BEFORE THE
ILLINOIS COMMERCE COMMISSION

BENCH SESSION

(PUBLIC UTILITY)

Springfield, Illinois

Wednesday, August 15, 2012

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
MS. LULA M. FORD, Commissioner
MS. ERIN M. O'CONNELL-DIAZ, Commissioner
MR. JOHN T. COLGAN, Commissioner
MS. ANN McCabe, Commissioner

By: Lisa K. Hahn, Reporter
CSR #084-002149
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 are Commissioners Ford, O'Connell-Diaz, Colgan and McCabe. 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 Commission meeting. According to the Chief Clerk's Office, we have no requests to speak at today's Bench Session.

And, if you could, just for today's meeting only, when folks that are speaking, other than the Commissioners that are speaking, if you would identify yourselves first to help out our court reporter who's helping us out today. So thank you for doing that.
(The Transportation portion of the proceedings was held at this time and is contained in a separate transcript.)

CHAIRMAN SCOTT: We will now move to the Public Utility agenda, starting with the Electric portion.

Item E-1 is Docket Number 12-0455. This is a petition filed by ComEd seeking special permission to correct a formula error for its delivery services' pricing and performance rate. Staff recommends that special permission for this change be granted.

Is there any discussion?

(No response.)

Is there a motion to grant special permission?

COMMISSIONER O'CONNELL-DIAZ: So moved.

COMMISSIONER McCABE: Second.

CHAIRMAN SCOTT: Moved by Commissioner O'Connell-Diaz. Seconded by Commissioner McCabe. Moved and seconded. All in favor say aye.

COMMISSIONERS: Aye.
CHAIRMAN SCOTT: Any opposed?

(No response.)

The vote is five to nothing. Special permission is granted.

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

Item E-2 is Docket Numbers 10-0272 through 10-0274. It's Ameren's reconciliation case for revenues collected under power procurement riders for June 2008 through May 2009. ALJ Jones 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 Number 10-0537. This item will be held for disposition at a future Commission proceeding.

Item E-4 is Docket Number 11-0669.
This is Ameren's reconciliation case for revenues collected under Power Smart Pricing Rider for 2007 through 2010. ALJ Yoder recommends entry of an Order approving the reconciliation.

Is there any discussion?

(No response.)

Are there any objections?

(No response.)

Hearing none, the Order is entered.

Items E-5 through E-10 (09-0594, 11-0409, 11-0534, 11-0735, 11-0751, 12-0229) can be taken together. These items are customer complaints against ComEd. In each case, the parties apparently settled their differences and have brought a Joint Motion to Dismiss the ALJ recommends we grant.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Joint Motions to Dismiss are granted.

Item E-11 is Docket Number 11-0728.
This is Lakecia Cole's complaint against Ameren. ALJ Yoder recommends entry of an Order dismissing this matter without prejudice for want of prosecution.

Is there any discussion?

(No response.)

Any objections?

(No response.)

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

Item E-12 is Docket Number 12-0075.

This is Brian Bolan's complaint against ComEd. ALJ Haynes recommends entry of an Order granting the Complaint.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered.

Item E-13 is Docket Number 12-0080.

This is Ameren's petition for authority to construct and operate a new transmission line in Champaign County. ALJ Von Qualen recommends entry of an Order
granting the company a certificate for the project.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered.

Items E-14 and E-15 (12-0407, 12-0444) can be taken together. These items are applications by Santanna Energy Services and AP Gas & Electric for licensure as an alternative retail electric supplier. In each case, ALJ Yoder recommends the entry of an Order granting the requested certificate.

Is there any discussion?

COMMISSIONER COLGAN: Mr. Chairman.

CHAIRMAN SCOTT: Commissioner Colgan?

COMMISSIONER COLGAN: On E-14, this is Santanna's second request or attempt to obtain an ARES certificate. They previously applied for this certificate under Docket 12-0217 but withdrew its application when it received the ALJ's proposed Order denying that certificate. That proposed Order language cited that Santanna's history of customer
complaints, their prior declaration and force majeure, bankruptcy, and Santanna's contingency planning and overall strategy for product pricing and Santanna's overall performance in the area of customer service.

