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BEFORE THE  
ILLINOIS COMMERCE COMMISSION

PUBLIC UTILITY REGULAR OPEN MEETING

Chicago, Illinois  
January 10, 2012

Met, pursuant to notice, at 10:30 a.m.

BEFORE:

MR. DOUGLAS P. SCOTT, Chairman

MS. LULA M. FORD, Commissioner

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

MR. SHERMAN J. ELLIOTT, Commissioner

MR. JOHN T. COLGAN, Acting Commissioner

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1           CHAIRMAN SCOTT: Pursuant to the provisions of  
2 the Illinois Open Meetings Act, I now convene a  
3 Regular Open Meeting of the Illinois Commerce  
4 Commission. With me in Chicago are Commissioner  
5 Ford, Commissioner O'Connell-Diaz, Commissioner  
6 Elliot, Acting Commissioner Colgan. I am Chairman  
7 Scott.

8                       We have a quorum.

9                       Before moving into the agenda,  
10 according to Section 1700.10 of the Title II of the  
11 Administrative Code, this is the time we allow  
12 members of the public to address the Commission.  
13 Members of the public wishing to address the  
14 Commission must notify the Chief Clerk's Office at  
15 least 24 hours prior to our Commission meeting.  
16 According to the Chief Clerk's Office we have 20  
17 requests to speak at today's Regular Open Meeting.

18                      By our rules, we allow 30 minutes of  
19 time for public participation and comment with up to  
20 3 minutes per participant. Obviously we have more  
21 time than is allotted under our rules so we'll have  
22 to take a motion to take more time today.

1                   I will move that we allow the  
2 Commission to take enough time for the public comment  
3 to accommodate the 20 speakers today.

4                   Is there a second?

5                   COMMISSIONER FORD: Second.

6                   CHAIRMAN SCOTT: It's a very unusual  
7 circumstance for us and not something that we would  
8 normally do, but based on what we have done or will  
9 do on other occasions. But just because of the  
10 number of requests that we've got -- I would also  
11 like to say that for the folks that are here with  
12 respect to the people of North Shore, that on  
13 September 8th there was a public comment forum that  
14 was held here in our ICC offices with the  
15 Administrative Law Judges that were presiding over  
16 that particular meeting.

17                   So it's been moved and seconded.

18                   All in favor say "aye."

19                   (Chorus of ayes.)

20                   Any opposed?

21                   (No response.)

22                   The vote is 5-0 and the Commission

1 will take beyond the 30 minutes of time to  
2 accommodate other unusually large number of public  
3 comments today.

4 The commenters should know that under  
5 the Commission's rules you will be allowed up to 3  
6 minutes for your public comments. In terms of order  
7 for presentation of public comments, we're sorting  
8 them by topic area starting with the comments on the  
9 proposed Chicago Clean Energy Coal Gasification  
10 facility first. We will begin our public comment  
11 period with Senator Donne Trotter.

12 Senator Trotter.

13 SENATOR DONNE TROTTER: Thank you,  
14 Mr. Chairman, and members of the Commission.

15 In keeping with our time allotment, I  
16 would like to start with recent comments of fact.  
17 What I will present today is going to be all facts.  
18 The fact is, for the past 23 years I have served the  
19 people of the south and Southeast Side of Chicago.  
20 And in that 23 years, I have worked diligently with  
21 the community, one, to try to bring it back to the  
22 standard that it earned for so many years as being

1 one of the premier industrial sites here in the State  
2 of Illinois and in this country.

3 As we know, things have changed; but  
4 like the pig farmers from downstate, when I used to  
5 see that smoke building up hope and everything, I  
6 knew that was money, it just wasn't healthy. But it  
7 was money and we were utilizing one of our natural  
8 resources and that was coal to generate, not only  
9 money and economic opportunities, but also a solid  
10 lifestyle for individuals.

11 Today we're meeting to talk about an  
12 economic opportunity which will not rebuild or take  
13 the community back to the level it was, but it will  
14 present and give jobs to individuals and give them a  
15 sense of dignity so they can feed their families and  
16 bring their property values back up. So that being  
17 said and trying to keep with the facts, the road this  
18 administrative body has been laid out and the  
19 legislation has been enacted by the General Assembly  
20 and signed into law by the Governor.

21 The legislation directed the  
22 Commission to advance this project by approving the

1 sourcing agreement because this project is important  
2 and offers so many benefits. Those benefits are  
3 sufficiently clear and other states are actively  
4 embracing and promoting projects that are basically  
5 identical to the one being presented to you today.  
6 The State is hurting for economic activity and for  
7 additional employment. This project brings jobs and  
8 economic opportunities to communities that are in  
9 particular need of them. This is why this project is  
10 supported by constituencies all across the state who  
11 are clear on many situations that this project will  
12 be a boom for Illinois Similar benefits, advancing of  
13 green energy technology that use an important natural  
14 resource from this state, mediation of an urban  
15 ground fill site, and the potential for billions of  
16 dollars in economic savings.

17 I'll also add that working in my  
18 capacity in Springfield over the budget, I know, and  
19 in looking at the numbers, that this project will  
20 generate over \$1.5 billion for the new tax revenue  
21 for state and local governments. That's almost \$1  
22 billion in new state revenue. Therefore it should be

1 crystal clear that the legislative intent was for  
2 this Commission to advance this project by approving  
3 the sourcing agreement.

4 The Commission was explicitly directed  
5 to insert three numbers as precisely described in the  
6 law. The Commission was to remove two early  
7 termination provisions that were in direct  
8 contradiction with the intent of the original  
9 legislation. And the only leeway given the  
10 Commission was with regard to correcting the  
11 typographical errors and scribes' errors.

12 Instead of following that guidance  
13 given by the General Assembly, the Proposed Order  
14 suggested that the Commission create and add a new  
15 term to the sourcing agreement. A term that was  
16 never contemplated in the legislation and never  
17 contemplated in the final drafting. This brand-new  
18 provision will require a new unnecessary and  
19 unachievable layer of guarantee in addition to the  
20 billions of dollars in guarantees that the General  
21 Assembly has already determined to be sufficient.

22 Instead of following the guidance

1 given by the General Assembly, the Proposed Order  
2 failed to remove one of the two early termination  
3 provisions. Instead of following the guidance again  
4 by the General Assembly, the Proposed Order seems  
5 designed to terminate this project. The language in  
6 the legislation was as clear as possible. I don't  
7 know how it could have been more explicit.

8 In crafting laws for administrative  
9 agencies to administer, we in the General Assembly  
10 are mindful of the words that we use. Here we tried  
11 to be very clear about the limited role of the ICC.  
12 I am fairly -- and I do not know of any other words  
13 that would have made it more clear -- yet the  
14 Administrative Law Judge was inserting his own  
15 contrary policy judgments. I respectfully inform him  
16 that he was out of line.

17 The Administrative Law Judge felt that  
18 the legislative drafting error occurred that required  
19 him to ignore the plain dictates of this law. I can  
20 assure him that no such error occurred. It was our  
21 legislative intent to limit the role of the ICC  
22 exactly as the law prescribes. It is not the role of



1 this Commission to decide the terms of this project.  
2 It is definitely not the role of the Commission to  
3 terminate this project by inserting uncalled for and  
4 fatal provisions into the sourcing agreement.

5                   Reject the Proposed Order. Accept the  
6 recommendations of Chicago Clean Energy and Economic  
7 Development Intervenors. Those recommendations  
8 reflect the intention of the General Assembly on  
9 behalf of the people of Illinois, people of my  
10 community, and those recommendations follow the law  
11 which we have enacted. Thank you.

12                   CHAIRMAN SCOTT: Thank you, Senator.

13                   Next we have Representative Marlow  
14 Colvin.

15                   Representative Colvin.

16                   REPRESENTATIVE MARLOW COLVIN: Thank you,  
17 Mr. Chairman, and ladies and gentlemen of the  
18 Commission. In keeping in the allotted time slot,  
19 I'd like to read a brief statement and then make a  
20 few comments at the end and we'll be done in short  
21 order.

22                   Last year the General Assembly twice

1 passed legislation regarding the Chicago Clean Energy  
2 Project both times by super majorities in both  
3 chambers, which the Governor signed into law. These  
4 pieces of legislation, five in total, represent the  
5 clear policy of the State of Illinois and it's  
6 elected representatives with regard to this important  
7 project.

8 In a time of economic distress, this  
9 project represents a very significant investment that  
10 will bring jobs, economic activity, consumer savings,  
11 revenue, and environmental benefit to an economically  
12 starved portion of our State of Illinois, the great  
13 Southeast Side of the City of Chicago.

14 The project enjoyed widespread support  
15 from the Illinois AFL-CIO, the Building Trades  
16 Council of Chicago and Cook County, the International  
17 Brotherhood of Electrical Workers, IBEW, Illinois  
18 Coal Association, the Black United Funds of Illinois,  
19 Coalition of Black Trade Unionists, Hispanic-American  
20 Construction Industry Association, Mechanical  
21 Contract Association, Passage United for Change, and  
22 the South Chicago Chamber of Commerce are just a

1 small fraction of the countless number of groups that  
2 we took this to and asked them to vet it based on its  
3 policy, based on its economic benefits, and based on  
4 its environmental integrity, all of which signed on  
5 in support and was proud to read. Again, this is  
6 just a small fraction of the number of groups that  
7 have signed on in support of our project on the south  
8 side of Chicago.

9 Today you may even hear from entities  
10 that oppose the Chicago Clean Energy Project. As a  
11 legislature, I'm not deaf or not new to the idea of  
12 opposition to things we do in Springfield; but think  
13 when you assess the overall viability of what we're  
14 trying to do, bring a \$3 billion investment to the  
15 South Side of Chicago, which, quite frankly, I'm not  
16 sure has ever happened, and have a chance to go for  
17 it with a clean energy source that's homegrown, that  
18 brings benefits to both Southern Illinois as well as  
19 the City of Chicago and our region where we live.

20 As is the case with all significant  
21 bills, their view, quite frankly, was a minority  
22 viewpoint. It did not carry the day in debate before

1 the General Assembly, their view is not reflected in  
2 the planned meeting of the legislation, and their  
3 position certainly don't reflect the legislative  
4 intent.

5                   This legislation spelled out a  
6 specific role for the Commission in advancing this  
7 project, to fill in the blanks in the final draft  
8 sourcing agreement based on previously established  
9 capital costs, operation and maintenance costs, and  
10 the rate of return for this project, all of which was  
11 fully vetted through the field studies that was  
12 initiated more than four years ago. Remove the  
13 unauthorized early termination provisions from the  
14 final draft Sourcing Agreement which was, again,  
15 vetted and discussed, debated in the committee and on  
16 the House floor, and signed by the Governor, and  
17 correct typographical errors and scrivener errors.  
18 As a legislature, I don't know how this could have  
19 been more plainly stated.

20                   The Commission was directed to modify  
21 the contract only as necessary and to remove two  
22 early termination provisions. The Commission was

1 directed to approve a Sourcing Agreement containing  
2 all of the items and conditions, rights, provisions,  
3 exceptions, and limitations contained in the final  
4 draft Sourcing Agreement. This does not mean that  
5 the Commission is to amend those terms and  
6 conditions. It does not mean that the Commission is  
7 to add new terms and conditions. Again, this is what  
8 we did over the last four and a half years through  
9 the legislative process, its elected representatives,  
10 and our chief executive, the Governor of the State of  
11 Illinois.

12                   And when we said that the Commission  
13 is to provide that the gas utilities do not have the  
14 right to terminate the Sourcing Agreement, we did not  
15 mean that the Commission should leave a provision  
16 that would allow the gas utilities to terminate that  
17 agreement. Perhaps there is some perception that  
18 there is an area in drafting this legislation. I'm  
19 here to say in the strongest terms possible that that  
20 is simply not true. That is a complete, I think,  
21 misrepresentation of where we started in the  
22 beginning. I don't think there's anybody that wanted

1 to be heard, that wanted to be part of this process  
2 that was shut out.

