BEFORE THE
ILLINOIS COMMERCE COMMISSION

BENCH SESSION
(PUBLIC UTILITY)

Springfield, Illinois
Wednesday, September 22, 2010

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. MANUEL FLORES, Acting Chairman

MS. LULA M. FORD, Commissioner
(Via teleconference)

MS. ERIN M. O'CONNELL-DIAZ, Commissioner

MR. SHERMAN J. ELLIOTT, Commissioner

MR. JOHN T. COLGAN, Acting Commissioner

SULLIVAN REPORTING COMPANY, by Carla J. Boehl, Reporter
CSR #084-002710
PROCEEDINGS

ACTING CHAIRMAN FLORES: 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 Commissioners O'Connell-Diaz, Elliott and Acting Commissioner Colgan. I am Acting Chairman Flores. We have a quorum.

I believe Commissioner Ford is available by phone in Chicago. Is that you, Commissioner?

COMMISSIONER FORD: Yes, it is.

ACTING CHAIRMAN FLORES: Good morning. How are you?

COMMISSIONER FORD: Very well, thank you.

ACTING CHAIRMAN FLORES: Very well. Under Commission rules we must vote to allow Commissioner Ford to participate by phone. I would like to make a motion to allow Commissioner Ford to participate by phone. Is there a second?

COMMISSIONER ELLIOT: Second.

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

COMMISSIONERS: Aye.

ACTING CHAIRMAN FLORES: The vote is 4-0 to allow Commissioner Ford to participate by phone.

Before moving into the agenda, according to Section 1700.10 of the Illinois 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 transcript.)

ACTING CHAIRMAN FLORES: Turning now to the Public Utility Agenda, we will start with the approval of minutes from the August 30 Special Open Meeting. I understand that amendments have been
forwarded. Is there a motion to amend the minutes?

COMMISSIONER ELLIOTT: So move.

ACTING CHAIRMAN FLORES: I will second it.

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

COMMISSIONERS: Aye.

ACTING CHAIRMAN FLORES: Any opposed?

(No response.)

ACTING CHAIRMAN FLORES: The vote is 5-0 amending the minutes.

Is there a motion to approve the minutes as amended?

COMMISSIONER O'CONNELL-DIAZ: So move.

ACTING CHAIRMAN FLORES: Very well. I will second it. It's been moved and seconded. All in favor say aye.

COMMISSIONERS: Aye.

ACTING CHAIRMAN FLORES: Any opposed?

(No response.)

ACTING CHAIRMAN FLORES: The vote is 5-0 approving the minutes for August 30 as amended.

We will begin with the Electric Agenda. Items E-1 through E-6 may be taken together.
These items concern tariffs filed by the Ameren Illinois Electric Utilities concerning updates to the standard bill forms and adding a general statement to their electric service schedules. In each case Staff recommends that the Commission allow the proposal by not suspending the filing. Is there a motion to not suspend the filings?

COMMISSIONER ELLIOTT: So move.

ACTING CHAIRMAN FLORES: Is there a second?

COMMISSIONER O'CONNELL-DIAZ: Second.

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

COMMISSIONERS: Aye.

ACTING CHAIRMAN FLORES: Any opposed?

(No response.)

ACTING CHAIRMAN FLORES: The vote is 5-0 and these filings will not be suspended.

We will use the 5-0 vote for the remainder of the Public Utility Agenda unless otherwise noted.

Item E-7 concerns tariffs filed by Mt. Carmel Public Utility Company over the
reestablishment of its Net Metering Service. Staff recommends that the Commission allow the proposal by not suspending the filing. Is there any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the filing will not be suspended.

Item E-8 is Docket Number 09-0439.

This concerns Kregg Sanders' complaint as to billing and charges against AmerenIP. Administrative Law Judge Tapia recommends entry of an Order denying Mr. Sanders' complaint based on the evidence presented at hearing in this case. Is there any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Order is entered and the complaint is denied.

Item E-9 is Docket Number 10-0053.

This item concerns the reconciliation of revenues collected under hazardous materials adjustment clause
rider - AmerenIP. Staff and AmerenIP are in agreement on the Draft Order's language, and Administrative Law Judge Albers recommends entry of an Order approving the reconciliation. Is there any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Order is entered.

Item E-10 is Docket Number 10-0458.

This concerns a complaint by Jewel Turner against ComEd regarding meter readings and improper billing. The parties have apparently resolved the matter and have brought a Joint Motion to Dismiss which Administrative Law Judge Kimbrell recommends that we enter. Is there any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Motion to Dismiss is granted.
Item E-11 is Docket Number 10-0482.

This is E Source Companies' Application for Licensure as an Agent, Broker and Consultant under Section 16-115C of the Public Utilities Act. Administrative Law Judge Yoder recommends entry of an Order granting the requested Certificate of Service Authority. Is there any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Order is entered and the Certificate is granted.

Items E-12 and E-13 (10-0525, 10-0528) can be taken together. These concern petitions by Integrys Energy Services and Champion Energy to protect against disclosure of confidential and/or proprietary information. In each case Administrative Law Judge Albers recommends entry of an Order exempting information from disclosure for a period of two years. Is there any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?
ACTING CHAIRMAN FLORES: Hearing none, the Orders are entered.

Turning to the Gas Agenda, Items G-1 through G-6 may be taken together. These items concern tariffs filed by the Ameren Illinois Gas Utilities concerning updates to their standard bill forms and adding a general statement to their gas service schedules. In each case Staff recommends the Commission allow the proposal by not suspending the filing. Is there any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the filings will not be suspended.

Item G-7 is Docket Number 09-0562. This concerns a complaint by Cheryl DeFrancisco regarding billing and charges against North Shore Gas Company. The parties have apparently settled their differences and brought a Joint Motion to Dismiss which Administrative Law Judge Hilliard recommends
that we grant. Is there any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the

Joint Motion to Dismiss is granted.

