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BEFORE THE
ILLINOIS COMMERCE COMMISSION
TRANSPORTATION REGULAR OPEN MEETING

Wednesday, July 29, 2020
Chicago, Illinois

Met pursuant to notice via videoconference
at 10:30 a.m. at 160 North LaSalle Street, Chicago,
Illinois.

PRESENT:

- CARRIE ZALEWSKI, Chairman
- D. ETHAN KIMBREL, Commissioner
- SADZI M. OLIVA, Commissioner
- MARIA S. BOCANEGRA, Commissioner
- MICHAEL T. CARRIGAN, Commissioner

SULLIVAN REPORTING COMPANY
BY: JO ANN KROLICKI, CSR (Via teleconference)
License No. 084-002215

1 CHAIRMAN ZALEWSKI: I'm going to get
2 started. Before we begin, can we confirm that the
3 court reporter is on the line?

4 THE REPORTER: Yes, ma'am.

5 CHAIRMAN ZALEWSKI: Thank you.

6 I have Commissioners Bocanegra,
7 Carrigan, Kimbrel, and Oliva in Chicago.

8 Judge Teague Kingsley, are you with
9 us?

10 JUDGE TEAGUE KINGSLEY: Yes, I am.

11 CHAIRMAN ZALEWSKI: Okay, great.

12 Under the Open Meetings Act and in
13 accordance with the Governor's Executive Orders, I
14 call the July 29, 2020, Regular Open Meeting to
15 Order.

16 Before we proceed and for clarity of
17 the record, I would ask that everyone who speaks
18 today state their name before speaking and to speak
19 slowly and clearly so that the court reporter can
20 capture everything that is said.

21 And with that, we're going to
22 proceed. We have a quorum, as I have already noted.

1 I want to thank everybody who is both
2 here today and who is listening virtually. This is
3 obviously a very important meeting, and I know
4 there's a lot of interest in what we'll be talking
5 about today. And thank you for everyone working with
6 us in cooperation in light of the COVID
7 considerations.

8 We have a robust agenda to get
9 through today, but, also, a very important objective:
10 To make sure that consumers do not pay for ComEd's
11 admitted wrongdoings.

12 ComEd's revealed actions are both
13 deeply troubling and a violation of public trust.
14 The Deferred Prosecution Agreement discusses a series
15 of incidents from 2011 to 2019. This is an ongoing
16 investigation. We're going to respect the U.S.
17 Attorney's process.

18 But our role at the ICC is to protect
19 the ratepayers of Illinois, and we are going to use
20 all of the authority that we have under the Public
21 Utilities Act to make ratepayers whole.

22 So we've asked ComEd to come here

1 today and present their plan going forward to ensure
2 that ratepayers are not responsible for paying the
3 \$200 million fine either directly or indirectly.

4 We've also asked ComEd to share their
5 ethics plan they have negotiated with federal law
6 enforcement.

7 We are going to begin with public
8 comments first, we're going to move on to our regular
9 Agenda, and then we're going to hear from ComEd. The
10 Commissioners will have the ability to ask questions,
11 but there will not be a vote on anything related to
12 ComEd's presentation.

13 This is not the only or last time we
14 will have this conversation. We are going to make
15 sure that there are transparent opportunities for
16 public participation in future meetings. Public
17 participation is a cornerstone of this Commission.

18 And just for logistic purposes, we
19 plan to go straight through. We may potentially
20 break around 1:00 o'clock.

21 So I'm going to move on to our public
22 comments session. We have four requests to speak,

1 and I'm going to go in the order in which we received
2 the requests. First, Steven Blandin, and then Jesus
3 Solorio, Abraham Scarr, and then Jeff Scott. The
4 last two, Jeff Scott and Abe Scarr, will be
5 participating remotely.

6 Under 2 Illinois Administrative Code,
7 Section 1700.10, any person desiring to address the
8 Commission shall be allowed up to three minutes.
9 Only one person can speak on behalf of the
10 organization. Please note that the Commission will
11 not respond directly to comments.