3 Quite frankly, working with my  
4 Senator, Don Trotter, the folks who brought this to  
5 us in the first place, clearly we wanted community  
6 input from a lot of different stakeholders who would  
7 be subject or who could benefit from such project of  
8 economic and environmental integrity on the South  
9 Side of Chicago. All voices were heard in either  
10 support or opposed to it. So in the strongest  
11 possible terms, there was no error in terms of this  
12 drafting, including the energy companies who started  
13 this process with us and down the road through two  
14 iterations of this Bill that we sent to the Governor.

15 The Proposed Order is in direct  
16 contradiction of the plain language of the  
17 legislation as enacted by the duly elected  
18 representatives of the State of Illinois. The  
19 Proposed Order should be rejected. The amendments as  
20 requested by Chicago Clean Energy represent a return  
21 to the policy which we have established and the  
22 Commission should make those changes. Thank you very

1 much.

2                   In closing, I simply would like to say  
3 that I, like my colleagues, try to believe in the  
4 legislative process. And those individuals who are  
5 duly elected and represent the interests of people --  
6 the near 13 million people that live in the State of  
7 Illinois. We asked them to consider this project on  
8 its merits both in the House and the Senate twice  
9 with supermajority and both of those Chambers agreed  
10 with us that this would bring tremendous economic  
11 benefit, provide the environmental safeties, and add  
12 the type of consumer protections in the Bill that  
13 would keep energy companies and those end users,  
14 those who use natural gas, run the business in their  
15 homes protect them from any additional or potential  
16 spikes in the cost of energy.

17                   Both Chicago Clean Energy and Leucadia  
18 International have in a very painstakingly way put  
19 provision in this Bill and put their money where  
20 their mouth is in terms of guaranteeing that we would  
21 be able to protect those energy companies and those  
22 consumers. We believe in this. We literally went

1 through 41 different scenarios in which there may be  
2 some increased costs and we have found ways to  
3 protect all those constituents. We laid this out  
4 clearly for everyone to see and they agreed with us,  
5 both our colleagues and the Governor and people who  
6 vetted this bill and the Governor's Office. We're  
7 simply asking the Commission to allow the duly  
8 elected officials of the State of Illinois who have  
9 gone through this process with us to allow it to  
10 stand as it was passed into law.

11 Thank you very much for your time.

12 CHAIRMAN SCOTT: Thank you, Representative  
13 Colvin.

14 Next up we will hear from Donald W.  
15 Maley, Jr., and that will be followed by Kevin  
16 Reilly.

17 So, Mr. Reilly, you want to be ready  
18 and on deck.

19 MR. DONALD MALEY: Good morning.

20 My name is Don Maley. I'm the vice  
21 president in charge of energy investments for  
22 Leucadia National Corporation and vice president of



1 Chicago Clean Energy, LLC. I have over 31 years of  
2 experience in the energy sector including over  
3 21 years as a banker to the business. In my position  
4 as vice president of Leucadia, I oversee the  
5 development of Chicago Clean Energy, our proposed  
6 gasification project as well as three similar  
7 projects in other parts of the United States.

8 I wanted to discuss today some key  
9 provisions of the Proposed Order that in its present  
10 form in my opinion would simply kill our project, a  
11 project that's been under development now for over  
12 eight years in the state. In all ways Illinois is an  
13 ideal state for a gasification project, a large and  
14 skilled work force, a ground fill site with valuable  
15 infrastructure, abundant local sources of fuel, and  
16 the political world to advance clean coal technology.  
17 And yet after receiving the green light from the  
18 Illinois General Assembly, the Illinois Power Agency,  
19 the Capital Development Board and the Governor  
20 himself, the road may come to a dead end here at the  
21 Illinois Commerce Commission.

22 We want to point out that the positive

1 economics of the project have been confirmed by a \$10  
2 million study performed by a world-class engineering  
3 firm, as well as by independent reviews, performed by  
4 the Illinois Power Agency, its outside experts.

5                   The Illinois Capital Development  
6 Board, and its own set of outside experts. The key  
7 issue in front of us in trying to put this project  
8 together is putting -- having a sales agreement for  
9 our substitute natural gas that we can take to the  
10 financial markets and get the financing raised.

11                   I think that if we were in front of  
12 you today and talking about a \$100 million project or  
13 a \$200 million project, some of the issues that we  
14 are faced with are issues that we might be able to  
15 deal with. We might be able to get to a small group  
16 of lenders who might be able to get their hands  
17 around some of the risks that are posed in this  
18 contract and we might be able to get it done.

19                   That's not what we're talking about  
20 here. We're talking about a world-scale project,  
21 world-class project, \$3 billion of investments and  
22 basically we're going to have to find every lender in

1 the world and ask them to come in and participate in  
2 the financing of this project. Unfortunately, that  
3 leads us to the problem of the lowest common  
4 denominator, the most conservative lender really  
5 basically driving the ability to raise financing.

6 I'd like to quickly touch on three  
7 issues that are of particular concern. It's simply  
8 not possible to borrow the \$2 billion necessary to  
9 finance the project if we just have 84 percent  
10 recovery of our costs. The legislation recognizes  
11 that a hundred percent of the debt payment should  
12 come under the term of the Sourcing Agreement. Now  
13 this is an issue raised by the utilities and Staff  
14 and I think it's a very legitimate concern on their  
15 part.

16 We'd be asking the consumer to step up  
17 to cover maybe a \$30 or \$40 million of costs not  
18 directly attributable to their gas bills. But we  
19 recognized that in structuring the deal and have  
20 offered up 50 percent of the revenues that we get  
21 from our sources of the project and we project those  
22 to be \$80 to \$100 million a year of revenues from

1 other sources. So the consumer gets credit for \$40  
2 to \$50 million a year of those revenues. So we  
3 believe in asking consumers to step up and help us to  
4 finance the project that we replace that cost with  
5 something of either equal or greater value.

6 The second issue, lenders cannot get  
7 comfortable with a Sourcing Agreement that contains  
8 provisions for early termination outside of the  
9 project's control. The General Assembly endorsed  
10 this point last when they voted to have all such  
11 provisions removed from our contracts.

12 The third issue that causes us great  
13 concern is a new idea that came out recently that  
14 there had been a further guarantee to back the \$100  
15 million of guaranteed savings to the consumer. This  
16 is something that -- an unlimited, ill-defined  
17 guarantee is not something that companies are willing  
18 to stand up to. That's not somebody that would be  
19 available for us to find in the marketplace. But,  
20 again, I think it is a legitimate issue, a legitimate  
21 concern.

22 What is the value of the guarantee

1 that Chicago Clean Energy is providing to backstop  
2 this risk to the consumer in the guarantee of  
3 savings? And we really have to look at two pieces of  
4 the structure, one is the consumer protection reserve  
5 account. If you look at how that was structured  
6 against what the energy information agency of the  
7 Department of Energy, they look annually at future  
8 projections of gas prices and they start with a low  
9 case, a base case, and a high case of what they  
10 reasonably expect gas prices to be in the future.  
11 And those cases we structure a consumer protection  
12 reserve account so that in that realm of reasonable  
13 expectations the consumer is protected in all cases.  
14 So we structure into our transaction a way to protect  
15 the consumers there.

16                   Secondly, the energy information  
17 agency runs 45 other scenarios to look at our  
18 possibilities -- a lot of them remote possibilities,  
19 but possibilities -- and we took that, kind of their  
20 worst, worst, worst case and we compared that to  
21 what's the residual value of this plant at the end of  
22 the 30 years of the contract within the guarantee

1 comes through. And we had an appraisal done by  
2 American Appraisal, one of the leading appraisal  
3 firms in the country. They put the value of this  
4 plant 30 years from now at \$4.5 billion. In today's  
5 dollars that's about \$1.8 billion value for the plant  
6 30 years from now against a billion dollar worst-case  
7 liability that EIA would project.

8 So in closing, I'm trying to make the  
9 point that we understand the issues that were raised  
10 by the issue and Staff, but we believe that our  
11 proposal did address those concerns and does  
12 adequately protect the consumer against those risks.  
13 So I would like to respectfully urge the Commission  
14 to reject the Proposed Order and to approve the  
15 alternative language that would enable that project  
16 to advance.

17 Thank you.

18 CHAIRMAN SCOTT: Thank you, Mr. Maley.

19 Next up is Kevin Reilly and after that  
20 would be Ted Stalnos. I've been very lenient. I'm  
21 going to have to start being not as lenient in terms  
22 of time. So if you could please keep it to the 3

1 minutes and when you're getting close I'll remind you  
2 now.

3 Mr. Reilly.

4 MR. KEVIN REILLY: Thank you, Mr. Chairman,  
5 honorable Commissioners.

6 I work for a firm called American  
7 Appraisal Associates. Mr. Maley just referred to my  
8 firm. We're one of the leaders in the industry. We  
9 currently have about 900 employees worldwide  
10 operating in 25 countries throughout the world. Over  
11 the last 5 years our firm has provided multiple  
12 thousands of appraisals to clients of various  
13 natures. The group that I practice in focuses on  
14 large complex industrial properties primarily in the  
15 energy sector, Petra chemical facilities, refineries,  
16 power generation facilities, plants similar to the  
17 Chicago Clean Energy plant that is being proposed.

18 As you are aware the legislation for  
19 this project Chicago Clean Energy has guaranteed  
20 consumer savings of at least \$100 million over the  
21 30-year contract period. If the savings aren't  
22 achieved by the year 2047, the project company would

1 have to make up the shortfall. This could mean  
2 selling the plant. That's where an appraisal or  
3 concept of value comes in at the end of the contract.  
4 We were hired and prepared a valuation, as Mr. Maley  
5 had mentioned for Leucadia in a similar project known  
6 as Indiana Gasification Facility. It had a very  
7 similar contract, guaranteed contract savings over  
8 the same 30-year term period. We were asked to  
9 determine the value of the facility at the end of the  
10 contract. Our analysis determined the value as of  
11 June 30th, 2046, in nominal dollars was \$4.5 billion.

12 I've reviewed design and economics  
13 data for Chicago. I have not performed an appraisal  
14 for the facility, but the projects are very similar.  
15 Given -- as you are aware -- the legislative  
16 structure was not provided in time for the evidence  
17 rehearing before the ICC as they were in Indiana. If  
18 we were hired -- American Appraisal and my team were  
19 hired to do a valuation for the Chicago project, the  
20 same methodology that we used in Indiana would be  
21 applied to this facility. We would apply both the  
22 course approach, looking at the cost of building the



1 facility at the end of the 30-year time period,  
2 taking in all forms of depreciation.

3                   We would also use the income approach,  
4 which is a valuation methodology, where we look at  
5 anticipation -- theory of anticipation looking at  
6 cash flow over a period of time. I think the one  
7 thing that's important to stress that we dealt with  
8 the Indiana project was that it's really not uncommon  
9 for a facility either Petra Chemical or petroleum  
10 process industry to have significant value at the end  
11 of a 30-year life. It's evident in plants that are  
12 still operating today that have reached 70, 80 years.  
13 As long as investments are made throughout that  
14 process and capital expenditures are put into the  
15 facility, they can have a significant value after the  
16 30 years. This was proven in the case of the Indiana  
17 gasification valuation that we performed where I  
18 mentioned that we had determined the value at \$4.5  
19 billion. This ultimately provided a significant  
20 basis towards securing the obligation for the \$100  
21 million guaranteed savings.

22                   Thank you.

1           CHAIRMAN SCOTT: Thank you, Mr. Reilly. Next  
2 we have Ted Stalnos and up next would be Jorge Perez.

3                           Mr. Stalnos.

4           MR. TED STALNOS: Mr. Chairman, and Honorable  
5 Commissioners, my name is Ted Stalnos. I'm the  
6 president of the Calumet Area Industrial Commission,  
7 which represents the businesses of the Calumet area  
8 and the more than 5000 employees of other members. I  
9 am also a resident of the neighborhood where the  
10 plant is scheduled to be built.

11                           I respectfully urge you to revise the  
12 Proposed Order as we and other members of the  
13 economic development intervenors have requested. The  
14 General Assembly has repeatedly and overwhelmingly  
15 endorsed this project. The language of the Public  
16 Utilities Act and the intent of the legislature was  
17 clear. The Commission was not to change or add to  
18 the structure of the agreement which it received from  
19 the Illinois Power Agency and the Commission should  
20 ensure that this project moves forward.