Item G-8 is Docket Number 10-0440.

This concerns a complaint by Byron Washington
regarding billing and charges against Peoples Gas.
The parties have apparently settled their differences
and brought a Joint Motion to Dismiss which
Administrative Law Judge Benn recommends that we
grant. Is there any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the

Joint Motion to Dismiss is granted.

Item G-9 is Docket Number 10-0522.

This item concerns an Informational Statement filed
by Peoples Gas pursuant to Section 6-102(d) of the
Public Utilities Act in connection with the proposed
issuance and sale of up to $50 million of bonds or notes to finance current debt. Administrative Law Judge Hilliard recommends the Commission enter an Order approving the requested issuance and sale. Is there any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Order is entered and the requested issuance and sale is approved.

Moving on now to the Telecommunications part of the agenda. Item T-1 is Docket Number 10-0121. This item concerns requests for Certificates of Service and Interexchange Authority for Madison River Long Distance Solutions, LLC, doing business as CenturyLink LDS, requests to cancel the same certificates granted to Madison River Long Distance Solutions Incorporated doing business as Gallatin River Long Distance Solutions Incorporated and a request to recognize the de facto conversion from Gallatin to CenturyLink.
Administrative Law Judge Riley recommends that the Commission enter an Order granting the requested relief. Is there any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Order is entered.

Item T-2 is Docket Number 10-0207. This item concerns Bellerud Communications' application for a Certificate of Local and Interexchange Authority to operate as a resale and facilities-based carrier of telecommunication services in Illinois. Administrative Law Judge Benn recommends that the Commission enter an Order granting the requested authority. Is there any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Order is entered.
Item T-3 is Docket Number 10-0230.
This item concerns Midwestern Telecommunications' application for a Certificate of Prepaid Calling Service Provider Authority. Before us today is an Amendatory Order correcting the Respondent's name, and Administrative Law Judge Riley recommends the Commission enter the Amended Order. Is there any discussion?
(No response.)

ACTING CHAIRMAN FLORES: Any objections?
(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Amendatory Order is entered.

Items T-4 through T-16 (10-0460, 10-0471, 10-0473, 10-0474, 10-0475, 10-0484, 10-0485, 10-0496, 10-0515, 10-0461, 10-0470, 10-0472, 10-0514) will be taken together. These items each involve Joint Petitions surrounding Resale and Interconnection Agreements under 47 U.S.C. Section 252. In each docket the Administrative Law Judge recommends entering an Order approving a new agreement or amending an existing agreement. Is
there any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the

Orders are entered.

Items T-17 and T-18 (09-0313, 09-0314) can also be taken together. These items concern investigations by the Commission into whether intrastate access charges charged by Bullseye Telecom and Clearwave Communications are just and reasonable. In each docket Administrative Law Judge Benn recommends that the investigation be dismissed as statutorily moot. Is there any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the
dockets are dismissed.

T-19 is Docket Number 09-0382. This docket concerns revisions to Part 732 of Title 83 of the Illinois Administrative Code. Before us today is
an Order authorizing submission of the Proposed Amendment to the Joint Committee on Administrative Rules, and Administrative Law Judge Benn recommends that we enter the Order. Is there any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Order is entered.

T-20 is Docket Number 10-0279. This item concerns a citation proceeding initiated against Midwestern Telecommunications Incorporated. Before us today is an Amendatory Order correcting the Respondent's name, and Administrative Law Judge Riley recommends that we enter the Amendatory Order. Is there any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Amendatory Order is entered.

Moving on now to the Water and Sewer
portion of today's agenda, Item W-1 concerns a proposed rate increase brought by Woodlawn Utilities Corporation. Staff recommends that the Commission allow the Company's proposal by not suspending the filing and not holding a public forum. Is there any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the filing will not be suspended.

Item W-2 is Docket Number 10-0094. This concerns a complaint brought by Kregg Sanders as to billing and charges against Aqua Illinois. The Respondent has filed a Motion to Dismiss in this case, indicating that the matter is now resolved, and Administrative Law Judge Tapia recommends that the Commission grant this motion. Is there any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)
ACTING CHAIRMAN FLORES: Hearing none, the Motion to Dismiss is granted.

Item W-3 is Docket Number 10-0360. This concerns a petition by Illinois-American Water Company for a variance from Part 600.370 of the Commission's Rules and from the Company's tariff in order to connect a customer to the Company's water service using a neighbor's land. Administrative Law Judge Jones recommends that the Commission enter an Order granting the requested variance. Is there any discussion?

(No response.)

ACTING CHAIRMAN FLORES: Any objections?

(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Order is entered.

We have a couple of other matters to address today. The first matter concerns a consideration of Benchmarks for the ComEd and Ameren 20-year Renewable Energy Resource RFPs. Staff from our energy policy group has briefed us via e-mail on the Benchmarks and the methodology used in deciding
them. Given the very strong confidentiality concerns surrounding that methodology and the Benchmark numbers themselves, there are strict limits to what we can discuss at today's meeting. But is there any general discussion?

COMMISSIONER ELLIOTT: Mr. Chairman, I just would like to note that I am going to vote no. Consistent with my decision in the original procurement with regard to the 20-year contracts, I just feel very uncomfortable with going out that far. There is a lot of uncertainty that I am just uncomfortable with. I don't question the methodology that was engaged in here to make these determinations, but, again, consistent with my prior decision I am going to vote no.

ACTING CHAIRMAN FLORES: Very well. Any further discussion?