12 Mr. Blandin, you can go ahead and
13 step up to the mic. I will indicate when your time
14 is up. Tonya is going to be helping here to keep
15 track of time, and if you could state and spell your
16 name for the record, and then Tonya will let you know
17 when the clock starts.

18 (Indiscernible audio.)

19 THE REPORTER: I'm sorry, but I'm not able
20 to hear Mr. Blandin.

21 CHAIRMAN ZALEWSKI: Mr. Blandin, are you
22 okay with starting over?

1 MR. BLANDIN: For the record, I said I was
2 here in two capacities, one on behalf of ratepayers
3 in the class action lawsuit we brought against
4 Commonwealth Edison as a result of the admitted
5 bribery that is outlined in the Deferred Prosecution
6 Agreement.

7 THE REPORTER: I can't hear you, sir.

8 CHAIRMAN ZALEWSKI: Is there a different
9 mic, perhaps, that we can move?

10 MR. BLANDIN: Miss Reporter, is that any
11 better?

12 THE REPORTER: That's much better, sir.

13 MR. BLANDIN: Okay, great. Thank you.

14 So again, I'm here in two individual
15 capacities, one on behalf of the Zulauf family, and
16 the other on behalf of ratepayers in a class action
17 lawsuit that was brought against Commonwealth Edison.

18 The ratepayer lawsuit is a result of
19 the admissions that Commonwealth Edison made ten days
20 ago in the Deferred Prosecution Agreement where they
21 admitted to bribing individuals in exchange for in
22 excess of \$150 million of benefits, which I will note

1 that as of yesterday they have denied in their public
2 relations comments, which is a violation of the
3 Deferred Prosecution Agreement, and it's my request
4 that the Commission get to the bottom of that,
5 because we have Commonwealth Edison talking out of
6 both sides of their mouth in front of the federal
7 government and then in their PR efforts on the media.

8 The second capacity that I'm here is
9 on behalf of Jeanette Zulauf, whose husband, Robert,
10 was electrocuted and was burned alive four years ago
11 as a result of systemic violations that Commonwealth
12 Edison has finally admitted to. We filed a lawsuit
13 in which they denied all the material allegations of
14 our case.

15 This past spring at the beginning of
16 COVID, they finally came around to admitting them
17 after we received the documents from the ICC where
18 they admitted to these allegations before the ICC.

19 The reason I'm here in front of you
20 today -- and we have prepared a document that I
21 submitted that outlines the case, because I can't
22 summarize it in a minute and seven seconds.

1 But what we have found out is that
2 Commonwealth Edison -- there's a double standard that
3 has taken place in Illinois. Their downstate
4 competitor, Ameren, was found to have in excess of
5 35,000 guy wire safety violations. The Commission
6 asked them how many they had, Ameren truthfully
7 answered, and they repaired them within a two-year
8 time period.

9 When they got to Commonwealth Edison,
10 the ICC asked the same question, and Commonwealth
11 Edison made a series of annual misrepresentations,
12 misstatements, and out-and-out lies, never telling
13 the Commission that before the inquiry, they never
14 looked for these safety violations.

15 And anybody looking at the material
16 that we submitted that's public record from the
17 Commission would see that these repairs were not
18 being made, that the numbers were being
19 underestimated. Year after year after year, Edison
20 told the Commission that they would have them
21 repaired within two years, and after ten years,
22 there's still over 10,000 of these safety violations

1 that killed my client.

2 Thank you.

3 CHAIRMAN ZALEWSKI: So now we have Jesus
4 Solorio, and, Mr. Solorio, you're going to have three
5 minutes as well, and we're going to have Tonya set
6 the timer.