21                           For too long our community has  
22 suffered the effects of disinvestment in Chicago.

1 The Chicago project represents \$3 billion in  
2 investment in my community. It will bring jobs,  
3 business opportunities, and environmental benefits to  
4 our neighborhood. And it will bring economic  
5 benefits to both the City of Chicago and the southern  
6 part of the State of Illinois. I respectfully urge  
7 you to act in accordance with the plain language of  
8 those laws, to respect the intentions of the General  
9 Assembly and the Governor, and to do the right thing  
10 for the working people of this state that need jobs  
11 that this program will bring.

12 Thank you.

13 CHAIRMAN SCOTT: Thank you, Mr. Stalnos. I  
14 apologize for mispronouncing your name.

15 Next we have Jorge Perez followed by  
16 Reverend Dr. Walter P. Turner, III.

17 Mr. Perez.

18 MR. JORGE PEREZ: Good morning.

19 CHAIRMAN SCOTT: Good morning.

20 MR. JORGE PEREZ: My name is Jorge Perez and I  
21 am from South Chicago. I'm also the executive  
22 director of the Hispanic-American Construction

1 Industry Association known as HACIA and I'm here to  
2 respectfully request that you revise the Proposed  
3 Order in accordance with the requests that HACIA and  
4 other economic involvement intervenors have made.

5 The legislative and statutory  
6 framework which supports this project represents a  
7 thoughtful balancing of interest forged over years of  
8 negotiation and the legislation recognizes this  
9 careful balance by plainly indicating the limited  
10 ability for agencies to modify that balance. The  
11 revisions we suggest are in keeping with that  
12 language and with a clear legislative intent.

13 The legislature and the Governor have  
14 also made it plain that they wish for this project to  
15 be developed. As the executive director of HACIA,  
16 the largest Hispanic construction association in the  
17 Midwest, I can speak to the many benefits that that  
18 \$3 billion project will bring to the state. As a  
19 lifelong resident of the Southeast Side of Chicago  
20 where this plant will be located, I can speak to the  
21 many benefits it will bring to the community. I grew  
22 up in that area and for many years I had worked in

1 that development along the Calumet River.

2 For probably 80 years or a little bit  
3 longer, that area was a strategic standpoint for  
4 steel that built this nation. And those steel  
5 manufacturers moved to that area and the railroad is  
6 moved to that area. In fact, all the major class of  
7 railroads still cross through that area. All the  
8 shipping maritime operations that operate there still  
9 continue to this day. But they went there for this  
10 specific reason, and that is a strategic location for  
11 their business to thrive and it did for many, many  
12 years.

13 Unfortunately the last 30 years there  
14 has been a considerable amount of -- in fact, I think  
15 it's competition that really helped provide for the  
16 downfall for the last 30 years of that community.  
17 However, I still believe that that area is still  
18 strategically positioned to provide economic benefit  
19 and business development opportunities for the next  
20 80 years. And I believe this project will provide  
21 that stimulus.

22 There has been significant -- some

1 investments recently with the Ford Manufacturing  
2 Campus out there, you've got other companies looking  
3 at that area. Why? Because they know strategically  
4 it's a good location for their business. Also the  
5 area's economic development is in dire need as well  
6 because you've got a growing population of the  
7 Hispanic community in that specific area and it would  
8 be tragic that this type of opportunity not be looked  
9 at in terms of what the growing opportunities would  
10 be for that community specifically right across the  
11 street from that plant.

12 I respectfully urge that you act to  
13 advance this project by revising the Proposed Order.  
14 It brings the promise of great opportunity for the  
15 businesses HACIA represents. It brings the promise  
16 of increased tax revenue for this state and for local  
17 government, and it will help revitalize a community  
18 that deserves it. And in conclusion it really helps  
19 reposition that community for the next 40, 50 years  
20 which is truly needed.

21 Thank you.

22 CHAIRMAN SCOTT: Thank you, Mr. Perez.

1                   Next will be Reverend Dr. Turner, to  
2 be followed by the AFL-CIO, which will be represented  
3 by Jason Keller or Michael Carrigan.

4                   Reverend Dr. Turner.

5                   REVEREND DR. WALTER TURNER: Good morning,  
6 Mr. Chairman and Commissioners.

7                   My name is Reverend Dr. Walter P.  
8 Turner, III. I am the president of the Illinois  
9 Faith-Based Association which represents a coalition  
10 of churches throughout the State of Illinois from  
11 Chicago to Rockford all the way down to the southern  
12 parts of Illinois. My church is within the southeast  
13 area of Chicago. We have a number of churches within  
14 the southeast area of Chicago and we are totally,  
15 wholeheartedly behind and support the Clean Energy  
16 Project.

17                   One of the reasons why we are  
18 supporting this project is because when you look at  
19 our community and when you look at what is going on  
20 in our community, we know that that will be a  
21 solution for economic development, but this is a  
22 project that will help save our children's children.

1 This is a project that will help preserve, help  
2 develop, will help solidify, but will also help  
3 preserve our children's future. This is a project  
4 that will help enhance the disadvantaged communities  
5 that we live in, but will also be an answer where  
6 many of our parishioners, our congregates come each  
7 and every week asking about jobs, asking about  
8 solutions of how to have a better way of living.

9 Well, the Clean Energy Project will be  
10 one that will help give that solution. It will help  
11 ease and help give somewhat of a solution to the  
12 violence that is affecting our communities because it  
13 will begin to put jobs, it will begin to help them  
14 fulfill dreams, it will begin to help them fulfill  
15 the goals that they are setting for their families.

16 So I am asking that you will allow us  
17 to be able to -- once again, at a time where our  
18 legislators, the people that represent us in the  
19 State of Illinois, our Governor who has put together  
20 a blueprint, a plan with the Clean Energy Project and  
21 the Leucadia team and all the powers that be to help  
22 make sure that referring has been put in language so



1 that we can make sure that we have an opportunity to  
2 not just be a customer, but to begin to be an owner.  
3 We can own our future. We can own our lives. We can  
4 own the dreams that we have set.

5 So I respectfully ask that you will  
6 honor the intentions and the plain language of the  
7 legislation that has repeatedly and overwhelmingly  
8 been passed by the representatives that represent us  
9 and that you would set aside the Proposed Order in  
10 favor of the revisions that we have suggested.

11 Thank you so much for your time.

12 CHAIRMAN SCOTT: Thank you so much, Reverend  
13 Turner.

14 Mr. Keller, to be followed by Henry  
15 English.

16 Mr. Keller.

17 MR. JASON KELLER: Thank you very much. My  
18 name is Jason Keller. I'm the legislative director  
19 for the Illinois AFL-CIO. I'm here to appear on  
20 behalf of our president Michael Carrigan who had a  
21 longstanding appointment for today, so I'm here to  
22 read a statement on his behalf.

1                   The Illinois AFL-CIO represents nearly  
2   9 million new members in 1500 affiliate member unions  
3   all across Illinois who represent workers of all  
4   backgrounds and education levels, young and old, male  
5   and female and work on their behalf to bring them  
6   quality jobs and working conditions. It is because  
7   of the opportunities that the Chicago Clean Energy  
8   Project will bring forward to those hardworking men  
9   and women and their families that I respectfully urge  
10  you to revise the Proposed Order as we and our  
11  economic development intervenors have requested. We  
12  were intimately involved in the years of negotiations  
13  and the legislative process which created the  
14  statutory framework for this project. The sweeping  
15  majorities by which each piece of legislation passed  
16  is evidence of the powerful mandate to bring this  
17  project to fruition.

18                   The language in those bills are clear  
19  and consistent regarding the limited role of the  
20  Commission. While the original Chicago Clean Energy  
21  enabling statute, Public Act 97-0096, was clear about  
22  the restrictive responsibilities of the Commission

1 when developing the Sourcing Agreement, that limited  
2 Commission role became even more clear with the  
3 enactment of the Trailer Bill which was Public Act  
4 97-630. Specifically the economics now has three  
5 narrow tasks: One, fill in the blanks in the final  
6 draft Source Agreement based upon the previously  
7 established capital costs, operation and maintenance  
8 costs and the rate of return for the project. Two,  
9 remove the unauthorized early termination provisions  
10 from the final draft Source Agreement. And three,  
11 correct typographical and scriveners' errors. Going  
12 any further than this narrow statutory charge is  
13 beyond the Commission's legal authority and  
14 corresponding legislative intent.

15 The Illinois AFL-CIO strongly urges  
16 the Commission to reject the overreaching elements of  
17 the Proposed Order and adopt the revisions filed by  
18 the Chicago Clean Energy and thereby preserve this  
19 important economic development and its associated  
20 jobs. I respectfully urge you to act in accordance  
21 with the plain language of those laws, to respect the  
22 intentions of the General Assembly and the Governor,

1 and to do the right thing for the working people of  
2 this state who need the jobs that that project will  
3 bring.

4 Thank you very much.

5 CHAIRMAN SCOTT: Thank you Mr. Keller.

6 And finally on this particular  
7 subject -- although we have other speakers -- but on  
8 this particular subject we'll hear from Henry  
9 English.

10 Mr. English.

11 MR. HENRY ENGLISH: Good morning, Mr. Chairman  
12 and fellow Commissioners. My name is Henry English  
13 president of the Black United Fund of Illinois, a  
14 not-for-profit tax-exempt federated organization  
15 working to improve the quality of life in the  
16 African-American community through health and  
17 self-reliance.

18 We are a statewide organization with a  
19 particular strength in the South Chicago region. For  
20 more than 26 years we have offered a broad range of  
21 nationally celebrated programs dealing in economic  
22 capacity, job skills, and association stability in

1 the African-American community. We support the Clean  
2 Energy Project because of the opportunity it offers  
3 or people in our community. Along with the General  
4 Assembly, the Governor, we have been clear that this  
5 is a vital investment to our community and the State  
6 of Illinois. Our primary mission is to change lives.

7 This project will move us toward that  
8 mission of changing lives. When you offer people an  
9 opportunity at a job, you sincerely have an impact on  
10 their life, not only on their life, but the  
11 communities that they live in. This is why I  
12 respectfully request that you honor the  
13 straightforward language of the legislation. The  
14 Proposed Order put forward a clear attempt of the  
15 General Assembly, the Governor and the underlying \$3  
16 billion investment that our community needs and  
17 deserves. And you know that given these economic  
18 times and where we're located on the South Side of  
19 Chicago, we need every opportunity and every job  
20 opportunity possible.

21 So we go with the revised language  
22 represented by the course of action set forth by

1 Clean Energy so this order will certainly -- this  
2 project will have a tremendous impact on the  
3 Southeast Side of Chicago. I've lived and worked in  
4 that area for many, many years. I've seen it when it  
5 was up and I've seen it when it was down. This  
6 certainly will be a shot in the arm for that  
7 community now and in the future.

8 Thank you.

9 CHAIRMAN SCOTT: Thank you very much,  
10 Mr. English.

11 We will now hear from Mr. Richard  
12 Passarelli.

13 Mr. Passarelli, we know you were going  
14 to make it last week and we're sorry about the death  
15 in the family. Please go right ahead.

16 MR. RICHARD PASSARELLI: Thank you,  
17 Mr. Chairman and Commissioners.

18 My name is Richard Passarelli. I'm  
19 the business manager for Local 18007 in Chicago. I'm  
20 also the National Veterans Chair for Washington,  
21 D.C., and represent veterans committees here in the  
22 State of Illinois. Our membership is employed by

1 Peoples Gas and works on its Accelerated Main  
2 Replacement Program, affectionately known as the AMRP  
3 Project.

4                   Nearly 1,000 of our members are  
5 employed by Peoples Gas, so we take seriously any  
6 issues that may affect the stability of the company  
7 and the men and women it employs. In Peoples Gas  
8 last rate case in 2009, we intervened and voiced our  
9 support for Peoples Gas and the AMRP Project. This  
10 would help ensure that Peoples Gas get implemented.

11                   As the people who work directly on and  
12 with Peoples Gas distribution system, we know the  
13 importance of the AMRP Project in enhancing the  
14 safety of the system generally and for our workers  
15 specifically. As promised, the AMRP has created many  
16 new jobs. A lot of these jobs were set aside for  
17 veterans coming back from Afghanistan and from Iraq.  
18 A very important part of this project was carved out  
19 throughout collective bargaining with Peoples Gas,  
20 with our Local and our National and many more of  
21 these jobs will be promised to our veterans that are  
22 coming home.