COMMISSIONER O'CONNELL-DIAZ: I have a question, and I don't know whether -- is Mary Stephenson there? I don't want to tread into an area that I shouldn't be asking a public question, but I have a question with regard to the --
COMMISSIONER O'CONNELL-DIAZ: Hi, Mary.

MS. STEPHENSON-SCHROEDER: I can't hear you, Commissioner.

COMMISSIONER O'CONNELL-DIAZ: I am sorry. My microphone wasn't on.

I have a question that I want to make sure that I don't get into an area that I shouldn't. But included in some of the information that we have is reference to the Commission's Order in 93-0373 with regard to the Commission's authority, and can I talk about that? Can I ask a question about that to Staff?

COMMISSIONER FORD: Mary is coming up with John Feeley.

MR. ZURASKI: This is Richard Zuraski.

COMMISSIONER O'CONNELL-DIAZ: We have Richard Zuraski here.

MR. ZURASKI: I don't know if I can -- I don't think I can necessarily answer your question, depending on what it is, but --

COMMISSIONER O'CONNELL-DIAZ: Wait. Let me
MR. FEELEY: Generally speaking what is the question?

COMMISSIONER O'CONNELL-DIAZ: My question is with regard to the IPA's interpretation of our Order in 93-0373 with regard to Commission authority. And can I ask a question of Richard or --

MR. FEELEY: So you are not going into the Benchmark numbers, right?

COMMISSIONER O'CONNELL-DIAZ: Not at all. This is a question about Commission authority and the seating of Commission authority or an interpretation that we will be bound with for the next, it appears, 20 years based upon IPA's interpretation of the Commission's Order. So, Richard, it is in your report. Can you expound about this?

MR. ZURASKI: Yes, I can and I can't because I don't have the Commission's Order in front of me where some of this was based on. But although it is in my memorandum, I think I would probably feel more comfortable deferring to Mr. Feeley who was certainly part of that whole discussion that we had with the
IPA's attorney when we were coming to that conclusion.

John, do you understand specifically what is being asked here?

MR. FEELEY: I think it can be asked without -- it can be asked in public. So if Commissioner Diaz wants to go ahead and ask her question.

COMMISSIONER O'CONNELL-DIAZ: I think Richard just volleyed it over to you. Am I right?

MR. ZURASKI: Let me -- hang on just one second.

COMMISSIONER O'CONNELL-DIAZ: It actually is on page 1 of your report, paragraph 2, and it talks about what --

MR. ZURASKI: The matters in particular were the confidential 20-year forward price curve, the budget to be made available for this particular RFP, this 20-year RFP, and how we would integrate the new solar photovoltaic preferences into this RFP. And the statement that we made to the Commission was that the IPA's interpretation of the Commission's Order in that Docket 93-0373 was that there wasn't --
Commission approval was not required for the
decisions that were made on those three matters.

And having said that, John, do you
want to take it from there?

MR. FEELEY: Sure, I will try. I think as to
the budget, we didn't see anything specific in the
Act that required the Order to approve the budget. I
think that's Number 2. Let's see, Number 1, I think
your Order set out a process for doing those forward
price curves and they are just carrying that out. Is
there --

COMMISSIONER O'CONNELL-DIAZ: I guess the
language that I am looking at that gives me concern
is that, "According to the IPA's interpretation of
the Commission's Order, these additional matters do
not require Commission approval and Staff has
somewhat reluctantly agreed with this
interpretation." Do we have reason to be cautious
because we are doing this and we are going to be
stuck with it for 20 years? And if there is some
Commission authority -- I don't think it is up to the
IPA to determine what the Commission's authority is.
I think it is the Commission's Order, it is the Commission's --

MR. FEELEY: And our advice to Richard and Staff was that it was consistent with the Act. So we agreed with the IPA's interpretation.

MR. ZURASKI: Let me throw in a couple cents here.

COMMISSIONER O'CONNELL-DIAZ: I guess the "reluctantly," I want to know why.

MR. ZURASKI: Well, personally my preference and I believe others in the policy area, our preference was that these things be brought to the Commission for their approval because they seemed like the type of policy decisions that the Commission ought to be making.

The argument was made that, specifically with respect to the first item, the confidential 20-year forward price curve, that the Commission's Order pretty much said we want the procurement administrator and the Staff and the IPA chairman-monitor to develop that. It didn't say anything about "and then bring it back to us for
approval." So that was kind of that one.

Then we skip to the third one which was the integration of the new solar photovoltaic preferences. Up until this point, I really shouldn't say up until this point, but the very first plans ever brought to the Commission by the utilities under the new IPA Act, they put forward in their testimony a very precise description of how the preferences that existed at that time in the Act should be made operational, and the Commission made a decision on that. I don't think it really says anywhere in the Public Utilities Act that they had to do that and the Commission had to be making that decision. But that's what was done, and it kind of set a precedence, in my mind anyway, that that's the type of thing that the Commission should be making decisions about.

This wasn't even on the radar scope, though, when the IPA presented its Appendix K that set forth this 20-year RFP. There was no discussion about it. The Commission really didn't address this whole thing about the new solar preferences. So I
think the main thing was because there was no --
there was some general language in there that said
there is a whole bunch of other issues that need to
be worked out, and the Commission had said -- I am
afraid I don't have the language in front of me so I
am speaking very off-the-cuff on this, but I believe
the Commission's language in the Order basically said
that these are things that should be worked out and
again it didn't say "and then brought back to the
Commission for approval."

COMMISSIONER O'CONNELL-DIAZ: But when you say
-- think about that logically. I mean, worked out
and it just stays in this little ball and we don't
ever look at it? I guess I --

MR. ZURASKI: Well, you are looking at it now.
And I suppose if you wanted to come to the decision
that you don't want to approve those, the decisions
that were made at the level of the IPA procurement
administrators, etcetera, I suppose it is your
prerogative to say something about it. I don't know
how much the IPA would then attempt to fight you on
that but -- you know, I am not sure how to advise you
other than to sort of go back to our original statement or my original statement which was I would have preferred it to have been brought to the Commission for approval but we did kind of reluctantly agree that it didn't look like the Commission had really set forth the process where they wanted this to come back for the Commission's specific approval.