Because it appears that this company has now adequately addressed these problems in the present docket, I'm not voting against this, granting this certificate. There remains concern based on Santanna's history of complaints as an Illinois AGS, and as I have noted previously, I believe that this Commission must ensure and protect the competitive market from bad actors.

So as I vote to allow this company to enter the ARES market, I encourage them to closely monitor their outreach and marketing activities and make customer service their highest priority.

CHAIRMAN SCOTT: Thank you, Commissioner Colgan. Further discussion? Commissioner O'Connell-Diaz?

COMMISSIONER O'CONNELL-DIAZ: Mr. Chairman, I would concur with Commissioner Colgan's comments.
Having been on the Commission when this company was not in line with the Commission rules and everything that fell out of that situation, when I saw the company's name on our roster of cases to look at, I too, went and really went through the record, as I know all of our colleagues did, as well as the ALJ, the extensive information in this record that would show that this is a company that has hopefully put the past behind them, has put forward the appropriate evidence in this record to ensure that customers are going to be treated in the manner that our laws provide for.

With that said, I would also concur with Commissioner Colgan that the -- we will be mindful and watchful of this company and any type of complaint activity that we see as they go forward, and it is because of the situation that we have had with them, but I believe that the record is clear that they have taken all the steps that they need to to be a credible supplier of alternative services, but we will be looking over their shoulders a lot, so they need to be mindful and make sure that they're
giving the highest standard to our ratepayers and
customers throughout the state. Thank you.

CHAIRMAN SCOTT: Any further discussion?

(No response.)

Are there any objections to entry of
these Orders?

(No response.)

Hearing none, the Orders are entered.

Items E-16 and E-17 (12-0412, 12-0417)
can be taken together. These items are applications
for licensure as an Agent, Broker and Consultant
filed under Section 16-115C of the Public Utilities
Act. In each case, ALJ Albers recommends entry of an
Order granting the certificate.

Is there any discussion?

(No response.)

Are there any objections?

(No response.)

Hearing none, the Orders are entered.

Items E-18 through E-23 (12-0124,
12-0198, 12-0260, 12-0302, 12-0360, 12-0369) can be
taken together. These are petitions for confidential
and/or proprietary treatment of Petitioner's reports.

In each case, the ALJ recommends entry an Order granting the requested relief.

Is there any discussion?

(No response.)

Are there any objections?

(No response.)

Hearing none, the Orders are entered.

Item E-24 is Docket Number 12-0342.

This is AEP Retail Energy Partners' petition to withdraw its alternative retail electric supplier's certificate previously issued by the Commission. ALJ Baker recommends entry of an Order granting withdrawal.

Is there any discussion?

(No response.)

Are there any objections?

(No response.)

Hearing none, the Order is entered.

Item E-25 is Docket Number 12-0399.

This is a petition by the Illinois Department of Transportation seeking approval to acquire property
in Cook County by eminent domain for an intersection improvement project. ALJ Hilliard recommends entry of an Order granting the petition.

Is there any discussion?

(No response.)

Are there any objections?

(No response.)

Hearing none, the Order is entered.

Turning now to Natural Gas, Item G-1 is Docket Number 11-0633. This is George Fehringer's complaint against Nicor. ALJ Baker recommends entry of an Order dismissing this docket without prejudice for want of prosecution.

Is there any discussion?

(No response.)

Are there any objections?

(No response.)

Hearing none, the Order is entered.

Item G-2 is Docket Number 12-0300. This is a petition by Integrys Energy Services seeking a confidential and/or proprietary treatment of its AGS compliance report. ALJ Baker recommends
entry of an Order granting the requested relief.

Is there any discussion?

(No response.)

Are there any objections?

(No response.)

Hearing none, the Order is entered.

Item G-3 is Docket Number 12-0395.

This is Palmco Energy's application for a certificate to operate as an alternative gas supplier. ALJ Von Qualen recommends entry of an Order granting the certificate.

Is there any discussion?

(No objection.)

Are there any objections?

(No objection.)

Hearing none, the Order is entered.

Moving on to Telecommunications, Item T-1 is Docket Number 12-0303. This is Orbitel's application for a certificate of prepaid calling service authority under Section 13-404 of the Public Utilities Act. ALJ Riley recommends entry of an Order granting the certificate.
Is there any discussion?