1                   We agreed with many of these points  
2                   and unanimously voted to approve the Rider ICR to  
3                   support the AMRP Project. Now, however, we  
4                   understand that the Rider ICR is in jeopardy in the  
5                   courts. It is also our understanding that the two  
6                   critical issues in that case are the rate of return  
7                   and capital structure.

8                   The Union is, therefore, concerned  
9                   that Peoples Gas will not be able to continue the  
10                  AMRP Project if its return is set too low or its  
11                  capital construction is weakened. While we  
12                  understand your need to consider the impact of your  
13                  decision that will have on your customers paying  
14                  their gas bills, we strongly and respectfully urge  
15                  you to also balance that with the impact your  
16                  decision will have on the continuation of the AMRP  
17                  Project and the jobs it has created and will continue  
18                  to create.

19                  There is a deeper concern that if you  
20                  give Peoples Gas a return that is the lowest that's  
21                  been given to any gas utility in 40 years by also  
22                  changing its capital structure in a way that hurts



1 its credit rating, you may be jeopardizing the AMRP  
2 Project and the many more jobs to come. That will  
3 mean many jobs lost and as a result we cannot afford,  
4 given the state of the economy unemployment in our  
5 country today. The Utility Workers Union of America,  
6 the AFL-CIO, Local 18007, and the National Veterans  
7 respectfully request that the Commission leave the  
8 capital structure of Peoples Gas unchanged.

9 We ask that you give the company a  
10 reasonable rate of return in range that has been  
11 requested. We believe this will create an  
12 environment that will allow the continuation of the  
13 AMRP Project and the jobs it has created and will  
14 continue to create in the future.

15 Thank you for your time.

16 CHAIRMAN SCOTT: Thank you very much,  
17 Mr. Passarelli.

18 Next we'll hear from Dylan  
19 Hayworth-Weste and that will be followed by Pablo  
20 Garcia.

21 MR. DYLAN HEYWORTH-WESTE: Good morning. I  
22 would like to speak today in strong opposition to the

1 proposed rate increase for the North Shore Peoples  
2 Gas Company. The working poor and underclass of  
3 Chicago and neighborhoods that face hardships  
4 relating to economic and racial disparities in our  
5 city cannot stand another cost increase. Many  
6 Chicagoans are forced to choose between necessities  
7 such as healthcare, housing, education, and even  
8 food. The proposal to raise the acceptable cost of  
9 heat and electric and thereby forced to be  
10 marginalized in our city to choose between these  
11 needs is an unjust proposition.

12                   Additionally, I would like to  
13 highlight how a decision approving this rate increase  
14 would adversely affect families with parents and  
15 children who are undocumented immigrants and  
16 precarious workers. If you are unfamiliar with the  
17 term, "precarious workers" are the unemployed,  
18 undocumented, and the underpaid. Those whose labor  
19 is fragmented, informal and invisible, yet contribute  
20 to the economic livelihood of Chicago and the State  
21 of Illinois. However, because they're  
22 disenfranchised and oftentimes unfairly criminalized

1 status cannot express themselves to official  
2 governing bodies.

3                   In Pilsen, my neighborhood, many  
4 families facing the hardships of economic  
5 difficulties are caught in this precarious condition  
6 and, therefore, cannot come to the Commission  
7 meetings such as this one to voice their concerns.  
8 Their silence is due to the violent and unfounded  
9 stigmatization surrounding the political and racial  
10 stereotypes attached to immigrants and the  
11 unemployed. Nonetheless, their survival will be  
12 directly threatened by a sufficient rate increase.

13                   According to the State of Illinois  
14 Public Utilities Act of 2001, the goals and  
15 objectives of the ICC's regulatory oversight is "to  
16 ensure the rates for utility services are affordable  
17 and, therefore, preserve the availability of such  
18 services to all." Thus the raising of rates would  
19 contradict the stated goal of the State of Illinois  
20 to provide service to those who are forced into  
21 silence in our communities and cannot afford to pay  
22 more for heating. Because oftentimes these

1 hardworking members of our community cannot  
2 participate in our Democratic assemblies for fear of  
3 police and governmental oppression, I will speak on  
4 their behalf.

5 We demand that the Board deny the  
6 these rate increases on the grounds that they would  
7 adversely Affect these crucial members of our city.  
8 I implore the members of this Commission to act in  
9 the interest of our neighbors and not in the interest  
10 of corporate profits.

11 Thank you.

12 CHAIRMAN SCOTT: Thank you very much.

13 Next is Pablo Garcia to be followed by  
14 Alexandra Mazzoccoli.

15 Mr. Garcia.

16 MR. PABLO GARCIA: Good morning. My name a  
17 Pablo Garcia. I'm here to speak on behalf of the  
18 Cook County Workers Benefit Council, a delegate body  
19 that represents the needs and interests of low-paid  
20 workers in Cook County. We demand that you, the ICC,  
21 deny any rate increase to Peoples Gas. State law  
22 clearly defines this as your duty. The Illinois

1 General Assembly Public Utilities Act of 2001 states  
2 that the ICC is a State agency to regulate utilities.  
3 That -- and I quote -- The goals and objectives of  
4 such regulations must be to ensure the rates for  
5 utility services are affordable and, therefore,  
6 reserve the ability of such services to all citizens.  
7 Heating gas is not affordable and available to all in  
8 our city.

9 Right now according to the Chicago  
10 Tribune, Peoples Gas shut off service for about  
11 12,000 residents in September and October alone in  
12 2011. That's almost 200 families per day losing  
13 their ability to heat their homes. Low-income  
14 families are the ones who suffer the most when you  
15 add an increase to Peoples Gas. We are trying to  
16 support families on jobs that pay far less than  
17 living wage when have not worked at all. When our  
18 utility bills go up, we are forced to cut back on  
19 food, short our landlords on rent, or go without  
20 necessary medicines. We have less money to spend in  
21 our stores so they suffer, too. But Peoples Gas has  
22 not suffered. Their parent company, Integrys, gave

1 their top two executives over \$12 million last year  
2 and they still enjoy over \$200 million in profits.

3 ICC, you have no right to give Peoples  
4 Gas another rate increase when already very few  
5 people enjoy millions of dollars at the expense of  
6 tens of thousands of families who have no heat. The  
7 Cook County Workers' Benefit Council calls you to  
8 fulfill your mandate, to ensure utility service is  
9 affordable and available to all. We demand the ICC  
10 to reject any rate increase for Peoples Gas. We  
11 demand the ICC direct Peoples Gas to cease all  
12 shutoffs on households whose income is 300 percent of  
13 the federal poverty line or less. We demand the ICC  
14 direct Peoples Gas to immediately reconnect service  
15 without charge to households whose income is  
16 300 percent of the federal poverty line or less.

17 We demand that the ICC direct Peoples  
18 Gas to work out for customers unable to pay their  
19 bills in full at the time of the receipt payment  
20 plans that will not force a family to suffer without  
21 sufficient food, Medicare or shelter because of the  
22 size of their utility bill. Again, we demand the ICC

1 make utilities affordable and available to all.

2 Reject any increase for Peoples Gas.

3 Thank you.

4 CHAIRMAN SCOTT: Thank you.

5 Next we have Alexandra Mazzoccoli

6 followed by Beth Wagner.

7 Ms. Mazzoccoli.

8 MS. ALEXANDRA MAZZOCOLI: Good morning. I'm  
9 Alexandra Mazzoccoli. I have to start out by saying  
10 that this 10:30 a.m. meeting is ridiculous. I had to  
11 take off work to speak on something that affects all  
12 residents in Chicago, millions of whom who cannot  
13 afford to leave their job for even half a day; but I  
14 digress.

15 I'm here today because I've been a  
16 Chicago resident for more than eight years and I will  
17 not stand for any increase for Peoples Gas. My rent  
18 goes up when my landlord's utility bills go up. But  
19 my pay has not gone up. In fact, it has decreased  
20 over the last year which is a common problem in this  
21 city. I know because I volunteer with an association  
22 of low-income workers and I meet dozens of families

1 each week who are not able to afford basic survival  
2 needs.

3                   This fall I did an advocacy for a  
4 family of four facing a heating gas disconnection  
5 because the father's employer was two weeks late  
6 paying him for a construction job. Like most Chicago  
7 families, they were barely making ends meet. And  
8 without the pay that he was due, the only money the  
9 family had to the dollar was money for rent. I  
10 explained this situation to Peoples Gas requesting a  
11 one-week extension to pay the bill. Peoples Gas  
12 refused and referred us to state agencies that when I  
13 called did not provide assistance in preventing the  
14 shut off. I finally phoned ICC Support and one of  
15 your reps, Mary, told me, and I quote, I cannot stop  
16 this shut off. Pay the company what they ask.  
17 Instead of wasting time talking with me on the phone,  
18 you should be helping the family come up with the  
19 money that they need.

20                   ICC, it is your duty to ensure  
21 utilities are affordable and available to all, not to  
22 grant and then enforce profiteering rate increases by



1 Peoples Gas. Giving Peoples Gas yet another rate  
2 increase will only deny more families the ability to  
3 safely heat their home or to afford other things they  
4 need to survive. For you to even consider this rate  
5 increase is criminal. Granting this increase only  
6 shows us, the people, that, in fact, the only  
7 interest you're serving is that of Peoples Gas  
8 shareholders. Granting even one more dollar to  
9 Peoples Gas is denying a basic human right to even  
10 more families than the tens of thousands already  
11 suffering without heating gas all to increase the  
12 profits of a very few.

13 ICC, I demand you to protect the  
14 people, not Peoples Gas. Deny any rate increase to  
15 Peoples Gas. Stop these disconnections and reconnect  
16 service for all.

17 Thank you.

18 CHAIRMAN SCOTT: Beth Wagner to be followed by  
19 Alex Fitzgerald.

20 Ms. Wagner.

21 MS. BETH WAGNER: Thank you for the opportunity  
22 to speak today. My name is Beth Wagner. I've lived

1 in Pilsen in an old building that was built in 1879.  
2 In the building I have 3 tenants and 2 businesses  
3 that I've operated for the last 25 years. I also  
4 have about 35 employees, so I'm really kind of  
5 representing the small business community.

6 Peoples Gas is a basic commodity. It  
7 is something that we all -- nearly everybody in the  
8 City of Chicago needs. It's not something that you  
9 can say, Well, maybe I won't take that. In fact, I  
10 know in Pilsen, since I've lived there for a long  
11 time -- one time I had a school call me and ask me to  
12 do a wellness check on a family down the street. I  
13 went in to see the family and they had no heat. The  
14 one little girl that I pulled out, she was about 6  
15 years old, her lips were blue. I put her in the  
16 bathtub and warmed her up. She tells everybody I  
17 saved her life and now she's a really valued  
18 employee. She's 24 years old.

19 That happens every day to people in  
20 Pilsen and it's really -- it happens every day in  
21 places all over and it's easy for us to forget  
22 because as Peoples Gas raises their prices, so does

1 ComEd, so does the real estate taxes, and suddenly we  
2 have inflation. That means that loaf of bread is  
3 more expensive. That means the sandwich in my  
4 husband's restaurant is more expensive. That means  
5 the rent for anybody in the neighborhood is more  
6 expensive. That's a really crushing blow to a lot of  
7 people.

8                   What I'd really like to ask -- it's  
9 like a vicious circle that can't be stopped unless we  
10 really look at the poorest of the poor. They are the  
11 least able to cope and so are the small businesses.  
12 They are the ones that are dealing with people that  
13 are right on the line. My employees all the time  
14 I've got to lend this one money for a dentist  
15 appointment, help them out with rent every once in a  
16 while. It really is -- small businesses really feel  
17 this a lot.

18                   My gas bill could be up to \$20,000 a  
19 year. So I'm not talking about \$200 a month or  
20 something. I pay about \$1,400 a month in a plan that  
21 I usually have to fall off of at some point in the  
22 winter because I just can't afford it and start a new

1 plan April 1st when I'm just about to be  
2 disconnected, and I run two successful businesses.  
3 I'm hurting just as much as everybody else.