COMMISSIONER O'CONNELL-DIAZ: And Number 2?

MR. ZURASKI: That's, I think, a lot like the Number 3. Historically, for each of the plans the budget for the 20-year RFP has been in -- I am sorry, the budgets for the Renewable Portfolio Standards have been set forth in the IPA Act and approved by the Commission -- the IPA Act -- the IPA's plans and approved by the Commission in each of the procurement plan dockets.

Now, this is a little bit different in that this 20-year RFP and the budget for that is not the budget that the Commission normally approves. The Commission normally approves the statutory budget for each year that the RFP is applied. There is a
set limit on how much can be spent. And the
Commission eventually will be setting that for each
of the 20 years in this process, and this isn't
taking away from that.

On the other hand, we are committing
in this procurement, this 20-year RFP, to spending a
certain amount of money, to taking some slice out of
whatever budget it is the Commission decides exists
for each of those 20 years. So it's a related
budget. It is certainly important with respect to
the thing that the Commission has ultimately been
approving every year. But it is a little bit
different. And, again, there was no discussion of
this issue at all in the Commission's Orders, as far
as I recall. So they were basically left perhaps
with the notion that they could have spent the whole
thing or the expected entirety of the budgets for the
20 years, but that's not what ultimately was decided
upon.

COMMISSIONER O'CONNELL-DIAZ: Thank you. You
have clarified it for me. I just was concerned that
the IPA was interpreting our Order in a way that
there were not many eyes on this, and you have explained to me that that is not the case. So I guess we have confidence because our Staff is looking at this.

But I know the Commission authority is sacrosanct. And when someone starts talking about, well, you really don't have that, and I can recall the discussion we had, I think, initially about this and there was a smart comment that was made, and I use that term not in like an intelligence nerve. So that gave me some concerns. So thank you very much, Mr. Zuraski; I am satisfied. I don't know if any other Commissioner might have a follow-up.

ACTING CHAIRMAN FLORES: It is a point worth underscoring. I understand this may not be the last one that we deal with in moving forward. To the extent that there may be a question of authority, I think it is very important that the ICC, and in particular through its Staff, assert its statutory grant and also to do so consistent with the Order that was originally entered and gave rise to this, this matter. I want to thank Staff and thank
Mr. Zuraski for his explanation. And, again, just moving forward it is important that obviously we remain engaged in this process. So thank you.

Any other comments or questions? Very well. I would like to make a motion to adopt the Benchmarks. Is there a second?

ACTING COMMISSIONER COLGAN: Second.

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

COMMISSIONERS: Aye.

ACTING CHAIRMAN FLORES: The vote is -- I just heard a bunch of ayes.

COMMISSIONER ELLIOTT: Nay.

ACTING CHAIRMAN FLORES: So any opposed? I just hear one nay. Let's do a roll call to make sure we have the clarity of the record.

Commissioner Ford?

COMMISSIONER FORD: Aye.

ACTING CHAIRMAN FLORES: Commissioner O'Connell-Diaz?

COMMISSIONER O'CONNELL-DIAZ: Aye.

ACTING CHAIRMAN FLORES: Commissioner Elliott?
COMMISSIONER ELLIOTT: No.

ACTING CHAIRMAN FLORES: Commissioner Colgan?

ACTING COMMISSIONER COLGAN: Aye.

ACTING CHAIRMAN FLORES: I, Chairman Flores, votes aye. The vote is 4-0 and the 20-year Renewable Resource RFP Benchmarks are approved.

The second matter concerns a Staff report and briefing from Staff regarding the quarterly report on alternative gas supplier Just Energy.

Gentlemen, good morning. Could you please identify yourselves for the record?

MR. NEHRT: Randy Nehrt, the Bureau Chief for External Affairs.

MR. AGNEW: Jim Agnew, a Policy Analyst in the Consumer Services Division.

ACTING CHAIRMAN FLORES: Thank you, gentlemen.

COMMISSIONER FORD: Peter, do you want to identify yourself? Have you got any response?

MR. MUNTANER: Peter Muntaner, Director of Utility Services.

COMMISSIONER FORD: Is the mic on so you can
hear him?

COMMISSIONER O'CONNELL-DIAZ: Yes, we can hear him.

ACTING CHAIRMAN FLORES: Thank you very much.

Staff?

MR. NEHRT: Thank you. In the Docket 08-0175 the Commission ordered Just Energy to provide to the Commission's Consumer Services Division reports regarding their complaints, daily reports, monthly reports and a quarterly cancellation report. Staff has spent a considerable amount of time reviewing the complaints in those reports and providing feedback to the Company from our review and has provided the Commission with a quarterly report regarding that information pursuant to the Commission's directive in the Order.

Some basic information from that is that in the initial daily and monthly report, the daily reports and monthly report that we received, the complaint volume was much higher than anticipated by either Staff or the Company. That complaint volume dropped off considerably towards the end of,
middle or end, of May and through the month of June.

They actually dropped by more than 50 percent from month to month.

Of the complaints that Staff reviewed, more than 70 of the complaints revolved around issues of billing, such as high bills, rates compared to utilities, generally rate and billing issues. The majority of the complaints that were reported to Staff were complaints made directly from customers to the Company. Only about three percent of the complaints that were reported came from third-party complaints to the Company such as the Consumer Services Division, CUB, the Attorney General, Better Business Bureau and the utilities.

