BEFORE THE
ILLINOIS COMMERCE COMMISSION

REGULAR OPEN MEETING
(PUBLIC UTILITY)

Springfield, Illinois
Tuesday, September 11, 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

L.A. COURT REPORTERS
By: Carla J. Boehl, Reporter
CSR #084-002710
PROCEEDINGS

CHAIRMAN SCOTT: Pursuant to the provisions of the Open Meetings Act, I now convene a Regular Open Meeting of the Illinois Commerce Commission. With me in Springfield are Commissioner Ford, Commissioner O'Connell-Diaz, Commissioner Colgan and Commissioner 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 meetings. According to the Chief Clerk's Office, we have no requests to speak at today's meeting.

Moving on to the agenda for today, Item 1 concerns the approval of minutes from our August 15 Bench Session. I understand amendments have been forwarded. Is there a motion to amend the minutes?

COMMISSIONER O'CONNELL-DIAZ: 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: The vote is five to nothing, and the amendments are adopted.

Is there a motion to approve the August 15 minutes as amended?

COMMISSIONER Colgan: 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 August 15 Bench Session minutes as amended are approved.

We will use this five to nothing vote for the rest of today's Regular Open Meeting, unless
otherwise noted.

Item 2 is Docket Number 11-0558. This is Danny Dawson's complaint against Ameren. ALJ Jones recommends entry of an Order denying the complaint.

Is there any discussion?

(No response.)

Are there any objections?

(No response.)

Hearing none, the Motion to Dismiss is granted.

Item 3 is Docket Number 12-0001. This is Ameren's rate case under Section 16-108.5 of the Public Utilities Act. We will be holding final disposition of this item as we will be having oral argument at 1:30 today on this matter. I believe ALJs Albers and Yoder are available should there be any questions on this item.

Are there any questions or an update on public comments?

COMMISSIONER O'CONNELL-DIAZ: Mr. Chairman, I have a question for the ALJs.
CHAIRMAN SCOTT: Sure.

Good morning, gentlemen.

JUDGE ALBERS: Good morning.

CHAIRMAN SCOTT: Commissioner?

COMMISSIONER O'CONNELL-DIAZ: Yes. Could you just run through the determinations you made relative to charitable contributions in this proceeding?

JUDGE ALBERS: Yes. If memory serves me, basically, it dealt with whether or not certain expenses fell under the category of allowable charitable contributions which were for the public welfare, scientific, educational or -- I forget the other criteria. But there were certain expenses that Staff and others did not feel fell under the categories of any of those categories, and the argument was whether or not -- I believe it was two certain chambers of commerce primarily -- whether or not they were public welfare expenses.

And looking at the ComEd Order entered in 11-0721, there was some discussion as to what constituted public welfare. And one of the conclusions I recall from the ComEd Order was that
some of the Staff and Intervenor petitions lacked any certainty, again if I recall correctly.

And in this case Staff has suggested using a test, for lack of a better word, whether or not it was a 501(c)(3) corporation. And given that 501(c)(3) corporations are restricted from lobbying, Staff felt that was an appropriate test to use. And the Company -- or, rather, the chambers of commerce that were in question were not 501(c)(3). Instead, they were 501(c)(6), I believe, organizations which are allowed to do some lobbying.

And so to me that appeared that Staff had taken seriously the Commission's direction to provide more certainty or clarity as to what the standard would be. So that was basically how I got to that recommendation.

COMMISSIONER O'CONNELL-DIAZ: What does the law say about that? Does it suggest that there should be a screen with regards to whether or not it is a 501(c)(3) corporation?

JUDGE ALBERS: That statute references public welfare, and it is just not terribly clear what
public welfare constitutes.

COMMISSIONER O'CONNELL-DIAZ: So it does not have a restriction relative to only those entities that are registered as 501(c)(3), is that correct?

JUDGE ALBERS: There is no express restriction in that sense, no.

COMMISSIONER O'CONNELL-DIAZ: But this type of designation would disallow other groups that are not chambers of commerce but other entities that are in, for lack of a better word, the endeavor, the provision of services that are in the public welfare which is incorporated under that statute, correct?