4 I'm assuming that you guys have been  
5 put here because you really have the ability to  
6 listen. You must be really good listeners. And you  
7 really need to also be people that can look at  
8 history and -- history repeats itself over and over  
9 again. And, you know, when we look at people -- when  
10 we push poor people to the limit, when we put them --  
11 and, by the way, every one of you sitting here, every  
12 one of us sitting here is one tragedy away from being  
13 homeless. One tragedy away from not being able to  
14 pay our Peoples Gas bill. A fire in my business; you  
15 know, my husband dying; all of these things could  
16 bring me down to a level of living on the streets and  
17 it's true of everybody here.

18 So when we think like that, if you can  
19 really think like that about the poorest of the poor  
20 because that's who all of us have to protect, you  
21 really need to remember history. If we do not take  
22 care of them, they will come back to kill us. I know

1 that sounds really harsh, but look around the world  
2 at the uprisings. We really need to really watch  
3 this. We really need to watch that inflation doesn't  
4 beat the poorest of our people and that it doesn't  
5 destroy small businesses because small businesses are  
6 what actually keeps those people working.

7 I really think that you guys are --  
8 that's exactly what you guys are able to listen for.  
9 And, you know, when I have problems with Peoples Gas  
10 -- they provided me with an \$8,000 bill that made  
11 absolutely no sense. You did come and help me. I do  
12 believe that that's what your job is. And I do have  
13 the heart to know that you can do that again for us.  
14 Please try to realize that once we start the wave  
15 rolling of ComEd and Peoples Gas increases, we really  
16 hurt everybody on all different levels. So please  
17 try to remember that when you're making your  
18 decision.

19 Thank you very much for the  
20 opportunity to talk.

21 CHAIRMAN SCOTT: Alex Fitzgerald followed by  
22 Sharon Grant.

1 MS. ALEX FITZGERALD: Good morning. I'm here  
2 this morning speaking on behalf of the Coalition  
3 Against Corporate Higher Education, which is a  
4 citywide coalition of university students, staff and  
5 faculty of every major university in this city. I'm  
6 here today to explain in a very stark way exactly how  
7 devastating a rate increase on basic utilities will  
8 be for the student population of this city as well as  
9 for adjunct faculty.

10 The fact is that when you look around  
11 over the past 30 or 40 years while wages have  
12 remained stagnant for the most part, tuition at  
13 universities has increased by 400 percent on average.  
14 The fact is that the average low-income family is  
15 taking out in student debt an equal amount to their  
16 annual household income to send one child to a  
17 university. And many of these families have more  
18 than one child. What we're looking at is the fact  
19 that students across the country and in this city are  
20 making what we would call negative income. No matter  
21 how much they work, they're still taking out more  
22 money each year in student debt than they're able to

1     earn because let's face the facts, they're in school  
2     full-time and then they're also trying to find jobs  
3     on the side when there are jobs for them to apply for  
4     and to at least get in any case.

5                     The plight of low-income students and  
6     individuals living below the poverty line has reached  
7     a completely untenable amount. There is a huge study  
8     that came out 3 weeks ago showing that 50 percent, 1  
9     in 2 Americans now are either low income or lives  
10    below the poverty line. This is not the plight of a  
11    small section of the American people or people of  
12    Chicago or the State of Illinois, this is 1 in 2.  
13    When we look at the plight of students on the  
14    university level, we can see that this has  
15    devastating impacts on their ability to pay  
16    their bills, to go to school, to go to class, and to  
17    try to build a better future for themselves. But  
18    when we look at students in K through 12 education,  
19    the picture gets more devastating.

20                    Of any city in the country, Chicago  
21    has the highest child poverty rate of any city in  
22    this country. What that means is you have over 3 in

1 5 children in this city born below the poverty line.  
2 62 percent of children born into households, born  
3 into families that may not be able to pay their basic  
4 utility bills. And we know that every moment a child  
5 is shivering in a corner, every moment a child is  
6 hungry, every moment a child is thinking about their  
7 inability to take a hot shower, those are moments  
8 that a child is not learning to read. That a child  
9 is not learning their multiplication tables, that a  
10 child is not learning the very basic skills that they  
11 need in order to get a job later to support a family,  
12 to invest in their own future.

13 What we're talking about in terms of  
14 raising prices on utilities is literally and  
15 absolutely a mortgage on the future of this city and  
16 of this state. And I think all of us can see that  
17 there are so many problems with the economic system  
18 that we cannot afford, we cannot allow one more  
19 mortgage to be taken out on our future. I urge this  
20 Commission to ardently, stridently, and without  
21 exception oppose any rate increase for the sake of  
22 the children and the students of this city and this



1 state.

2 Thank you.

3 CHAIRMAN SCOTT: Sharon Grant.

4 MS. SHARON GRANT: Hello. My name is Sharon  
5 Grant. I live at 5218 South Lowe. I'm from the  
6 Englewood community. And what I'm here to say is  
7 it's bad to say that -- I don't understand how you  
8 can give Peoples Gas a raise when we suffer. We  
9 don't have no heat. I know people that's heating  
10 their house by oil, kids in the corner freezing.  
11 When our gas gets cut off, our hot water gets cut  
12 off, our cooking gas gets cut off, that means we're  
13 eating cold cuts. We need help, not the Peoples Gas.

14 I strongly advise you to help us.  
15 Don't help them. We got -- it's terrible how people  
16 are living in the corner. You hear every day how  
17 fires break out and people are dying trying to keep  
18 warm on the strength that they can't pay their gas  
19 bill.

20 I'm on a fixed income. I get \$700 a  
21 month. My rent is \$650 a month and my gas bill is  
22 \$106 a month. Now you tell me what am I supposed to

1 do? I can't do it. So that means my gas gets cut,  
2 my kids go to bed in the cold, then have to get up in  
3 the morning and go to school in the cold. Pretty  
4 soon that's all they're going to know is cold.

5                   So I'm asking before you make your  
6 decision, think about -- I don't have a big income.  
7 I don't have a \$60,000 yearly income. I can't afford  
8 to pay. We do have CEDA. CEDA does that one time a  
9 year, then you're back to where you started at again.  
10 It's hard to say. You have to think about people  
11 that have these kids. That's why it's so many fires,  
12 they're trying to keep warm and throw a rag in the  
13 oil -- the oil lamp or that propane gas, and that's  
14 not good to inhale.

15                   It's hard out here. I'm a struggling  
16 person. Like I said, I'm on a fixed income. My rent  
17 takes up the majority of my money. It's either I  
18 want to eat or I want to be warm. I want to have  
19 both. I have a grandmother who has worked all her  
20 life and right now she's sitting in the cold. She's  
21 done so much for the community all her life and what  
22 is the community doing for her? Nothing but giving

1 her a raise on her gas. She's worked all her life,  
2 35 years, and now she's got nothing to show for it  
3 but a cold house. I can't help her because I need  
4 help myself.

5 So I'm asking you to kindly -- you all  
6 look like some very intelligent people and I know  
7 you're going to do the right thing. So I'm leaving  
8 it up to you to do the right thing and may God bless  
9 you all.

10 CHAIRMAN SCOTT: David Schweichart followed by  
11 Kelsey Peterson.

12 Mr. Schweichart.

13 MR. DAVID SCHWEICHART: I'm a professor of  
14 philosophy at Loyola University. I'll be brief.

15 In January of 2010 Peoples Gas  
16 received a \$70 million rate increase. Barely a year  
17 later in February of 2011 they asked for almost twice  
18 as much, \$125 million. Since that time Peoples Gas  
19 has disconnected well over 12,000 people in our  
20 communities, many of whom have either lost their jobs  
21 or had their hours cut during this current economic  
22 downturn.

1                   Now, the Commission has already been  
2 reminded that this is Peoples Gas, right, gas for the  
3 people. It's supposed to be a public utility  
4 required by law to have affordable services that  
5 reserve the availability of such services for all.  
6 Now, let it be said that Peoples Gas has not the  
7 means to carry out its government mandate, let me  
8 point out that Peoples parent company, Integrys,  
9 whose headquarters are right down the street on  
10 Randolph a few blocks away, posted a \$224 million  
11 profit in 2010. I don't know what they made this  
12 year, but it's going to be good because the Integrys  
13 stock price a year ago was \$48 a share, now it's up  
14 to \$53 a share. So Integrys stockholders have seen  
15 their wealth go up by 10 percent over the year while  
16 tens of thousands of people have had their gas shut  
17 off.

18                   So please note, a public utility rate  
19 increase is essentially a tax increase that falls  
20 disproportionately on the weakest members of society.  
21 All sales tax are regressive, but to raise the tax at  
22 this time during the most severe economic downturn

1 since the Great Depression on one of the most vital  
2 services that everybody needs is just unconscionable.  
3 The please do the right thing. Let Integrys  
4 shareholders take home a bit less than they otherwise  
5 would for the sake of our most vulnerable citizens.

6 One final note, in case you think  
7 Peoples Gas is keeping their paying customers happy,  
8 I invite you to check out a Web site, Yelp.com, that  
9 I happened to stumble across when I was Googling  
10 Peoples Gas -- 92 complaints there. Some of them  
11 were very length and bitter about what's going on.  
12 Just to conclude, here are some small excerpts from  
13 some recent ones: From Sonya P, Would I ever refer  
14 Peoples Gas to anyone? Never. I feel sick even  
15 giving these people my money right now, but that's  
16 what you get when companies run monopolies in major  
17 cities.

18 Jennifer F says, This is the worst  
19 experience I've ever had. I filed an ICC compliant.

20 Gail G: I cannot adequately express  
21 my hatred of Peoples Gas.

22 Judith M says, Peoples Gas suck loads.

1 We can't even open our business because of Peoples  
2 Gas. I would give them zero stars because that's  
3 what they are, big fat zeros.

4 Listen, there's a lot of anger out  
5 there. There's a lot of suffering out there. Please  
6 don't raise those rates at this point.

7 Thank you.

8 CHAIRMAN SCOTT: Kelsey Peterson to be followed  
9 by Marisa Brown.

10 MS. KELSEY PETERSON: Good morning,  
11 Commissioners and everyone in attendance. My name is  
12 Kelsey Peterson. I'm a recent graduate of DePaul  
13 University and a resident of Ravenswood. I currently  
14 work as a hostess at a restaurant despite having a  
15 college degree and every month I struggle to pay my  
16 utilities and rent on time.

17 I'm here today to ask that you vote  
18 against any rate increase to Peoples Gas. I have  
19 volunteered to do utility advocacy for people who are  
20 experiencing utility shutoffs. One woman I worked  
21 with was shut off from service from both Peoples Gas  
22 and ComEd. She's on a fixed income because she

1 suffers from diabetes and asthma. She needs access  
2 to heat and electricity. It is a matter of survival.  
3 Although she was granted a 30-day medical  
4 certificate, it only lasted 30 days, and she was  
5 allowed one that entire year. What is that woman  
6 supposed to do the rest of the year?

7 Another woman I worked with has lupus.  
8 Without heating gas, she faces a life-or-death  
9 situation. Her fixed income does not afford her the  
10 year-round ability to pay rent and utilities in full  
11 and on time. Her doctor wrote a medical certificate  
12 demanding her service be reconnected. And after  
13 those 30 days, she was promptly asked to pay her bill  
14 in full or face disconnection. Surely you understand  
15 that asthma, diabetes, and lupus aren't cured in 30  
16 days.

17 Another family I worked with had a son  
18 who was persuing a college degree. He had to drop  
19 out in order to work to help pay his family's utility  
20 bills. Can you imagine telling your son that he  
21 can't go to college because if he does, his little  
22 brothers and sisters will have to go without heat in

1 their home. Both of his parents work full-time jobs,  
2 but still can't afford to pay for their utilities.  
3 How is that okay, especially when two Integrys  
4 executives collectively received more than \$12  
5 million in 2010 after you, the ICC, granted Peoples  
6 Gas their last increase less than 2 years ago?