Staff had some concerns about the volume of complaints, the high volume of complaints. It also had some concern about the very dramatic drop in complaints from month to month. We did ask the Company about that to get some feedback from them. They did tell us that they had, after initially providing a more liberal viewpoint on what a complaint was, had started to retrain a little bit
their CSRs and reviewed closer the complaint information and had eliminated from their complaint reporting things that they determined to be merely inquiries. Staff did ask to review those inquiries and found a considerable number of those inquiries to Staff, in Staff's opinion, that we thought were complaints.

Staff believes after a thorough review that the Company could do a better job in its complaint taking process. We believe that the Company could investigate the complaints a little more thoroughly, especially complaints involving surprise or unhappiness with high bills. We think that the CSRs who are taking the complaints could ask more questions of the customers that contact the Company as to why they might be surprised by the high bill or what they might have understood the product to be at the time of the sale, to help them determine if there is just a misunderstanding of the product that could be helped through retraining or if it is actually misrepresentation or maybe just the buyer's remorse situation.
But we really do believe that while the Company is resolving a lot of the complaints at that level, either through a reselling of the product or a re-education of what the product is or maybe through a modification of the contract for a shorter term or a lower rate, that they could also be determining maybe what happened at the time of sale and using that as a management tool to better oversee the door to door sales that are going on.

The Company also provides to Staff per the Commission Order a quarterly Cancellation Report. In that Cancellation Report one thing that Staff looked for very closely was to see if the Company complied with the Commission's directive to forward all cancellations to utilities within two business days, and we found that there were -- of the nearly 5,000 cancellations sought by customers over the months of May and June, that 31 were failed to be properly transmitted to the utility within that two-business day requirement.

We also did notice that there was a very large disparity in the number of customers who
had contacted the Company to cancel in that two-month
time period as opposed to the number of complaints
reported to Staff, and that more than twice as many
customers called to cancel as -- more than twice as
many cancellations were reported to Staff in the same
time period as complaints reported to Staff. And it
is Staff's belief that with limited exception most
cancellation requests are made due to some level of
dissatisfaction with the product and, therefore,
likely most of those should be considered complaints.

I think with that I have covered, I
hope, a majority of what we have provided to the
Commission in our first quarterly report, and we
would entertain any questions you might have or any
feedback you might want to provide to us about the
content of that report.

ACTING CHAIRMAN FLORES: Questions from the
Commissioners?

COMMISSIONER ELLIOTT: With regard to the
complaints that are delivered from the Company to
you, do you have any -- what's the correlation to
those numbers with what makes it here to the ICC or
to CUB or the AG or the BBB? How many of these enumerated inquiries, complaints, etcetera, are being settled and what's the correlation between our numbers and theirs?

MR. NEHRT: Of all the complaints reported to Staff by the Company, 97 percent were direct complaints to the Company. About three percent were complaints that came to third parties such as the Consumer Services Division, CUB, the Attorney General, the utility and the Better Business Bureau.

COMMISSIONER ELLIOTT: So 97 percent of these complaints are being resolved within the Company as far as these numbers are telling you?

MR. NEHRT: Yeah, I think that resolved is probably correct, Your Honor.

MR. AGNEW: In particular, Commissioner Elliott, one of the trends that we have noted which Randy was mentioning is that the customer service representatives, while only perhaps scraping the surface to find out what the original cause was...

COMMISSIONER ELLIOTT: Original retention efforts, exactly.
MR. AGNEW: ..they will launch into some either retention efforts or -- there is some benefit to a "no questions asked, you can cancel" kind of policy. However, in that "no questions asked" concept, you are not getting any valuable information about what caused them to cancel. So, you know, it is kind of a two-edged thing there.

But in doing -- in taking those measures, you are in my opinion more likely to reduce third-party complaints. Because whether or not the customer was happy when they called you, they are leaving relatively satisfied or at least satisfied to the degree that they are not going to escalate to a third party.

COMMISSIONER ELLIOTT: It seems like it would behoove the Company to pay close attention to what those indicators are telling you, corporately.

MR. AGNEW: Absolutely.

COMMISSIONER ELLIOTT: I agree. Well, that's basically the answer to my question. Thanks.

ACTING CHAIRMAN FLORES: Any additional Commissioners have any questions or comments?
ACTING COMMISSIONER COLGAN: Well, I would like to just say thank you to Staff for all the work you are doing on this. I think you have uncovered something here that there was some anticipation might be there. But I don't know if any of us had anticipated it to be as big a discovery as what we have come up onto.

I have filed a dissenting opinion on this case, and my opinion hasn't changed. I think that the issue is in the door to door sales. I think there is a lot of misrepresentation of the product being sold and resulting in huge numbers of calls once people get a bill and they start trying to figure out what is it that they have actually signed up for. So, like I say, my opinion hasn't changed. I thought we should have modified their certificate to prohibit door to door sales until we got to the bottom of this and the audit was done and some recommendations were made for managerial practices and that those were implemented. But, you know, this looks like it is just an ongoing serious, significant problem.
I am concerned about the potential impact this would have upon the development of a competitive alternative gas supply market. A lot of people out there are not happy with what it is they are signing up for. So I don't know if other Commissioners are interested, but I would be interested in -- well, we can talk about that some other time, but I would like to know what our options are. I am not asking you to outline those, but it occurs to me that there are some options that the Commission would have available to it to try to drill down on this a little bit more than we have, and maybe we engage with the Office of General Counsel to get some advice on that.

But it is not so much a question as it is, you know, I look at the complaint report and I am thinking somebody is doing a lot of work down in Consumer Services, you know, just trying to keep up with all of this. It is a lot, a lot of information, coming through on this.

