response.)

Hearing none, Nicor's Application for
Rehearing is denied and its housekeeping corrections are approved in part and denied in part.

Item PR-2 is Docket No. 13-0550. This is North Shore and Peoples Gas, Light and Coke Company's application pursuant to Section 8-104 of the Public Utilities Act to submit an energy efficiency plan. The companies filed an Application for Rehearing concerning the adjustment of savings goals due to the annual changes to the TRM and NTG ratios, which ALJ Benn recommends we deny.

Is there any discussion?

(No response.)

Are there any objections to the denial?

(No response.)

Hearing none, the Application for Rehearing is denied.

Before we adjourn, I would like to remind everyone that we are hosting a gas and electric policy session on the coordination between the natural gas and electric industries today at 1:00 p.m. The meeting will take place in Chicago in
this room and will be available via videoconference at the ICC's Springfield office. Thanks to Commissioner Colgan and his advisor, Linda Wagner, for organizing this session, and we look forward to everyone's participation this afternoon.

Anything you want to say, Judge Wallace? Are there any other matters to come before the Commission today.

JUDGE WALLACE: No, that's all.

CHAIRMAN SCOTT: Thank you, sir.

Hearing none, this meeting stands adjourned. Thank you, everyone.

(Whereupon, the above matter was adjourned.)
CERTIFICATE OF REPORTER

STATE OF ILLINOIS )
     ) SS:
COUNTY OF COOK     )

TITLE: BENCH SESSION (PUBLIC UTILITY)

I, PATRICIA WESLEY, do hereby certify
that I am a court reporter contracted by
SULLIVAN REPORTING COMPANY, of Chicago, Illinois;
that I reported in shorthand the evidence taken
and the proceedings had on the hearing on the
above-entitled case on the 9th day of July
A.D., 2014; that the foregoing 30 pages are a
true and correct transcript of my shorthand
notes so taken as aforesaid, and contains all
of the proceedings directed by the Commission
or other person authorized by it to conduct the
said hearing to be stenographically reported.

Dated at Chicago, Illinois, this
17th day of July, A.D., 2014.

[Signature]

Reporter.