7                   If you allow this rate increase,  
8 you're depriving people of a basic human right. The  
9 3 families that I did advocacy for are only part of  
10 more than \$12,000 people that Peoples Gas shut off  
11 this last fall. They are hardworking people that  
12 want to pay their bills in full and on time, but  
13 their incomes just aren't sufficient. People simply  
14 can't afford to pay these absurd rates that this  
15 incredibly wealthy company is asking. People  
16 shouldn't have to forego basic necessities that I'm  
17 sure all of you take for granted like food and toilet  
18 paper in order to pay for their utilities. Your vote  
19 can change that -- and it is your duty to regulate  
20 utilities for the wealth of people. Please, I'm  
21 asking you, stop allowing families of this beautiful  
22 country to live in third-world conditions. Deny any



1 rate increase.

2 Thank you.

3 CHAIRMAN SCOTT: Marissa Brown followed by  
4 Gloria Needlman.

5 Ms. Brown.

6 MS. MARISSA BROWN: Good morning. My name is  
7 Marissa Brown. I'm with Occupy the South Side and I  
8 thank you all for your time. I also would like to  
9 thank the Cook County Workers' Benefit Council who  
10 without them, I would not have known this meeting  
11 even existed. So I do thank them for that.

12 I'm wearing three hats today first of  
13 all, as a member of Occupy the South Side, as a small  
14 business owner, and also as a citizen of the City of  
15 Chicago. We as an organization at Occupy the South  
16 Side are a grass roots, nonpartisan, citizen-led  
17 group. We're focused on economic justice for all  
18 communities. And as that being the case, we believe  
19 that a rate increase of \$125 million is not in line  
20 with economic justice in the communities we  
21 represent. We agree unanimously to oppose this  
22 increase as an organization and that's why we're here

1 today. We find it unconscionable that a corporation  
2 calling itself Peoples Gas and Energy is sticking it  
3 to the small man, sticking it to the people, sticking  
4 it to the 99 percent. It's disgusting and we're  
5 pissed off as an organization.

6 As a small business owner, I'm  
7 stressed. I work from home and that's where my  
8 business is based and I don't have the luxury of  
9 cutting my gas off when I go out to work and then  
10 cutting it back on in the evening letting it warm up  
11 because I'm there all day long. So I either keep it  
12 down real low and wrap up with blankets during the  
13 course of the day as I'm doing my work at home or I'm  
14 looking at a ridiculous bill at the end of the month.  
15 Either way it's not a good position to be in as a  
16 business owner.

17 I thought I had a really great  
18 business and it is successful in that it's primarily  
19 a service business, so I don't have much in the way  
20 of overhead; but with this rate increase, the  
21 small -- the last rate increase went from me not  
22 having much of a overhead to having a substantial

1 overhead, to this being, Oh, my God, I'm going to  
2 have to work at a McDonald's again because I can't  
3 pay to have heat going as I do my business during the  
4 course of the day.

5 As a business owner, I understand the  
6 concept of having holes that need to be filled. And  
7 I just would like to propose of Peoples Gas, Hey,  
8 starting at the top, take \$10 out of each employee's  
9 pocket, each employee's check and put that towards  
10 this hole that you, as a company, need to fill. It's  
11 not our fault that you all can't balance your budget.  
12 Why is it balanced on the backs of the ones who  
13 suffer the most and can't afford to pay the most?  
14 It's not fair. It's not right. It's not  
15 conscionable. And no matter what your background is,  
16 you must know right from wrong and this is just plain  
17 wrong.

18 As a citizen, I pay my own heat and  
19 that's part of the rent that I pay every month to my  
20 landlord. I'm a hardworking, tax-paying, working  
21 class, single parent of four. My children's names  
22 are Jovana, Omar, Trinity, and Arissa, my four

1 children that I have at home. So these are the  
2 little people I'm concerned about personally. You've  
3 heard my story mentioned already several times. I  
4 have right here my November bill with that nice red  
5 "shutoff notice" on it because I owe over \$200. I  
6 can't remember the last time I paid my gas bill in  
7 full, not because I'm a deadbeat, but because I have  
8 to pay rent to keep a roof over my children's heads.  
9 I do qualify for CEDA and I get CEDA every year, but  
10 even with CEDA my gas bill is still in the triple  
11 digits. And I need to pay more money? I'm not  
12 getting more money. I'm not getting more money  
13 coming in, but I'm expected to pay out more and it's  
14 just not all right.

15 I know plenty of people who are  
16 working-class, poor, low incomes that supplement the  
17 gas -- who have gas included in their rent. The  
18 landlords can't afford that, so they keep the gas low  
19 and that keeps the houses cold. A lot of people are  
20 using their stoves to heat their homes and this is  
21 dangerous as you all know. I grew up in a home where  
22 my mom would crank up the stove and open it up and

1 that's how you heat your home. This is what happens  
2 and it's not right.

3 I don't know if any of you all need to  
4 open up your stove to heat your home, but it's not  
5 good especially when you have children. We've heard  
6 about the danger of fires from people trying to heat  
7 their homes in an improper way. It's a basic human  
8 right to have heat. It might not be a basic human  
9 right to have air conditioning, but in the summertime  
10 you can even sit under a tree for shade. In the  
11 wintertime there's nothing you as a human being can  
12 do without heat but freeze to death.

13 Lastly and I'll wrap this up, a rate  
14 decrease would be a good idea. I would love to hear  
15 Peoples Gas say, Hey, could you all vote for a rate  
16 decrease. We're charging people too much. That  
17 should not be a foreign concept to us. So on that  
18 note, you all look like God-fearing folk, and I'm  
19 sure you all are here to represent the people in this  
20 room and all around Chicago who could not be here  
21 today. And I know you're going to search in your  
22 hearts and let us know that you're going to side with

1 us, the people of the city, and I can go home and let  
2 Jovana, Omar, Trinity and Arissa know that I don't  
3 have to hold back on entertainment -- which I forgot  
4 what entertainment is these days -- we can go out for  
5 Big Macs from McDonald's, and that would be a treat  
6 for my family. No increase. Let's try to decrease.

7 And thank you all for your time.

8 CHAIRMAN SCOTT: Last, but certainly not least,  
9 we will hear from Gloria Needlman.

10 Ms. Needlman.

11 MS. GLORIA NEEDLMAN: It's hard to follow that.  
12 My kids are all grown. I'm Gloria Needlman. I'm a  
13 lifelong Chicagoan and as you can tell, it's been a  
14 long life. I'm here with a lot of experience. I'm a  
15 retired teacher from the University of Chicago  
16 Laboratory Schools.

17 I've worked as an adjunct person  
18 working with Teach for America kids who are  
19 struggling to work in tough school situations.  
20 Around in those situations, those are the families --  
21 not the ones that I've worked with at the University  
22 of Chicago, but the families that I've worked with

1 many times after my retirement. Those families  
2 suffer, and their suffering means their kids are  
3 suffering. We can't grow our kids to be contributing  
4 citizens if they're cold as little children, that  
5 they remember.

6                   It's our obligation to do something to  
7 change that. A rate increase for ComEd right now is  
8 a horror. It's a nightmare for these families and  
9 they don't deserve it. We need to be advocates for  
10 them and to speak out. Whether I have my kids at  
11 home or my grandkids or my great-grandkids, they're  
12 warm but other peoples are not. And so I ask you to  
13 please make sure that there is no rate increase, that  
14 we try to take care of our families because that's  
15 what we're about.

16                   I did human rights work. And I can't  
17 think of anyplace that's more important than this  
18 kind of human right, to be warm in your house and to  
19 be able to eat and to heat.

20                   So I thank you for your time, and I'm  
21 glad that I had an opportunity to speak this morning.

22                   CHAIRMAN SCOTT: Thank you, Ms. Needlman, and

1 thank you to everyone who took the time to  
2 participate in today's public comment period or just  
3 to be here.

4 Moving on to our agenda. Item 1 is  
5 Docket No. 07-0566. This is ComEd's 2007 rate case  
6 on remand from the Appellate Court. This item will  
7 be held for disposition at a future Commission  
8 proceeding.

9 Item 2 is Docket No. 09-0254. This is  
10 Comcast's billing complaint against ComEd. Comcast  
11 has filed a Petition for Interlocutory Review  
12 concerning the Administrative Law Judge's ruling on a  
13 motion for leave to file its first amended complaint.

14 Is there any discussion?

15 (No response.)

16 Is there a motion to deny  
17 interlocutory review?

18 COMMISSIONER ELLIOTT: So moved.

19 CHAIRMAN SCOTT: Is there a second?

20 COMMISSIONER O'CONNELL-DIAZ: Second.

21 CHAIRMAN SCOTT: It's been moved and seconded.

22 All in favor say "aye."



1 (Chorus of ayes.)

2 Any opposed?

3 (No response.)

4 The vote is 5-0 and the Petition for  
5 Interlocutory Review is denied. We will use this 5-0  
6 vote for the remainder of the Public Utility agenda  
7 unless otherwise noted.

8 Item 3 is Docket No. 11-0282. This is  
9 Ameren's proposed increase in natural gas rates.  
10 ALJs Albers and Yoder Recommend entry of an Order  
11 setting new natural gas rates for Ameren customers.  
12 I believe there are some revisions to offer in this  
13 matter, but first let me ask Judge Albers if there is  
14 a breakdown on the issues surrounding the removal of  
15 the electric issues from this case?

16 JUDGE ALBERS: Well, as you know, last  
17 Wednesday we received Ameren's revisions to the PEPO  
18 reflecting what they believe will result in the  
19 elimination of the electric case. Friday we sent you  
20 a memo with a copy of the Post Exceptions Proposed  
21 Order. We retained most of Ameren's revisions. We  
22 found a few other ones already were cut out and

1 restored some that they had recommended deleting --  
2 some language they recommended deleting -- it's  
3 spread throughout the Order.

4           And then the final turn of events,  
5 yesterday afternoon we received a motion from Staff  
6 which sought to make a few other changes to what  
7 Ameren recommended deleting from the consolidated  
8 Order. Some of those changes we caught when we sent  
9 that to you on Friday, others we did not and we made  
10 a memo recommending that you go ahead and block  
11 additional changes. There is -- no other particular  
12 action needs to be taken on the motion so long as  
13 you -- assuming you agree with the requisite changes  
14 that Staff is recommending, there's no other action  
15 you can take on the motion. You can simply make  
16 those changes in the Order and -- (unintelligible)  
17 that pertains to the resolved motions of other  
18 matters that were taken on that motion.

19           I will also note that as of yesterday  
20 afternoon the Commission received 904 petitions  
21 opposing the new gas rate increase and are calling  
22 for a \$2 million reduction from current rates. If

1 you have any other particular questions, we'll be  
2 happy to answer those for you.

3 CHAIRMAN SCOTT: Thank you, Judge.

4 Are there any questions?

5 (No response.)

6 I have two revisions that I would like  
7 to offer. One is on charitable contributions and the  
8 other is on rate case expense. With respect to  
9 charitable contributions, as you know, the Order  
10 recommends that all of the charitable  
11 contributions -- the recovery from all of the  
12 charitable contributions be removed from the case.  
13 My changes would actually add a little bit stronger  
14 language and I need to say why.

15 Obviously personally and  
16 professionally, being a former elected official in  
17 the community where I live, I understand how  
18 important these contributions are. But the issue for  
19 me is compliance with the Public Utilities Act and  
20 understanding that the Public Utilities Act allows  
21 charitable contributions to be not only allowed in  
22 the rate case, but they're subject to a rate of

1 return. And that's since the ratepayers are paying  
2 for the contributions to the charities plus a rate of  
3 return. So I think the Public Utilities Act, while  
4 that allows it -- obviously that's the call of  
5 legislature and that's fine, but my contention is  
6 that the least we can do on behalf of the ratepayers  
7 is have the decision reflect that there was enough  
8 evidence in the record to support the donation.

9           Here what we have is a list that the  
10 Company put forth using their own categories, not  
11 those in the Public Utilities Act, which means that  
12 we're essentially left to guess which parts of the  
13 Act that they satisfied. Now everybody knows what  
14 some of those charities on the list are. I think  
15 that's probably true of all of us. But our  
16 evidentiary standard is not what we probably know  
17 outside of the bounds of the evidence of the record,  
18 and even if that works for some of the charities, it  
19 doesn't work for all of them. For example, the  
20 Peoria Rivermen or the various chambers of commerce  
21 in different areas. We may know what they are, but  
22 we have no idea what those dollars that the

1 ratepayers are now paying for plus the rate of return  
2 we're actually going for.