COMMISSIONER ELLIOTT: If I could respond, I think that you have hit upon a concern that I have
and that's what this is doing to the marketplace. I think that, you know, as we evolve into a more competitive marketplace for commodity products, I think there are going to be fits and starts. I mean, there is going to be education on the consumer side as well as on the business side. And if the education the customer is receiving is, you know, this is a bad deal and, you know, I have learned something, I have cancelled my contract, I go back. But, you know, once burned, twice shy; am I going to now, the next person that comes along, the next opportunity, am I going to seriously consider it or am I just going shy away from it in its entirety. So clearly that's a concern.

I think that -- I know that all of us have made our comments known to the marketers and to the purveyors of the commodity in the business to police your own areas, and I hope that that continues to go on because I don't want to see that type of damage done to the competitive landscape. So I agree. I would be more than happy to look into any options that we can to improve that.
ACTING CHAIRMAN FLORES: Commissioner O'Connell-Diaz, did you have --

COMMISSIONER O'CONNELL-DIAZ: Well, I just would echo what Commissioner Elliott just said and Commissioner Colgan. And Staff is really working 24/7 with regard to what we have asked in the Order or to be delivered to us with regard to this, and it is eye opening. I think that we now have developed a record with regard to this Company's activities and appropriate or inappropriate conduct, and as we move along we have a record that you have been instrumental in helping us be able to understand what's going on. But just as Commissioner Elliott stated and so did Commissioner Colgan, this is a concern because right up on our website, we have the ten commandments, if you will, of how we expect companies to act in our jurisdiction.

So I look forward to further developing this record and the work that you are doing to give us the appropriate options, now that we have this record on which we can act. So I think there is another -- will we get another report
MR. NEHRT: Right. The next quarterly report actually would be for the months of July, August and September. We get the monthly report on -- the quarterly report on cancellations and the monthly report on complaints about the 10th of the following month. So I would say within a couple weeks after that we would have a report to you.

COMMISSIONER O'CONNELL-DIAZ: I would look forward to developing an option plan that the Commissioners would look to, to deal with the evidence that now Staff has brought to our doorstep, and we will be able to figure out how we want to go forward.

Thank you.

ACTING CHAIRMAN FLORES: Any other comments, questions?

So I would just also reiterate, first of all, by thanking Staff for their ongoing work and their reporting to the Commission on this matter. Obviously, you have heard the concerns expressed by the Commissioners here about the material you have
I want to ask one question, though. Do you feel in the course of your gathering information, are you getting all of the information that you need from this Company and they have been forthright in providing the requests -- in responding to the requests and inquiries that you have made?

MR. NEHRT: I would say they have been fairly cooperative in providing the reports that we have asked for and that you have directed. There is some additional information that we are going to -- I think that we have requested and haven't received yet, and we may be following up with a DR request shortly to try to get that information.

COMMISSIONER O'CONNELL-DIAZ: I would suggest you put them on a very short leash on that. Give them a small turnaround time if you have already asked for it in a nice way. And if they are not, you do that motion to compel or whatever you need to do.

COMMISSIONER ELLIOTT: And certainly advise us of that, if you are running into any issues.

MR. NEHRT: Okay.
ACTING CHAIRMAN FLORES: And that's why I asked if this company was providing the material that you are requesting. I think the Commission spoke very clearly on this matter. Despite the fact that there were different votes on this matter, everyone, every one of these members on the Commission, expressed a very deep concern about the kinds of practices and the allegations that were raised. That's why we ultimately, as you know, ordered this ongoing inquiry and generation of reports and audits, to insure that we really had a better perspective of what this company -- the kind of business that this company is engaged in.

I would also go with my colleagues' request that we do not allow for this company to have any extended period of time. I will remind everyone here how much time has already been provided. When we first began, even just in developing a time frame, a reasonable time frame to meet the Order, enough time has been granted. And so to the extent that you believe that there is any kind of dragging of the feet, you know, I would ask that we undertake every
effort to expedite your request. Because that is a
real minimum that this company should be meeting.

So I look forward to your ongoing work
and, again, we appreciate the reporting and the work
that you have been also engaged with, with the Staff,
the Commissioners' Staff. So that being said, I want
to thank you.

Any other comments or questions before
we -- okay. Thank you very much and obviously keep
us informed and let's not wait too long on this
company.

MR. NEHRT: Thank you.

ACTING CHAIRMAN FLORES: Thank you, Mr. Nehrt.

Very well. The final matter is an
administrative meeting concerning the Commission's --
excuse me, before we continue, I think I misspoke on
the matter prior to the report and that was on the
Renewable Energy Resource RFPs. I believe I
indicated that the vote was 4-0. It is 4-1. So if
the record could reflect that it is 4-1, and my
apologies to my good friend and colleague
Commissioner Elliott. I did not mean to miscount.
So if the record could please reflect that the vote was 4-1 to approve the Benchmarks.

Very well. As I was indicating before, the next matter is an administrative matter concerning the Commission's 2011 schedule. We will recess and reconvene in the video conference room in 10 or 15 minutes for today's administrative meeting.

Thank you.

(Whereupon the meeting was adjourned until 11:40 a.m. in the videoconference room.)
ADMINISTRATIVE MEETING

ACTING CHAIRMAN FLORES: Let's begin the administrative meeting. I received the communication. All of you should have received the communication from our chief administrative law Judge, Judge Wallace, about the 2011 official Commission calendar. Does everyone have -- does everyone have a copy of the Commission calendar for 2011?

ACTING COMMISSIONER COLGAN: I have it on my desk.

COMMISSIONER FORD: I have it. I don't need it.

ACTING CHAIRMAN FLORES: Very well. Any questions? Comments?

Very well. Obviously, this is following standard protocol and, you know, there may be changes down the road. But to the extent that we can maintain the schedule, obviously, I think everyone would greatly appreciate that. And I would --

JUDGE WALLACE: I just want to comment that we
put the NARUC and MARC meetings in so you can see them. They will come out of the calendar that we publish.

