BEFORE THE

ILLINOIS COMMERCE COMMISSION

BENCH SESSION

(PUBLIC UTILITIES)

Springfield, Illinois

Wednesday, August 14, 2013

Met, pursuant to notice, at 10:30 a.m., Illinois Commerce Commission, 527 East Capitol Avenue, First Floor, Springfield, Illinois.

PRESENT:

MR. DOUGLAS P. SCOTT, Chairman
MS. ANN McCABE, Commissioner
MS. SHERINA MAYE, Acting Commissioner
(Via videoconference)
MR. MIGUEL DEL VALLE, Acting Commissioner
(Via videoconference)

MIDWEST LITIGATION SERVICES
By: Rhonda Rhodes Bentley, Reporter
License No. 084-002706
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 McCabe. With us in Chicago are 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.

Moving on to the Public Utility agenda, we'll begin with Item E-1, which is MidAmerican's annual filing to modify its Rate No. 57 for Cogeneration and Small Power Production Facilities. Staff recommends that we approve the new rate by not suspending the filing.

Is there any discussion?

(No response.)
Is there a motion to not suspend the filing?

COMMISSIONER McCABE: So moved.

CHAIRMAN SCOTT: Is there a second?

ACTING COMMISSIONER MAYE: Second.

CHAIRMAN SCOTT: It's been moved and seconded. All in favor say aye.

(A chorus of ayes.)

Any opposed?

(No response.)

The vote is four to nothing, and the filing is not suspended. We will use this four to nothing vote for the remainder of today's Public Utilities Agenda unless otherwise noted.

Item E-2 is MidAmerican's filing to modify Rider 4, Interruptible Service, and Rider 14, Curtailment Service. Staff recommends that we approve the modification by not suspending the filing.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the filing is not suspended.
Item E-3 is Ameren's filing proposing revenue neutral tariff changes, pursuant to Section 16-108.5(e). Staff recommends that we enter an Order suspending the filing and setting the matter for hearing.

Is there any discussion?
(No response.)

Any objections?
(No response.)

Hearing none, the Order is entered, and the filing is suspended.

Item E-4 is ComEd's filing to revise its Rider PORCB by changing the definition of uncollectible factor and establishing a cost recovery amount. Staff recommends that we approve this revision by not suspending the filing.

Is there any discussion?
(No response.)

Any objection?
(No response.)

Hearing none, the filing is not suspended.

Item E-5 is Docket No. 11-0672. This is our investigation into MidAmerican's
compliance with Section 8-101 of the Public Utilities Act. ALJ Jones recommends entry of a Post Exceptions Order adopting three of Staff's recommendations.

I believe Commissioner McCabe has some proposed edits here. Commissioner.

COMMISSIONER McCabe: Yes. The edits I am proposing adopts Staff recommendation to have the company conduct their own investigation of accidents regardless of whether they involve a contract employee or direct employee.

In its reply brief, MidAmerican conceded that it currently does its own review and determination of circumstances surrounding an accident involving its contractors.

As Staff points out, these edits simply insure that MEC has the ultimate responsibility for monitoring and conducting investigations of accidents at their facilities. This will enable the company to identify and implement safety measures and will insure the company meets its burden under Section 8-101 of the Public Utilities Act.

I thank the Chairman for his input and fellow Commissioners for their support, and I move for adoption of the edits.
CHAIRMAN SCOTT: Commissioner McCabe has moved for the adoption of the edits. Is there a second?

ACTING COMMISSIONER MAYE: Second.

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

(No response.)

All in favor of the revisions say aye.

(A chorus of ayes.)

Any opposed?

(No response.)

The vote is four to nothing, and the revisions are adopted.

Any other discussion on this matter?

(No response.)

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

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.

(A chorus of ayes.)
Any opposed?
(No response.)
The vote is four to nothing, and the Order as amended is ordered.
Items E-6 through E-8 can be taken together. These are complaints against ComEd as to billing or charges. In each case it appears that the parties have settled their differences and have filed a Joint Motion 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.
Items E-9 through E-11 can be taken together. These are complaints against ComEd as to billing or charges. In each case the ALJ recommends entry of an Order dismissing the complaint without prejudice.