3                   Again, the Public Utility Act says for  
4 the public welfare or for charitable, scientific,  
5 religious, or educational purposes provided the  
6 donations are a reasonable amount. I have no idea  
7 how we determine whether the amounts are reasonable  
8 without knowing what the dollars are actually going  
9 for. And so while I certainly believe in the  
10 importance of these charities and the charitable  
11 contributions, and know how important they are  
12 especially right now. The relatively easy burden in  
13 the Public Utilities Act has to be met since we're  
14 asking the ratepayers, not the shareholders of  
15 company, to pick up the entire tab plus a rate of  
16 return for the charitable decisions of the company.

17                   With respect to the rate case expense,  
18 this, again, has to do with Section 9-229 of the  
19 Public Utilities Act which was effective in July  
20 of 2009. This tariff was filed in February of 2011,  
21 which in Section 9-229 calls for us to specifically  
22 assess the justness and reasonableness of any amount.

1 To me what that says is since the ratepayers are  
2 paying the bills for the client, they have a right to  
3 see the amounts they are being charged; but as or  
4 maybe more importantly, how those charges were  
5 arrived at justness and reasonableness of any amount  
6 and to specifically access that. And we don't have  
7 anything close to that here and more importantly,  
8 nobody looking at this record could find it. To the  
9 extent that the evidence exists, it's in discovery  
10 and not part of the evidentiary record.

11 And I don't think what I'm suggesting  
12 is a novel concept. In fact, it's not novel to you  
13 because you've heard me wail on this before in other  
14 cases. In numerous kinds of legal proceedings  
15 attorneys and experts are required to submit detailed  
16 records so that the Court can decide the  
17 reasonableness of the expenditures. 9-229 is wholly  
18 consistent with that practice. It's not only for the  
19 client, but for all of us, for the Court, to fulfill  
20 our responsibility as well.

21 In this matter, the ALJ directed AIC  
22 to provide additional support, which in the ALJ's

1 mind and in mine, the company did not do  
2 satisfactorily. And, in fact, the PEPO says that you  
3 can justify finding that none of the costs are just  
4 and reasonable. And if that's the determination,  
5 that should be our decision.

6 I perfectly well understand  
7 intellectually that it costs money to prepare a rate  
8 case and that lawyers and experts cost money. But I  
9 don't get to substitute that general knowledge  
10 anymore here than I do in the charitable  
11 contributions portion of this.

12 I understand we have a rulemaking  
13 going on that will address future cases, but in this  
14 case right now, the ramification for the ratepayers  
15 is right now. 9-229 was in existence over a year and  
16 a half before this case was even filed. And I think  
17 the terms and conditions of 9-229 need to be  
18 fulfilled.

19 So I'll make a motion for the  
20 previously circulated revisions on rate case expense  
21 and also on charitable contributions.

22 Is there a second?

1 (No response.)

2 Seeing none. That motion failed.

3 Commission Ford, I know you have  
4 revisions as well.

5 COMMISSIONER FORD: Yes, I do, Chairman.

6 In addition to what you've said, I  
7 also am reminded of the fact that the Public Utility  
8 Act says that we must be mindful of the fact that our  
9 ratepayers must get safe, reliable, and uninterrupted  
10 service at a reasonable rate, and also that the  
11 utility must get a reasonable rate of return on its  
12 investment.

13 In addition to what Commission Elliott  
14 proposes, I would also like to propose language  
15 changes as well. It is noted that the methodologies  
16 are different and I am going to point to my economist  
17 commissioner, Commissioner Elliott.

18 COMMISSIONER ELLIOTT: I think that's on  
19 Peoples case. I think your rate case expense and  
20 charitable contribution language is --

21 COMMISSIONER FORD: I'm sorry. That's  
22 Commissioner O'Connell-Diaz.



1           COMMISSIONER O'CONNELL-DIAZ:  It's a joint  
2     edit.  I think Commissioner Ford was referring to her  
3     revisions that she has for Peoples.  We have so many  
4     cases up today and everyone has been working all  
5     weekend and last week and the week before and we get  
6     a little confused.

7                   Charitable expenses.  We have read --  
8     I have read the Proposed Order.  We had oral  
9     arguments the other day and I found it shocking to  
10    see what was recommended in the Order as well as  
11    certain parties' positions at the oral argument.  The  
12    late Senator Hubert Humphrey said it best regarding  
13    our obligations in a civilized society:  The moral  
14    test of a society is how that society treats those  
15    who are in the dawn of life, the children, those who  
16    are in the twilight of their life, the elderly, and  
17    those who are in the shadow of life, the sick, the  
18    needy, and the handicapped.

19                   In order to be reflective of these  
20    sentiments, our legislature has enacted the Part  
21    9-227 of the Public Utilities Act regarding the rules  
22    relative to donations made for the public welfare by

1 utilities. The law is clear that donations that are  
2 made by a public utility for the public welfare or  
3 for charitable, scientific, religious, or educational  
4 purposes can be treated as an operating expense  
5 provided that such donations are reasonable in the  
6 amount.

7                   Moreover, the law is clear that in  
8 determining the reasonableness of such donations, the  
9 Commission may not establish by rule a presumption  
10 that any particular portion of an otherwise  
11 reasonable amount may not be considered as an  
12 operating expense. The Commission shall be  
13 prohibited from disallowing by rule, as any operating  
14 expense, any portion of a reasonable donation. In  
15 this proceeding, the ALJs adopted IIC's position that  
16 not a single charitable contribution for what they  
17 label as "compulsory contributions" should be  
18 permitted due to the current economic conditions.

19                   The new standard, which the Commission  
20 has never looked to before, seeks to establish a  
21 presumption or a standard or rule with the backdrop  
22 of the economic climate. This is contrary to the

1 law. Moreover, it is clear that due to our severe  
2 economic climate, more is needed in our neighborhoods  
3 and towns to help our struggling populous. And what  
4 we are talking about here is the amount that I think  
5 should be bring shame to those who protest. In this  
6 proceeding, it is \$1.47 on an annual bill. That's  
7 like \$.6 a month. And when I look at the amounts  
8 that are billed on the utility bills for other  
9 programs that find there way by way of legislation or  
10 program costs that appear on utility bills for other  
11 programs, I am astounded when we compare that with  
12 the charitable amounts.

13                   Additionally, when you look at the  
14 list -- and this goes to Chairman Scott's point --  
15 these are all registered charitable organizations in  
16 our state, Big Brothers and Sister, Alzheimer's  
17 Association, the Cancer Fund, the list goes on for  
18 six double-sided pages. This is the type of proof  
19 the Commission has looked at in the past. There is  
20 no new rule out there that has been developed -- and  
21 actually I think that the law would suggest that we  
22 cannot develop a new rule. So it is with this

1 backdrop that I feel it is appropriate and in the way  
2 of being part of the community that is envisioned by  
3 our legislature.

4           The Commission is a body that is a  
5 creature of the legislature. We do not make the laws  
6 under which we decide all the these cases, the  
7 legislature does and it's our job to implement. So  
8 the revisions that I proposed to adopt are Staff's  
9 proposal on this issue. And I would also suggest  
10 that everyone needs to remember that tomorrow each  
11 one of us -- as many people have stated this  
12 morning -- each one of us could be that person in  
13 need. And it's important that our companies are out  
14 in our communities and doing the good work that they  
15 do. And it is a minimal amount on everyone's bill  
16 and for these reasons I offer the revision on this  
17 issue.

18           CHAIRMAN SCOTT: Any further discussion on the  
19 proposed charitable contribution provision?

20           ACTING COMMISSIONER COLGAN: I second that  
21 proposal.

22           CHAIRMAN SCOTT: Are you making a motion?

1           ACTING COMMISSIONER COLGAN:   Yes.

2           CHAIRMAN SCOTT:   Any further discussion?

3                           (No response.)

4                           All in favor say "aye."

5                           (Chorus of ayes.)

6                           Any opposed?

7                           No.

8                           The vote is 4-1 and the revision is  
9   adopted.

10                          Commissioner O'Connell-Diaz, do you  
11   have a second?

12                          COMMISSIONER O'CONNELL-DIAZ:   Yes, sir.

13                          We have edits to the rate case expense  
14   portion of the Order.  These edits find that IIC's  
15   requested recovery of rate case expense as adjusted  
16   by Staff is just, reasonable and compliant with  
17   Section 9-229.  While this issue was not raised by  
18   any party to the proceeding, in fact, until we got to  
19   the final briefing stage, the parties did not address  
20   this.  So when you look at the briefs, you could not  
21   find an argument about this.

22                          Additionally, we do note that

1 currently the Commission has a rulemaking docket,  
2 Chairman Scott noted that earlier. This issue of  
3 rate case expense and what the rules on the box tops  
4 shall be as we move forward are going to be codified  
5 with input from all the parties. In the language  
6 that we have proposed, it notes that the Commission  
7 was careful in its Initiating Order in that  
8 proceeding, that we want to have the full  
9 encompassing rule, and we do not want to be making  
10 determinations on a utility-by-utility basis.

11 That is the thrust of 11-0711 that is  
12 ongoing. But as we look at this record and the  
13 evidence that has been adduced in this record, we --  
14 the language recognizes that the findings comport  
15 with the recent Appellate Court decision with regard  
16 to the review that is necessary from the Commission  
17 when doing its review on rate case expense. It also  
18 comports with 9-229, but we also look to -- and  
19 that's independent of whatever is going to go on in  
20 this other docket that's occurring at this point in  
21 time.

22 So I would ask support for revisions

1 to the rate case expense in the Ameren case.

2 COMMISSIONER FORD: Second.

3 CHAIRMAN SCOTT: It's been moved and seconded.

4 Is there further discussion?

5 ACTING COMMISSIONER COLGAN: I would just like  
6 to say that I think this rulemaking has been  
7 progress. Mr. Chairman, I agree with some of the  
8 things that you said on rate cases. That makes  
9 sense. I think that there has to be some real good  
10 accountability for these expenses to be put into rate  
11 base. And considering that we have a rulemaking in  
12 place on this, I'm not seeing the need right at the  
13 moment to a departure from regular traditional --  
14 more traditional Commission approach on this issue.  
15 So I'm going to support that motion with that caveat  
16 that in the future I think we'll have a better  
17 defined definition of what is expected in these  
18 cases.

19 CHAIRMAN SCOTT: Any further discussion?

20 (No response.)

21 I won't go all the way back to the  
22 arguments that were made, but I am going to vote "no"

1 on this on as well. I like the idea of the  
2 rulemaking. I think that will help. I think that  
3 will clarify, but this is a case that's before us  
4 right now. And, Commissioner O'Connell-Diaz, I  
5 respectfully disagree with whether or not it comports  
6 with 9-229 or with the guidance that we just got back  
7 from the appellate case in the Illinois American  
8 Water case.

9 I think clearly by not providing that  
10 the company specifically delineate the basis for  
11 these charges, we're running afoul of that as well,  
12 but obviously we can agree to disagree on that.  
13 Again, it just comes down to me -- I understand the  
14 basis of it in the Public Utilities Act just so  
15 they're doing charitable contributions, all I'm  
16 saying is put the ratepayers in the position where  
17 the normal client would be on an important matter.  
18 And it really doesn't matter that nobody objected to  
19 this. This is for us to decide much the same way it  
20 is for courts to decide where legal fees are a matter  
21 of issues. And those of us who are attorneys have  
22 probably seen instances where there's not been any



1 objections between the lawyers and the Court still  
2 made changes to that. So just because nobody  
3 objected in this case from the Staff or other  
4 intervenor's standpoint, I don't think it's  
5 dispositive. Again, I just wanted to explain why I  
6 was not in support.

7 COMMISSIONER O'CONNELL-DIAZ: Just on that  
8 point, the findings that are contained in the  
9 language does not isolate because no one brought this  
10 issue up. My point was that when you look at the  
11 briefings on this, it is not fully and extensively  
12 briefed because the parties did not address it.

13 So it was really left to the  
14 Commission to look at the issue with fresh eyes and  
15 to determine whether, in fact, the costs that are  
16 provided, the evidence that's provided, is in  
17 compliance with the Act and the language that we  
18 offer finds independently of that --

19 CHAIRMAN SCOTT: I agree --

20 COMMISSIONER O'CONNELL-DIAZ: And it's not  
21 phrased like that because that would be not doing our  
22 due diligence.