ACTING CHAIRMAN FLORES: Very well.

JUDGE WALLACE: And we do publish the calendar in advance to comply with the Open Meetings Act of publishing our upcoming calendar.

COMMISSIONER ELLIOTT: Do we know, just off hand, when the January MARC meeting is in San Antonio?

COMMISSIONER O'CONNELL-DIAZ: You know, it is different this year and I am thinking it is the weekend of the --

COMMISSIONER ELLIOTT: The 14th, 15th?

COMMISSIONER O'CONNELL-DIAZ: Usually it was the 8th, but I think it is going to be a week later. I am going to check that. Did you?

JUDGE WALLACE: Well, I think it is the 13th and 15th.

COMMISSIONER ELLIOTT: You just didn't put it on the calendar.

JUDGE WALLACE: We just didn't put it on the
calendar. But I honestly don't know what all meetings you go to. So I did list the two, the MARC conferences, one in January and one in June, on the memo, but did not put them on the calendar itself.

COMMISSIONER O'CONNELL-DIAZ: Just so everybody knows, in February we have -- obviously, we have the NARUC meetings in Washington, but on the 17th we will be having the DOE/NARUC collaborative forum, and I have been asked to co-chair it again. I don't know why they asked me again, but I got the job. I guess because I sit on the --

COMMISSIONER ELLIOTT: Is that the infrastructure?

COMMISSIONER O'CONNELL-DIAZ: Yeah. And they always have travel stipends, so it is a good opportunity for us to be able to participate in a really nationally renown conference. So just so everyone has that on their schedules.

ACTING CHAIRMAN FLORES: That's the 17th?

COMMISSIONER O'CONNELL-DIAZ: Yeah, it follows up the NARUC winter meetings. So just wanted to let everybody know that so they could be aware and hope
you sign up.

ACTING CHAIRMAN FLORES: Thank you. Thank you, Commissioner O'Connell-Diaz.

Any other?

JUDGE WALLACE: I have one other item. I didn't put it on the agenda and it is agenda related. Telecom wants to sort of reorganize the headings we put on the agenda. Their functions are -- they are not having quite as many things to do. So we will put something together and I will bring that back to you.

I am not even sure how all those headings got started in the first place. Like for electric and gas, it is just electric and gas. Telecom we break it down into probably eight different categories. If you would like for me to continue with those categories, that's fine. If you would like to compress them, I can also do that.

COMMISSIONER ELLIOTT: I would like to go to a consent agenda.

COMMISSIONER O'CONNELL-DIAZ: I am just thinking from the purposes of when the agenda is
made, many of those telecom items are kind of
crunched together, like the certificate cases, and it
gets us through it a lot quicker. So as you are
doing that revision, that would be a good guidepost,
to look at the types of cases based on previous
agendas, how we have gone through them like, you
know, T-1 through T-12 and we get rid of a slew.

JUDGE WALLACE: I think there will be a lot
less tariff matters so we might just combine all
those tariff headings into just like Tariff Heading.
And then the certificate cases, there have been a lot
less than the amendments or the negotiated
agreements. Those two headings we will probably
retain because they are -- but it is still up. I
will put something together and bring it back to you.

COMMISSIONER ELLIOTT: Is there anything that
prevents us from going to a consent agenda format?

JUDGE WALLACE: I would have to look into that.

COMMISSIONER O'CONNELL-DIAZ: What do you mean
by that?

COMMISSIONER ELLIOTT: Well, we take things
that no one has an objection to and it is just done
on a consent basis. Instead of reading all these things out, it is just --

MR. ANDERSON: We used to do that in the Legislature. We would call it an Agreed Bill.

COMMISSIONER ELLIOTT: Ohio does it. A lot of commissions do it.

MR. ANDERSON: You put things on a list and then you would say if anybody wanted to take something off, they could take something off.

JUDGE WALLACE: There is nothing to prevent it.

MS. STEPHENSON-SCHROEDER: There is nothing to prevent that. I know a lot of other commissions do that.

COMMISSIONER ELLIOTT: Yeah, it would just streamline the process. Instead of reading all of the things that we have to do, just do a consent agenda and work the whole thing out.

MR. ANDERSON: The way it has always worked legislatively that I have noticed is even if you wanted to take -- one person could take something off of it.

COMMISSIONER ELLIOTT: Sure. If you want to
hold it or you want to discuss it or anything, it is
the same process.

    ACTING CHAIRMAN FLORES: Just so long as, Mary,
as we can remove an item from that agenda at any
point.

    COMMISSIONER ELLIOTT: I would say even up to
bench.

    MS. STEPHENSON-SCHROEDER: Yeah, up until the
time you vote on it.

    MR. ANDERSON: If one person isn't in consent,
it is not a consent any more anyway.

    ACTING CHAIRMAN FLORES: I hear you, but I also
just want to make sure that everyone gets the
information in advance and that everyone has an
opportunity to vet each item. What I don't want to
happen is that something be flagged as part of the
consent and then something falls through, you know,
where a Commissioner may feel like they didn't have
an opportunity to really flag it because it was under
the consent. So even if you put something -- I don't
know what it will look like when I get the report.

    JUDGE WALLACE: Well, the way you run the
meeting now is very, I mean, an ad hoc consent.

COMMISSIONER ELLIOTT: It is really.

JUDGE WALLACE: So, I mean, it is kind of --

ACTING CHAIRMAN FLORES: Right. But the point

I just want to make sure is that again that we really

appreciate the reports that we get from the Judges

and it gives us a perspective of what's going on with

the case. That will not change, correct?

COMMISSIONER ELLIOTT: Wouldn't have any impact

on it.