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

Item E-12 is Chet DeKing's complaint against ComEd regarding the removal of trees from his property. This matter will be held for disposition at a future Commission meeting.

Item E-13 is Docket No. 13-0030. This is ComEd's reconciliation of revenues collected under coal tar riders with prudent costs associated with coal tar clean-up expenditures.

We lost Chicago.

(WHEREIN, a discussion was held off the record.)

CHAIRMAN SCOTT: We'll go back on the record now. I don't know if this got on before we got knocked off the air, but Item E-12 is Chet DeKing's complaint against ComEd regarding removal of trees from his property. This matter will be held for disposition at a future Commission meeting.

Item E-13 is Docket No. 13-0030. This is ComEd's reconciliation of revenues collected under coal tar riders with prudent costs associated with coal tar clean-up expenditures. ALJ Hilliard
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-14 is Docket No. 13-0042.

This is our Citation of U.S. Sun Energy for its failure to file its ABC Compliance Recertification report as required by 83 Ill. Adm. Code 454.110. ALJ Jorgenson recommends entry of an Order suspending Respondent's Certificate of Authority for a period of 90 days.

Is there any discussion?
(No response.)

Any objections?
(No response.)

Hearing none, the Order is entered.

Item E-15 is Docket No. 13-0436.

This is IDOT'S Petition for Authorization for the taking of a portion of ComEd's property in Winnebago County by eminent domain authority. ALJ Riley recommends entry of an Order granting the requested
authority.

Is there any discussion?
(No response.)

Any objections?
(No response.)

Hearing none, the Order is entered.

Item E-16 is Docket No. 13-0444.

This is Ameren and Menard Electric Co-op's Joint Petition for approval of a partial service area agreement. ALJ Jones recommends entry of an Order granting the Joint Petition.

Is there any discussion?
(No response.)

Any objections?
(No response.)

Hearing none, the Order is entered.

Item E-17 is Docket No. 12-0598.

This is Ameren Transmission Company of Illinois' Petition for a Certificate of Convenience and Necessity pursuant to Section 8-406.1 of the Public Utilities Act and an Order pursuant to Section 8-503 of the Public Utilities Act to construct, operate and maintain a new high voltage transmission line and related facilities in counties across Illinois. ALJs
Albers and Yoder recommend entry of a Post Exceptions Order. While this item will be held for disposition at a future Commission proceeding, I believe Commissioner McCabe had a couple questions of Judge Albers.

Do you want to say your name?

ALJ ALBERS: John Albers, A-l-b-e-r-s.

COMMISSIONER McCABE: If the hearing were granted in the future on some portion of this line, would notice be allowable for landowners?

ALJ ALBERS: Yes. We would have to certainly provide notice to the landowners. I suspect that depending on what the Commission does, and if they grant rehearing on -- if there's -- with a totally new route, we would certainly have to identify those landowners and provide notice to them.

Given that there's only 150 days for a hearing, it'd be a pretty tight -- all together a pretty tight timeframe for the case, but under the original 406.1, there's only 150 days for that as well. So --

COMMISSIONER McCABE: Okay.

CHAIRMAN SCOTT: So even if there were new -- new people that hadn't been previously identified
because of a new proposed route, they would get notice
and would be able to participate in the hearing?

ALJ ALBERS: Yes, we would make sure of
that. Might not get a lot of time to participate, but
they will be notified.

CHAIRMAN SCOTT: I understand.

COMMISSIONER McCabe: Okay. Thank you.

CHAIRMAN SCOTT: Thank you, Judge.

Any other questions for the Judge?

ACTING COMMISSIONER Del Valle: Yes.

CHAIRMAN SCOTT: Mr. Del Valle.

ACTING COMMISSIONER: Do you feel that the
stipulated routes had adequate time for study by those
proposing them and all other parties?

ALJ ALBERS: My personal view is that given
the scope of this project, the time provided under the
statute was insufficient, but given that we had to do
it with the 225 days provided by law, I think we and
other parties have tried to do the best we could. You
know, I think, as I mentioned at one point in the
Order, you know, there's things that we may not be
aware of that exist out there when it comes time to
actually put poles in the ground, and had there been
time, we might be able to identify those.
ACTING COMMISSIONER DEL VALLE: Were all the legal requirements in your opinion met for all routes notice -- legal notice requirements?