(No response.)

Are there any objections?

(No response.)

Hearing none, the Order is entered.

Items T-2 through T-4 (12-0432, 12-0433, 12-0434) can be taken together. These are petitions seeking modification of 9-1-1 services in Lake County. In each case, ALJ Haynes recommends entry of an Order granting the Petition.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Orders are entered.

Items T-5 and T-6 (12-0393, 12-0360) can be taken together. These are joint petitions seeking amendment for interconnection or traffic termination agreement between telecommunications carriers. In each case, ALJ Baker recommends entry of an Order approving amendment.

Is there any discussion?
Any objections?

Hearing none, the Orders are entered.

Item T-7 concerns an issue in a rulemaking proceeding for Title 83, Part 757, of the Administrative Code regarding federal telephone assistant program reform. Staff recommended an initiating Order to begin the rulemaking proceeding.

Is there any discussion?

Is there any objections?

Item T-8 is Docket Number 11-0623. This is a rulemaking proceeding for Title 83, Part 732, of the Administrative Code concerning its customer credits issued by telecommunications carriers. ALJ Benn recommends entry of a Second Notice Order authorizing submission of the proposed amendments to JCAR.

Is there any discussion?
Are there any objections?

(No response.)

Hearing none, the Order is entered.

Items T-9 and T-10 (12-0204, 12-0385) can be taken together. These items are petitions for the confidential and/or proprietary treatment of the petitioner's Annual Reports. In each case, the ALJ 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.

On to Water and Sewer, Item Number W-1 is Docket Number 11-0436. This is the Aqua Illinois rate case on rehearing, and we'll be holding it aside for disposition at our August 21st Regular Open Meeting. We do, however, have a few questions for ALJ Jones. Is the Judge available?

JUDGE JONES: Yes, sir.

CHAIRMAN SCOTT: Please come forward, sir.
Thank you, Judge. If you could maybe just set forth by giving us an explanation of how you got to the 12 1/2 percent that you did in the decision.

JUDGE JONES: Thank you, Mr. Chairman. This is Larry Jones.

I guess the real challenge in coming up with the appropriate rate increase in this situation is in trying to strike that balance of finding a rate that will give Viscofan the incentive to stay connected to the Aqua Systems, while not shifting any more of a revenue shortfall that occurs from that as possible to the other customers. So the 12.5 is really the result of that effort.

Just to explain it a little bit, I guess, it is somewhere near the middle of the current rate increase that was granted in the grade Order of 20 percent and the 4.9 percent that Viscofan has recommended. It's also fairly close to the overall increase that was granted to the division in which Viscofan is a part. That is the consolidated division that includes not only Danville, but the rest of five other systems, and it's also somewhat
close to what Aqua recommended initially and is at
least in the range of some of the alternatives that
Staff was suggesting for consideration, although
Staff is recommending sticking with the 20 percent.

As the Commission is aware, Viscofan
did enter into a four-year contract with Aqua in
April, so that looms there. It does commit them to
purchasing at least most of their water from Aqua
over the next three, three and a half years or so.
So that comes into play a little bit, too, I suppose.
I mean, at least it's hard to overlook that, and that
was essentially the thought process, for better or
worse.

CHAIRMAN SCOTT: Questions anybody?

Is there anything -- is there anything
in the record that you can point to? I was looking
myself. Is there anything in the record you can
point to that would say that at any particular rate,
Viscofan even, you know, commits long term to being
there? Because I understand the concern about not
ending up with shortfalls from claimed revenue that
isn't there and that ends up with the other
customers, but it didn't seem like there was anything
that was there that would say, oh, at this rate
Viscofan agrees to stay.

JUDGE JONES: Mr. Chairman, I think that's
true. Viscofan stopped just short of actually
committing to that rate. They say in various places
that they have determined that to be an economic
rate. They support the rate. They run their various
analyses and their process at the corporate level and
have determined that is within the range of the
acceptable payback periods that they use in their
corporate forecasting and decision making, but I
would say they have stopped short of actually totally
committing to stay on the system at that rate.

CHAIRMAN SCOTT: Just two more quick questions.
Obviously, they entered into a contract with --
Viscofan entered into a contract with the company, so
there's nothing to prevent them from doing that -- no
matter what the rate is, nothing to prevent them from
being able to do that going forward beyond the three
and a half years.