JUDGE ALBERS: Well, only if they also did not meet any of the other criteria, scientific or educational. I remember there was a fourth -- or, I am sorry, a third. I just can't --

CHAIRMAN SCOTT: Religious.

JUDGE ALBERS: Religious, thank you. Only if they didn't meet any of the other ones as well. If you are like a 501(c) -- I am sorry, I'm not going to blame it on the tax law exemption. But, in short, if you are not a 501(c)(3) corporation but you do
provide scientific, religious, or educational services, you could still qualify for an allowable pass-through to ratepayers. So a school, for example.

COMMISSIONER O'CONNELL-DIAZ: Does the Company provide a list of some of those groups that would be included -- would be excluded due to the screen that you have now proposed in the Order, in -- I believe it is one of your briefs which, I mean, there was lodges, Shriners, different types of what I would consider folks that are out there doing service that is in the general public welfare.

JUDGE ALBERS: There may be organizations that would not -- that contributions to would not be allowable under such a standard, but I am suggesting if they don't also meet the other criteria of the statute.

COMMISSIONER O'CONNELL-DIAZ: And isn't there a rulemaking going on now to elicit --

JUDGE ALBERS: Yes.

COMMISSIONER O'CONNELL-DIAZ: I am just concerned that we are setting up a vote that won't
keep the good works of many of the organizations that are out there. And, again, I think the numbers that we are talking about here, the last time around it was like 50 cents on an annual amount on someone's bill. So I am just concerned that we are setting up something that the statute doesn't contemplate and, in fact, talks about that we should not be setting up any rule or presumption. And so I think we are -- that the outcome that you have suggested kind of gets into that alley which I think is probably in that area. I understand the direction now.

CHAIRMAN SCOTT: Any other questions for the Judges?

(No response.)

Any update on the public comments received?

JUDGE ALBERS: I think we are still at two that don't like the rate increase.

CHAIRMAN SCOTT: Very good. Thank you, John.

Item 4 is Docket Number 12-0396. This is FTR Energy Service's application for a certificate to operate as an alternative gas supplier under
Section 19-110 of the Public Utilities Act. The deadline for consideration of this item has been extended, so we won't be making a final decision on this item today.

I understand Commissioner Colgan had a couple of comments on this. Commissioner?

COMMISSIONER COLGAN: Yeah, I just wanted to take a closer look at this as a result of violations that an affiliate of FTR, Viridian, had in the state of Maryland to determine the -- yeah, sorry -- to determine if we should be granting a certificate to FTR in Illinois, and so I will extend the deadline pursuant to Section 19-110(f).

CHAIRMAN SCOTT: Okay. Thank you, Commissioner.

Item 5 is Docket Number 09-0151. This is Illinois-American Water Company's reconciliation case for purchased water and purchased sewage treatment surcharges from 2008 and a petition for rehearing filed by the Attorney General for consideration today. ALJ Jones recommends denying that petition.
Is there any discussion?

(No response.)

Are there any objections to denying the petition for rehearing?

(No response.)

Hearing none, the petition for rehearing is denied.

Item 6 (12-0518) concerns the adoption of changes to the Commission's Title II, Section 1700.20, rules concerning public comments received through the Commission's website, something we addressed in Docket Number 12-0378. After communication between our Office of General Counsel and JCAR staff, Commission Staff recommends entry of an Order adopting a couple of amendments to our recent public comment rule changes with an effective date of October 1, 2012.

Is there any discussion?

(No response.)

Are there any objections?

(No response.)

Hearing none, the Order is entered.
Item 7 is a FERC matter concerning pending litigation, so we will head into Closed Session to address it. Is there a motion to go into Closed Session?

COMMISSIONER COLGAN: So moved.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER McCabe: Second.

CHAIRMAN SCOTT: Moved and seconded. All in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN SCOTT: Any opposed?

(No response.)

The vote is five to nothing; we will now go into Closed Session. Please let me know when the room is ready in Chicago.

(Whereupon at this point pages 13 – 16 of the proceedings are contained in a separate closed transcript.)
CONTINUATION OF PROCEEDINGS

CHAIRMAN SCOTT: In Closed Session the Commission discussed making a filing in FERC Docket Number ER11-4081-002. Is there a motion to make the filing with FERC?