ALJ ALBERS: I believe that those who actually own the land upon which a route has been proposed got notice. There's one -- one alternative that a group of landowners proposed. When they first proposed it, they gave us a list of landowners along their alternative route, didn't give us any addresses, and then a few days later, they provided the addresses, but we missed that. Later, however, that route was abandoned when the group that offered that alternative agreed to a stipulation with Ameren, and it didn't seem that that would have any effect then. I believe it was in their briefs or one point Staff then suggested -- I'm sorry, I'll defer to Judge Yoder for a moment. At one point Staff --

ALJ YODER: I have to find it, but it was Staff, and I think Staff and several other parties then latched on to that proposed route.

ALJ ALBERS: Right.

ALJ YODER: A lot of acronyms, but it was MSSCLFT, and then they left that route, went with a stipulated route with Ameren, but then two or three
other parties wanted to suggest that route, although, in my opinion, there wasn't much further evidence presented to support that route with the initial suggestion.

CHAIRMAN SCOTT: Would you please just let the court reporter know your name?

ALJ YODER: Oh, Judge Yoder, again.

ACTING COMMISSIONER DEL VALLE: Thank you.

CHAIRMAN SCOTT: And I know in terms of comments that it's not a rate case so you're not required to give us an update on it -- the comments on it, but maybe for next week's meeting if you would --

ALJ ALBERS: I can tell you right now. As of this morning it was 243 comments. Many of them were claiming they never received notice, so I just want to mention that in response to Commissioner Dell Valle's question. Of those, I don't know -- we have no way of knowing how many of them would have gotten notice as landowners. Some of them seem to be complaining that they didn't get notice, but they weren't the landowners, so they wouldn't have gotten notice anyway. Some of the comments clearly indicate that they live within a mile or so of the proposed route, and -- well, that may be true, but you wouldn't
have gotten notice anyway. So --

CHAIRMAN SCOTT: Okay. And those -- Are those comments all posted?

ALJ ALBERS: Every comment that we received through E-docket or through the toll-free number at the Consumer Services Division is posted on E-docket.

CHAIRMAN SCOTT: Okay. Very good. Thank you, Judge. Anything else?

JUDGE WALLACE: Our deadline is next Tuesday.

CHAIRMAN SCOTT: The deadline is next Tuesday, a short future for a future Commission disposition.

Thank you, Judges.

As we said, that will be held until our meeting next -- next Tuesday, the 20th.

Turning now to Natural Gas, Item G-1 is Docket No. 10-0685. This is Ameren's reconciliation of revenues collected under gas adjustment charges with actual costs prudently incurred. ALJ Albers recommends an Order approving the reconciliation.

Is there any discussion?

(No response.)
Any objections?
(No response.)

Hearing none, the Order is entered.

On to Telecommunications, Item T-1 is Docket No. 13-0443. This is AT&T and Sprint's Joint Petition for Approval of an Interconnection Agreement. ALJ Baker recommends entry of an Order approving the agreement.

Is there any discussion?
(No response.)

Any objections?
(No response.)

Hearing none, the Order is entered.

Item T-2 is Docket No. 13-0213. This is Frontier North's Petition for Confidential and/or Proprietary Treatment of its 2012 Part 790.350 Report for a period of five years. ALJ Benn recommends entry of an Order granting the requested treatment.

Is there any discussion?
(No response.)

Any objections?
(No response.)

Hearing none, the Order is entered.
Turning now to Water and Sewer, Item W-1 is Docket No. 13-0333. This is Aqua Illinois’ Petition for Approval of a proposed qualifying infrastructure plant surcharge rider pursuant to 83 Ill. Adm. Code Part 656. Petitioner filed a Motion to Dismiss the proceeding which ALJ Jorgenson recommends we grant.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Motion to Dismiss is granted.

Item W-2 is Docket No. 13-0073. This is Illinois American Water Company's Petition for a Certificate of Convenience and Necessity to provide water service to the City of Grafton and its environs in Jersey County, and for approval of the purchase of certain assets of the City of Grafton, pursuant to Section 8-406 of the Public Utilities Act. 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.