7 If you could just please state and
8 spell your name for the record? And then you can
9 start.

10 MR. SOLORIO: Yes. Good morning. Can you
11 hear me?

12 Jesus Solorio, J-e-s-u-s,
13 S-o-l-o-r-i-o.

14 Thank you for the opportunity to
15 address the Commission this morning. I'm here as a
16 community leader, a ratepayer, and a concerned
17 Illinoisan.

18 The admissions contained in the
19 Deferred Prosecution are very troubling and require a
20 strong response. They also require the Commission to
21 retain public confidence. Excuse me.

22 The admissions contained in the

1 Deferred Prosecution are very troubling and require a
2 strong response. Illinois law requires that
3 Commissioners uphold high standards of honesty,
4 integrity, impartiality, and personal conduct. It
5 also requires that every Commissioner be completely
6 above suspicion and avoid situations involving even
7 apparent conflicts of interest.

8 Today, we have a Chairman of the
9 Commission, Carrie Zalewski, from one of the most
10 politically-connected families in Illinois. Her
11 husband is a State Representative, and her
12 father-in-law is a former Chicago Alderman. They are
13 both among Speaker Mike Madigan's closet allies.

14 Miss Zalewski's husband has received
15 thousands of dollars in campaign contributions from
16 Commonwealth Edison and has voted for the legislation
17 that we now know involved a criminal conspiracy
18 orchestrated by Mr. Madigan and his friends.

19 We also know that Commonwealth Edison
20 gave Ms. Zalewski's father-in-law a \$5,000-a-month
21 contract around the same time Mr. Madigan recommended
22 Ms. Zalewski to be Commonwealth Edison's regulator.

1 At the very least, the Chairman has
2 an apparent conflict of interest. But it is likely
3 that she is not just a bystander, but personally
4 subject to the investigation.

5 How can it be that
6 Ms. Zalewski, who may be personally involved in the
7 federal investigation of a crime involving
8 Commonwealth Edison, and Michael Madigan, who
9 recommended her to the ICC, and a close family member
10 who receives payments from the utility regularly, can
11 continue to be on the ICC? This is not just a
12 conflict, it's an actual conflict of interest.

13 Each of you swore an oath to uphold
14 the law, and you have a legal and ethical obligation
15 to publicly demand that Ms. Zalewski recuse herself
16 from matters involving Commonwealth Edison. The
17 four of you cannot sit there and pretend that this
18 cloud over the Commission's integrity is not your
19 problem. Given what is at stake, utility rates for
20 millions of Illinoisans, we need more than empty
21 assurances.

22 The public deserves to know the

1 following: The full extent of the Zalewski's family
2 involvement in this criminal conspiracy to defraud
3 Illinois utility customers out of hundreds or even
4 millions of dollars.

5 The U.S. Attorney raided her
6 father-in-law's house and subpoenaed employment
7 records involving her husband and possibly herself.
8 We need answers to the following questions -- and I
9 just have a few more seconds. Has she been
10 interviewed by federal authorities, and the public
11 deserves to know --

12 CHAIRMAN ZALEWSKI: Sir, that's time.
13 Thank you.

14 MR. SOLORIO: Finally, I think to maintain
15 the integrity of the Commission, it requires the
16 immediate resignation of the Chairman and an
17 independent investigation.

18 Thank you.

19 CHAIRMAN ZALEWSKI: Thank you.

20 Okay. Next we have Mr. Scarr, who is
21 going to be participating remotely. Mr. Scarr, are
22 there?

1 MR. SCARR: I am. Can you hear me?

2 CHAIRMAN ZALEWSKI: Yes, we can.

3 If you could state and spell your
4 name, please, for the record? And then you can
5 begin.

6 MR. SCARR: My name is Abe Scarr, A-b-e,
7 S-c-a-r-r.

8 Good morning, and thank you for the
9 opportunity to provide comment today. I also want to
10 thank the Commission leadership for your commitment
11 to operate with increased transparency.

12 We're here today because of the
13 recent revelations of ComEd's corrupt and illegal
14 schemes, but at any rate, this corruption is not
15 news. It's been plain to see to anyone willing to
16 look. ComEd and Exelon have used political power to
17 corrupt utility regulation in Illinois.