COMMISSIONER COLGAN: So moved.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER FORD: 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 filing will be made with FERC.

We have one additional item just to talk about briefly this morning. Our Executive Director, Mr. Feipel, is here to brief us on the issue that arose in the media recently concerning the meters that cause either elevated heat or fire in certain places where meters were changed out. I asked Mr. Feipel to give us an update briefly today.
and then a longer process next week about what's been
done with the process and what's been done since that
came to light.

MR. FEIPHEL: Thank you, Mr. Chairman,
Commissioners.

First, as soon as this was brought to
our attention two weeks ago as a result of those
press inquiries, we had started working with ComEd to
request additional information and an initial meeting
to brief us on the situation with those meters. At
that point we asked for all kinds of incident reports
that would relate to any kind of meter overheating at
all and then also to receive additional information
to brief us more fully on the scope of the issue.

Because the way we are looking at this
is there are actually two issues here. One is to
look at the meters that are already installed as part
of the ComEd pilot program a number of years ago.
There are roughly 135,000 meters that are installed
in the Chicago area. That's separate from the mass
deployment of Smart Meters as a result of the new law
that was passed about a year ago.
So remember that the mass deployment is on hold currently. There is no scheduled deployment until 2013, at least, for Smart Meters in addition to those that are already installed in the pilot. So we have got a little bit more time to look at what those proper installation procedures should be going forward. So the real focus at this point in time, at least as we see it in terms of a public safety issue, is those meters that are already installed as part of the pilot.

That said, the other issue that we are looking at is to not be too utility or technology specific and make sure that this is not an issue either with other utilities or other technologies across the state.

So from here we are receiving additional information. As we receive that, we will review it, brief you accordingly, and then bring a recommendation, when we are ready to, whether we need more formal action or whether we can handle this in the process we are using currently.

CHAIRMAN SCOTT: So when you say, just for
clarification, not technology or utility specific, so obviously other utilities are changing out meters. And because you have got incidents of this which aren't related solely to Smart Meters but in changing out other meters, you want to explore all of that, right?

MR. FEIPEL: Exactly correct.

CHAIRMAN SCOTT: And with all the companies that are doing it.

MR. FEIPEL: That is correct.

CHAIRMAN SCOTT: Commissioner?

COMMISSIONER O'CONNELL-DIAZ: I just want to clarify that I think we are all aware that there were some newspaper articles that somehow suggested that the Commission was not on top of this situation, when in fact, as Mr. Feipel has just noted to us, as per usual and as business as usual for the Commission, we have been on top of this issue as soon as we became aware of it. Our engineers, Mr. Feipel, is that correct, are looking and talking with the company, collecting appropriate data, and doing the analysis that is required by our experts. And only with that
information and that foundation can we assess the situation properly. And we certainly have been doing business as usual at the Commission and reporting on that to us.

And so standing up for our experts that are on Staff in the usual way we attack these situations, that's what we have been doing.

MR. FEIPEL: That's exactly right.

COMMISSIONER O'CONNELL-DIAZ: We have not been sitting on our hands.

COMMISSIONER FORD: Just one follow-up comment. Mr. Feipel, isn't it true that it is only three homes that have had a fire out of 130,000?

MR. FEIPEL: That's what ComEd reported to us so far.

CHAIRMAN SCOTT: Further comments, questions?

(No response.)

We appreciate the update and look forward to when you amass more data. I know you are collecting that from the Company now. And as that comes up, I am sure next week we will have some further discussion. So I really appreciate that.
MR. FEIPEL: We will keep you posted.

CHAIRMAN SCOTT: Thank you very much.

Mr. Wallace, is there anything further to come before the Commission?

JUDGE WALLACE: No, you have time for a break.

CHAIRMAN SCOTT: Thanks. Hearing none, this meeting stands adjourned. We will reconvene in about nine minutes for oral argument in the Illinois-American Water Company rate case and then once again at 1:30 for oral argument in Ameren's formula rate case.

The meeting stands adjourned. Thanks, everyone.

OPEN MEETING ADJOURNED