Item W-3 is Docket No. 12-0603 and 12-0604 (Consolidated.) This is Apple Canyon and Lake Wildwood's proposed general increase in water service.

ALJ Haynes recommends entry of an Order approving the proposed rate increase.

In terms of discussion, I believe Commissioner McCabe has some comments.

COMMISSIONER McCabe: Yes. I support the proposed Order and acknowledge the work of Staff, the company, and intervenors in this case. Two capital projects are not included in the Order. Had the record been more developed sooner, the Commission would likely have included them.

Utilities did not propose the pro forma plant addition adjustments until their rebuttal testimony making it difficult for intervenors to fully consider and rebut the evidence in the record.

CHAIRMAN SCOTT: Okay.

Further discussion?

We need the -- Any public comments if we got them? Is Judge Haynes available?
ALJ HAYNES: I am.

CHAIRMAN SCOTT: Hi, Judge.

ALJ HAYNES: Hello. Good morning.

Last time I checked at the end of last week, as -- the same numbers as included in the Order, which was, I think, 60 comments -- hold on. I'll get that number here. 60 public comments for Lake Wildwood and just two for Apple Canyon, and these are the ones filed on E-docket.

CHAIRMAN SCOTT: Okay. Very good. Thank you, Judge.

ALJ HAYNES: Uh-huh.

CHAIRMAN SCOTT: Is there any further discussion on Item W-3?

(No response.)

Are there any objections to the proposed Order?

(No response.)

Hearing none, the Order is adopted.

We have two Petitions for Rehearing today. Item PR-1 is Docket No. 12-0550. This is Sprint's Petition For Arbitration of its interconnection agreement with AT&T. Both Sprint and AT&T have filed Petitions for Rehearing which ALJs
Haynes and Jorgenson recommend we deny.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, both Petitions for Rehearing are denied.

Item PR-2 is Docket No. 13-0034.

This is our approval of Phase 2 of the Future Gen Clean Coal Facility. ComEd has filed a Petition for Rehearing.

I move to deny the Petition for Rehearing. Is there a second?

ACTING COMMISSIONER DEL VALLE: Second.

CHAIRMAN SCOTT: It's been moved and seconded. Any discussion on the motion?

(No response.)

All in favor say aye.

(A chorus of ayes.)

Any opposed?

(Nay.)

The vote is three to one. The ayes have it, and the Petition for Rehearing is denied.

We have two other items of Other
Business on today's agenda. The first item is our report to the General Assembly Concerning Coordination between Gas and Electric Utility Energy Efficiency Programs and Spending Limits for Gas Utility Energy Efficiency Programs. This item will be held for disposition at a future Commission meeting.

The last item of Other Business today concerns pending litigation, so we'll need to go into closed session to address it.

Is there a motion to go into closed session?

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.

(A chorus of ayes.)

Any opposed?

(No response.)

The vote is four to nothing. The Commission will now go into closed session.

Please let me know when the room is ready in Chicago.

(Whereupon, a closed session was had)
and is transcribed under a separate transcript.)
(The following proceedings were had in open session:)

CHAIRMAN SCOTT: In closed session the Commission discussed the People of the State of Illinois ex rel. Madigan v. Illinois Commerce Commission.

I'm going to make a motion that we file to both publish the decision and for rehearing in this matter. Is there a second?

(No response.)

If not, somebody else take a shot at a motion.

ACTING COMMISSIONER MAYE: I move that we file for Petition for Rehearing in this matter.

CHAIRMAN SCOTT: Okay.

COMMISSIONER McCABE: I second that.

CHAIRMAN SCOTT: Okay.

Is there any discussion on that motion?

(No response.)

All in favor say aye.

(A chorus of ayes.)

Any opposed?

(No response.)
The vote is four to nothing, and we have moved to file a Petition for Rehearing on this matter. Okay.

Okay. Thank you, gentlemen.

COMMISSIONER McCABE: Thank you.

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

JUDGE WALLACE: No, that's all today, Mr. Chairman.

CHAIRMAN SCOTT: Seems like enough. Thank you.

Hearing none, this meeting stands adjourned.

(Which were all the proceedings had for the Public Utilities agenda.)