MR. ANDERSON: Nothing would change that you

wouldn't want to be changed. I mean, if you want to

hear from a Judge, even if you don't have any

discussion, if you want to hear from a Judge, it

wouldn't be on the consent calendar because you would

want to hear from the Judge.

JUDGE WALLACE: I don't know how to implement

it exactly because we put everything in a certain

form on the agenda. Then at some point if there is

no disagreement, we would have to pull that all off.

COMMISSIONER ELLIOTT: I think that would be

done in the C&C area.
MR. ANDERSON: I think this was brought up in conjunction with the calendar. So, I mean, I think that this would be for next year. You would need some time.

COMMISSIONER FORD: Yes, next year, not now.

MR. ANDERSON: Some time to figure out the details. I don't think we are talking about the next meeting or anything.

COMMISSIONER ELLIOTT: No.

COMMISSIONER FORD: No.

COMMISSIONER O'CONNELL-DIAZ: No.

ACTING CHAIRMAN FLORES: I think the Judge's point, though, is that I think he is trying to explain that there may be some logistical issue that we want to talk about so that there may be an instance, for instance, where if we are going to agree to be able to remove an item from the consent calendar at any point and someone has a question, you know, there has to be given some consideration to Judge Wallace then and also to Mary and to Tim to then be able to organize Staff, let's say, to be able to respond to whatever question may arise at a very
last minute. The other issue may be what if there is
a request for a specific document.

So I am not recommending -- I am not
recommending that we oppose it. But what I am
suggesting is that let's give this at least a little
time then for consideration so that the logistical
aspects can kind of be fleshed out a little bit and
we can come back -- given that this is not going to
be implemented until next year anyway if we were to
move forward, why don't we agree that we will have a
follow-up administrative meeting or, you know, just a
memo, rather, from Staff, from Judge Wallace, from
Mary, in terms of some of these logistical questions
or issues that may arise if we were to agree to a
consent calendar format.

Does that sound reasonable?

ACTING COMMISSIONER COLGAN: Yes.

COMMISSIONER FORD: Yes.

MR. ANDERSON: I think that would have to
involve Mary and Mike and Steve and me to figure out
a proposal that you guys would need to then see.

COMMISSIONER ELLIOTT: Essentially, if it is
nothing contested, if there is 252 cases, you put it on a consent agenda and if anybody has an objection or a concern or a question, you pull it off.

MR. ANDERSON: Like you do holds now. You guys hold stuff at the last minute every once in awhile.

COMMISSIONER O'CONNELL-DIAZ: I will tell you how that happens. It happens because the weekend before or the night before you are reading the thing and you are like --

MR. ANDERSON: There can be any of a thousand reasons why any of it would --

ACTING COMMISSIONER COLGAN: You would want to have this like written down so that you could communicate externally, too, with all the concerned parties so they would know.

MR. ANDERSON: It would have to be written down. It would still be on the agenda.

JUDGE WALLACE: Every Order has to be on the agenda.

MR. ANDERSON: It would be there. You just wouldn't have to read. And from an organizational standpoint --
JUDGE WALLACE: I don't think our agenda is set up very well.

MR. ANDERSON: From an organizational standpoint it would be, from my perspective, easier. The only thing you would have to scramble for is if something got pulled off at the last minute and you had to say where is he, can he come down, we weren't expecting. People need to be ready to know their stuff, anyway. I mean, that shouldn't be a problem.

COMMISSIONER O'CONNELL-DIAZ: You know what, the bottom line is if your case is on the agenda, you are supposed to be there. That's the rule.

ACTING COMMISSIONER COLGAN: If my bill is on the agreed bill list, I am still going to show up because they will pull it off there.

ACTING CHAIRMAN FLORES: So if we could just then have a report from Staff just logistically how it would work internally, just so that there are no surprises to any of you and just so that we also understand what the rules of engagement will be going forward. And that will also give us an opportunity for us to adopt this new system and, again, implement
it the way it should be implemented and also provide
our individual Staff members the, you know, again,
how to move forward.

COMMISSIONER ELLIOTT: Yeah, we might want to
do a couple meetings where we shadow, we sort of
transition, saying we are going to go to consent
agenda but for the first couple of meetings we are
going to continue to do the old thing and just to let
the people that hang around and watch this stuff or
listen to it understand what is happening.

ACTING COMMISSIONER COLGAN: You don't want
them all standing around shaking their head like
"what just happened, how did we get here."

COMMISSIONER O'CONNELL-DIAZ: They do that
already. We don't need to help them.

MR. ANDERSON: We will put a memo together, a
proposal memo, that outlines between the four of us
and probably maybe Gene would need to be involved,
too. I am not sure. But, anyway, when that's ready,
we will send it to you and then you guys can call the
admin meeting whenever you want to deal with it.

COMMISSIONER ELLIOTT: And nothing against
Sullivans but this may end up saving us some money, too.

JUDGE WALLACE: Well, we are going to the Andy Barrett approach, too.

COMMISSIONER O'CONNELL-DIAZ: Turn your chair up.

ACTING CHAIRMAN FLORES: That being said, anything else then on the calendar? Very good. I am sorry?

COMMISSIONER FORD: I didn't say anything.

COMMISSIONER ELLIOTT: Commissioner Ford, are you going to be around?

COMMISSIONER FORD: Yes.

COMMISSIONER ELLIOTT: Okay. I am going to give you a call.

ACTING CHAIRMAN FLORES: So with that, Judge Wallace, are there any other matters to come before this Commission here today?

JUDGE WALLACE: As long as we are okay to go ahead and put this out.

ACTING CHAIRMAN FLORES: We are ready to do it, okay. So I think you have unanimous support for
that. Hearing none, this meeting stands adjourned.

MEETING ADJOURNED