JUDGE JONES: That is true. Neither Aqua nor
Viscofan supported the AG's proposal that this whole thing essentially be handled through longer term contracts, but they are certainly free to negotiate additional contracts under the tariff which relies, as you're aware, on the Commission-approved rate case rate, or they could enter a negotiated rate under a different section of Article 9 that is not limited to four years.

CHAIRMAN SCOTT: And Aqua's position, just to clarify, has been?

JUDGE JONES: The Aqua position is that the rate needs to be set at a place that will give Viscofan an incentive to stay on the system because they do provide a lot of cost support for the rest of the system that would be lost if they jumped the system.

There are a lot of variable -- or there are a lot of costs beyond variable costs that do help pull down the rates of the remaining customers, so Aqua has certainly made that point a number of times, and then they -- in the original case, they recommended a rate increase that was not
as low as what Aqua wanted but was lower than the overall increase.

Lastly, Aqua has resisted the idea of being directed to replace the existing contract with the possibility of a new longer term contract under the other section of the statute.

CHAIRMAN SCOTT: Further questions?

Commissioner McCabe?

COMMISSIONER McCabe: Aqua supports Viscofan over the long term, assuming the market share of cost of service?

JUDGE JONES: Commissioner, Aqua supports the -- a discounted rate that is not tied to cost of service in the same way that Staff would like to tie it to cost of service.

COMMISSIONER McCabe: Okay.

CHAIRMAN SCOTT: Further questions?

(No response.)

Thank you very much, Judge. I appreciate it. Thank you.

As I said we will hold this item for disposition at our August 21st Regular Open Meeting.
We have one Petition for Rehearing before the Commission today. Item PR-1 is Docket Number 10-0711. This is an eminent domain petition filed by the Southern Illinois Power Cooperative in connection construction of transition lines in Saline and Williamson Counties. We have received the petition for rehearing from Fredric and Connie Beasley, as well as a motion seeking to stay the Commission's Order in this matter. ALJ Albers recommends denying both the request for the rehearing and the request for a stay.

Is there any discussion?

(No response.)

Are there any objections to denying the hearing and denying the motion for stay?

(No response.)

Hearing none, the petition for rehearing is denied and the motion for stay is denied.

We have two items of other business for consideration today, and those items concern FERC matters. We will address them in closed session.
Is there a motion to go into closed session?

COMMISSIONER COLGAN: So moved.

CHAIRMAN SCOTT: Moved by Commissioner Colgan.

Is there a second?

COMMISSIONER FORD: Second.

CHAIRMAN SCOTT: Seconded by Commissioner Ford.

All in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN SCOTT: Any opposed?

(No response.)

The vote is five to nothing and the Commission will now go into closed session. Please let me know when the room is ready in Chicago.

CHICAGO: Chicago's ready.

(Whereupon at this point pages 24 - 50 of the proceedings are contained in a separate closed transcript.)
CONTINUATION OF PROCEEDINGS

CHAIRMAN SCOTT: If you can wait just a second to see if anybody waited out there. Yes, they did.

In Closed Session, the Commission discussed final comments in FERC Docket Number ER12-2302.

Is there a motion to file the comments with FERC?

COMMISSIONER COLGAN: So moved.

CHAIRMAN SCOTT: Moved by Commissioner Colgan.

Is there a second?

COMMISSIONER McCABE: Second.

CHAIRMAN SCOTT: Seconded by Commissioner McCabe. 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 comments will be filed with FERC.

Also, in Closed Session, the Commission discussed filing comments in FERC docket...
number AD12-16-000, considering a motion to support the OMS comments to be filed with FERC.

COMMISSIONER COLGAN: So moved.

CHAIRMAN SCOTT: Moved by Commissioner Colgan.

Is there a second?

COMMISSIONER FORD: Second.

CHAIRMAN SCOTT: Seconded by Commissioner Ford.

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 comments will be filed -- or the vote to support the comments to be filed with FERC.

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

JUDGE WALLACE: I'm Judge Wallace. No, there's not.

CHAIRMAN SCOTT: You approve that message.

Thank you. The meeting stands adjourned. Thanks, everyone.