18 The state constructed a system to
19 regulate utilities to ensure public good by creating
20 opportunity for private profit. ComEd flipped this
21 on its head, guaranteeing private profit while
22 leaving regulators without the tools to hold it

1 accountable to the public.

2 The Energy Infrastructure
3 Modernization Act, IEMA, was crafted such that ComEd
4 could quickly and automatically convert massive
5 spending into profits. ComEd's profits have
6 increased by 47 percent between 2011 and 2019. Its
7 authorized profits were over \$739 million in 2019.

8 EIMA has severely limited Commission
9 authority while shouldering it with an overwhelming
10 number of proceedings and not enough time or the
11 proper tools to analyze utility filings.

12 To provide one example of how ComEd
13 has undermined the Commission, after passing EIMA,
14 ComEd did not get its desired outcome in several
15 accounting decisions made by the Commission. Having
16 lost in the fact-based administrative process, ComEd
17 moved to the General Assembly, where it could win
18 with political power. Through resolutions in 2012
19 and a trailer bill in 2013, ComEd gained almost
20 \$400 million in additional profits through 2019.
21 These were accounting changes that added no new
22 service or benefits to ratepayers.

1 Many benefits that ComEd promised
2 when championing EIMA have not arrived. For example:
3 Green Button Connect is a failure; that ComEd
4 customers won't broadly be able to opt in to
5 time-of-use rates until 2024 or 2025 is a failure;
6 many more of the uses of smart meters are not
7 currently available to ComEd customers or are
8 embarrassingly underutilized. Even for a no-brainer
9 capital investment like Voltage Optimization, ComEd
10 used FEJA to take money that should be used to
11 incentivize energy efficiency.

12 CHAIRMAN ZALEWSKI: One minute left.

13 MR. SCARR: While customers and the public
14 have seen some benefits from EIMA and FEJA, without
15 proper examination, we have no way of knowing if
16 customers are getting real value from the 40 percent
17 increase in delivery rates they have paid since 2011,
18 or if alternative investments would have brought more
19 value at lower cost.

20 Many of the needed reforms will take
21 place in the Illinois General Assembly, and we have a
22 broader agenda we will be taking there, but we have

1 recommendations for the Court to take action:

2 First, the Commission should subject
3 ComEd to a comprehensive audit. The entire grid and
4 its costs should be analyzed. ComEd has lost our
5 trust.

6 Second, the Commission must demand
7 and receive usable and useful data. Documents must
8 be machine readable and available in workable
9 formats. If a utility uses a different methodology
10 from year to year, they must explain the difference
11 and allow for apple-to-apple comparison.

12 Finally, the Commission should
13 reevaluate the relationship between ComEd and Exelon
14 Business Services and affiliated companies. The
15 conflicts of interests in Exelon's ownership of ComEd
16 drive many of our current problems.

17 Again, thank you for the opportunity
18 to provide comment today.

19 CHAIRMAN ZALEWSKI: Thank you. We
20 appreciate it.

21 And finally, we have Jeff Scott.
22 Mr. Scott, are you there?

1 MR. SCOTT: Yes. Can you hear me?

2 CHAIRMAN ZALEWSKI: We can hear you.

3 Same thing. Three minutes. I'm
4 going -- I'll give you when -- I'll indicate when you
5 have one minute left, but if you can state and spell
6 your name, and then we'll start the clock here.

7 MR. SCOTT: Thank you. My name is Jeff
8 Scott, J-e-f-f, S-c-o-t-t.

9 Again, good morning and greetings,
10 Chairwoman Zalewski and Commission members. Thank
11 you for this opportunity to speak in front of you
12 today.

13 Again, my name is Jeff Scott. I'm
14 Associate State Director from AARP Illinois. I'm
15 here on behalf of our 1.7 million, 50-plus members
16 and their loved ones, many of whom are ComEd
17 customers.

18 AARP Illinois has advocated for fair
19 and affordable rates for residential customers. AARP
20 Illinois remains deeply concerned about the energy
21 policies, all of which we advocated against, that
22 were allowed to be enacted by questionable statutes

1 that led to the Deferred Prosecution Agreement.

2 As a result, older adults, many of
3 whom are on fixed or low incomes, and other
4 hard-working citizens of Illinois have unknowingly
5 been forced to pay more than they should, in many
6 cases, more than they can afford on their electricity
7 bills.

8 The policymaking that allowed this to
9 occur must end. Reforms must happen to ensure
10 ratepayer affordability, service reliability,
11 transparency, and accountability.

12 We are no strangers to this issue
13 before you today. AARP has been a consistent leader
14 in fighting for consumers. Accordingly, AARP opposed
15 the 2011 and 2016 formula rate bills. The laws in
16 our view have caused residential distribution rates
17 to spike by limiting the opportunities for normal ICC
18 regulatory review, the legislation delivering limits
19 to the Commission's ability to disallow imprudent
20 expenditures.

21 While we applaud the improvement of
22 ComEd's reliability, a new regulatory system was not

1 needed to accomplish this.

2 AARP supports sustainable energy
3 policies, but we also ask about the impact on rates,
4 especially in this environment. Rather than creating
5 new, complicated capacity procurement mechanisms on
6 top of the already complicated PJM, Illinois should
7 instead end restructuring altogether and deregulation
8 and again, allow the utilities to own generation
9 fully regulated by the ICC with a transparent and
10 honest planning process.

11 CHAIRMAN ZALEWSKI: One minute.

12 MR. SCOTT: Without the power of formula
13 rates, rate formulation must return to the hands of
14 the ICC, and the ICC must ensure accountability.
15 Ethics reforms must pass to ensure that this never
16 happens again. A regulatory commission should have
17 oversight that does not have its hands tied by the
18 legislature.

19 Rate hikes must no longer be
20 guaranteed through an automatic process.
21 Accountability must no longer be allowed to sit on
22 the back burner. We urge a constructive and honest

1 debate about power plan revenue requirement
2 funding rather than painting the issue with a green
3 brush. Allowing ComEd to own power plants and
4 other regulated rate of returns might be the
5 solution.

6 AARP, in closing, urges that we deal
7 with the \$230 million a year (indiscernible audio)
8 legislation setting the formula rates law without
9 reauthorization and allowing the ICC the unfettered
10 ability to, again, do its job before we regulate
11 utilities.

12 Thank you for your time.

13 CHAIRMAN ZALEWSKI: Thank you, Mr. Scott.

14 Okay, that concludes our public
15 comments section of the Agenda, and so we are going
16 to move on to our Transportation Agenda first.

17 There are no edits to the June 30,
18 2020, Transportation Regular Open Meeting Minutes.

19 Are there any objections to approving
20 the Minutes?

21 (No response.)

22 CHAIRMAN ZALEWSKI: Hearing none, the

1 Minutes are approved.

2 Under the Railroad Items.

3 Item RR-1 concerns public safety
4 improvement project at railway crossing in
5 Richton Park. The Order authorizes the project
6 construction and approves project cost
7 apportionment.

8 Are there any objections to approving
9 the Order?

10 (No response.)

11 CHAIRMAN ZALEWSKI: Hearing none, the Order
12 is approved.

13 Under Motor Carrier Items.

14 Item MC-1 concerns a Stipulated
15 Settlement Agreement regarding alleged violations of
16 the Illinois Commercial Transportation Law. The
17 Order accepts the Stipulated Agreement.

18 Are there any objections to approving
19 the Order?

20 (No response.)

21 CHAIRMAN ZALEWSKI: Hearing none, the Order
22 is approved.

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This concludes our Transportation
Agenda.

(WHEREUPON, the above-entitled
matter was adjourned.)