1           COMMISSIONER ELLIOTT:  And just to follow up, I  
2   find that to be distinguishing between the two cases  
3   that we're looking at this same issue today.  And so  
4   I think it is a dispositive issue for me in the  
5   Ameren case and I am supportive of Commissioner  
6   O'Connell-Diaz's language in this case, sir.

7           CHAIRMAN SCOTT:  Okay.

8                   Any further discussion?

9                   Motion is to support the revision as  
10  put forth by Commissioner O'Connell-Diaz.

11                   All in favor say "aye."

12                   (Chorus of ayes.)

13                   Any opposed?

14                   No.

15                   The "ayes" have it 4 to 1 and that  
16  revision is adopted.

17                   Further revisions?

18                   Now Commission Ford, I believe --

19           COMMISSIONER O'CONNELL-DIAZ:  I have to say,  
20  this was not all my doing.  This was a collaboration  
21  of Commissioner Ford's office, my office, Commission  
22  Colgan's office -- everybody was doing edits for

1 really the last two weeks and we have had not a lot  
2 of time. And especially given the backdrop of the  
3 new legislation, what we thought we were going to  
4 have to decide on and what got pulled away at the  
5 last minute, so it's been a busy several weeks at the  
6 Commission.

7                   The next edits that I have to offer to  
8 the Commission are edits to the provisions regarding  
9 a rate of equity. Again, this is a difficult  
10 situation in any case. There doesn't seem to ever be  
11 the right answer -- I think that's the -- it's an  
12 inexact science. I jokingly -- when I'm home looking  
13 at the briefs and everything, I call it voodoo  
14 because you have everybody coming and saying, Here's  
15 the right number. Here's the right number. Here's  
16 the right input. Here's what you should be looking  
17 at. This should be discarded. And based on the  
18 evidence that was adduced in this record, we really  
19 did not have a clear winner of any note.

20                   So what we did with John Colgan's  
21 brain mostly because I probably couldn't add the  
22 numbers together -- I was joking with him and I said

1 this was kind of like when I was in grade school and  
2 we used to have a Kool-Aid stand and at the end of  
3 the day you had all different leftover Kool-Aid and  
4 you put it all together and it turned like this  
5 really kind of weird color. We called it suicide  
6 punch. And so we kind of did our own suicide punch  
7 and we put all the numbers in that the parties had  
8 recommended that we thought were credible,  
9 verifiable, and comported with proper rate making  
10 tools. And in summary this averaging produced a  
11 different result than what the ALJs gave to the  
12 Commission. It raises the ROE from 8.8 to 9.06 and  
13 it raises the ROR from 8.205 to 8.332. And I would  
14 ask if Commissioner Colgan had anything to add?

15 CHAIRMAN SCOTT: Do you want to move that  
16 first?

17 COMMISSIONER O'CONNELL-DIAZ: Did you want to  
18 add anything more to that, that I got the edits  
19 right?

20 ACTING COMMISSIONER COLGAN: I'll take that as  
21 a motion and I'll second it and just briefly say  
22 that, yes, there was a -- in considering all the

1 different positions that were made in the case and  
2 how each position pointed out flaws in everybody's  
3 calculations. And then looking at various  
4 Commissioners and different points of view that we  
5 all had on the very same topic, and keeping in mind  
6 that it takes three votes to get anything done here,  
7 we looked to kind of find a way that we can come to  
8 an agreement. And I need to point out that  
9 Commissioner Elliott was also very involved in this  
10 and very much a big help. So I think it's the best  
11 approach that we can come to in this case.

12 CHAIRMAN SCOTT: Further discussion?

13 (No response.)

14 It's been moved and seconded to accept  
15 the revisions as proposed by Commissioner  
16 O'Connell-Diaz.

17 All in favor say "aye."

18 (Chorus of ayes.)

19 Any opposed?

20 (No response.)

21 The "ayes" have it 5-0 and the  
22 revision is accepted.

1                   Commissioner Elliott, you have a  
2   nonsubstantive issue?

3           COMMISSIONER ELLIOTT:  I do, Mr. Chairman, a  
4   small editorial change in relation to the decision  
5   with regard to the GDS5 customers.  I added a phrase  
6   that does not change the substantive conclusion and I  
7   would offer that change.

8           CHAIRMAN SCOTT:  I'll second that.

9                   Is there any discussion on this  
10   particular matter?

11                   All in favor say "aye."

12                   (Chorus of ayes.)

13                   Any opposed?

14                   (No response.)

15                   The "ayes" have it 5-0 and the  
16   revision is adopted.

17                   Is there any further discussion on the  
18   Order?

19                   (No response.)

20                   Is there a motion to enter the Order  
21   as amended?

22           COMMISSIONER ELLIOTT:  So moved.

1           CHAIRMAN SCOTT: Is there a second?

2           COMMISSIONER FORD: Second.

3           CHAIRMAN SCOTT: It's been moved and seconded  
4 to enter the Order as revised.

5                   All in favor say "aye."

6                   (Chorus of ayes.)

7                   Any opposed?

8                   (No response.)

9                   The vote is 5-0 and the Order as  
10 amended is revised.

11                   On behalf of the Commission, I would  
12 like to thank all the parties for the many hours they  
13 put into this case. I would especially like to thank  
14 Judges Albers and Yoder for all the extra time they  
15 put in, their work with the Trailer Bill, the removal  
16 of the electric portion of this case. There were  
17 obviously some unique challenges with this particular  
18 matter and the Commission deeply appreciates the work  
19 done on this matter. So, Judges, thank you; but  
20 thank you to everyone who worked on the case.

21                   Item No. 4 is Docket No. 11-0528.

22 This is Randy Allison and Linda Leavitt's complaint

1 against Ameren. The parties have apparently settled  
2 their differences and brought a Joint Motion to  
3 Dismiss which ALJ Jones recommend we grant.

4 Is there any discussion?

5 (No response.)

6 Any objections?

7 (No response.)

8 Hearing none, the Motion to Dismiss is  
9 granted.

10 Item No. 5 is Docket No. 11-0743.

11 This is Sperian Energy Corp's application for a  
12 certificate permitting them to operate as an  
13 alternative retail electric supplier in Illinois.  
14 ALJ Wallace recommends an Order granting the  
15 requested certificate.

16 Is there any discussion?

17 (No response.)

18 Any objections?

19 (No response.)

20 Hearing none, the Order is entered.

21 Item 6 is Docket No. 11-0794. This is  
22 Naba Energy's application for a certificate



1 permitting them to operate as an Agent Broker and  
2 Consultant under Section 16-115C of the Public  
3 Utilities Act. ALJ Albers recommends entering an  
4 Order granting the requested certificate.

5 Is there any discussion?

6 (No response.)

7 Any objections?

8 (No response.)

9 Hearing none, the Order is entered.

10 Item No. 7 is Docket No. 11-0280 and  
11 11-0281 consolidated. This is the rate case for  
12 Peoples Gas and North Shore Gas. ALJs Hilliard and  
13 Kimbrel recommend --

14 VOICE: No rate increase.

15 CHAIRMAN SCOTT: Folks, if you would, please,  
16 we would ask you to keep that down if you could.

17 ALJs Hilliard and Kimbrel recommend  
18 entry on an order setting new rates for the Company.  
19 There are a number of revisions here to consider as  
20 well.

21 COMMISSIONER O'CONNELL-DIAZ: Mr. Chairman,  
22 before we get started, if I could ask the ALJs to

1 address the issue that I really wanted to get  
2 information on their determinations in this docket,  
3 in particular the issue of the passthrough taxes.

4 CHAIRMAN SCOTT: Sure.

5 JUDGE KIMBREL: I handled that issue,  
6 Commissioner.

7 Regarding passthrough taxes, the  
8 utilities maintain that they add passthrough taxes  
9 and energy-assisted charges to customer bills and  
10 then are the required to remit the funds to various  
11 local and state governmental agencies. These taxes  
12 and charges are not recorded as revenue or expense on  
13 an income statement, but their collection and payment  
14 cause a timing difference in the cash flow that needs  
15 to be accounted for.

16 The lag for the collection of  
17 passthrough taxes is the same as the revenue lag.  
18 The utilities argued that in approving the utilities  
19 expense leads and revenue lags in the 2009 rate  
20 cases, the Commission acknowledged and found that if  
21 the shareholders make the payment because the money  
22 has not yet been received from the ratepayers, then

1 this amount is appropriately contained in the  
2 calculation of cash-working capital.

3 Staff argued that the Commission  
4 should find that passthrough taxes have a revenue lag  
5 of zero days and maintains that since passthrough  
6 taxes are not related to the provision of utility  
7 services, there's no lag between the delivery of the  
8 utility service and the receipt of cash from  
9 customers. The utilities countered that passthrough  
10 taxes and energy-assisted charges were prescribed by  
11 law and considered charging for a public utility  
12 service.

13 Staff noted as well that the  
14 Commission has determined that the past due taxes  
15 should have a revenue lag of zero and that this was  
16 found in three recent rate cases. The Order found  
17 that the utilities used a methodology that matched  
18 what the Commission approved in their last rate cases  
19 where Staff's proposal was rejected.

20 The Order also recognized, as did  
21 Staff, that the terms upon which the utilities remit  
22 taxes and charges have not changed since the 2009

1 rate cases and that Staff did not present evidence to  
2 counter this. It should also be noted that the past  
3 cases upon which Staff relies differ as much as the  
4 utilities in this docket on nonelectric or  
5 combination utilities. Further utilities in this  
6 docket also differ in their franchise agreements with  
7 their representative municipalities.

8 COMMISSIONER O'CONNELL-DIAZ: So just so can I  
9 understand, what you're suggesting that a one size  
10 fits all is inappropriate with regard to the issue of  
11 passthrough taxes and one of the factors to that  
12 would be that there are various agreements and  
13 schedules with the various municipalities that the  
14 Company is serving and whatever their franchise  
15 agreements provide for, that timing difference is  
16 different based on the communities that they are in?

17 Is that a factor?

18 JUDGE KIMBREL: Yes. That is correct.

19 COMMISSIONER O'CONNELL-DIAZ: And so it's  
20 Staff's position that there is zero lag time; but, in  
21 fact, wasn't there a lead lag study that showed that  
22 that is not true?

1 JUDGE KIMBREL: That's what I found.

2 COMMISSIONER O'CONNELL-DIAZ: So to find  
3 otherwise would not comport with the evidence that's  
4 in this record?

5 JUDGE KIMBREL Yes.

6 COMMISSIONER O'CONNELL-DIAZ: And so it's not  
7 zero -- and there was a lead lag study that was done  
8 and it was done by Mr. Hentegen (phonetic), that was  
9 his name?

10 JUDGE KIMBREL: Yes.

11 COMMISSIONER O'CONNELL-DIAZ: So the issue of  
12 the squaring with the Commission's determination and  
13 other rate proceedings that are noted in the record  
14 would not have bearing because the evidence in this  
15 record is different than each of those proceedings?

16 JUDGE KIMBREL: That's what I found.

17 COMMISSIONER O'CONNELL-DIAZ: Thank you. I  
18 just wanted to be sure what the evidentiary record  
19 was and probe the recommendations of the ALJs on this  
20 issue. Thank you.

21 CHAIRMAN SCOTT: There are a number of  
22 revisions that are to be proposed and we'll start

1 there as we just did with the passthrough taxes.

2 This provision makes two findings, one  
3 is essentially saying that from a legal standpoint,  
4 this is not revenue as defined in the Public  
5 Utilities Act because it's not performing a utility  
6 service and shouldn't be treated at such.

7 And secondly that there is no lag in  
8 the delivery of the utility service in receipt of  
9 cash from customers that the revenue comes in and is  
10 essentially paid out as it comes in. And, again, as  
11 was just pointed out that this is consistent with  
12 three recent cases, not just Ameren in 2010,  
13 (unintelligible) in 2009; but also the Commonwealth  
14 Edison case that this same body decided in May of  
15 2011.

16 And I think that there was also  
17 finding that through looking through the record that  
18 this was from a practical standpoint as well that  
19 you're talking about, so we may differ on whether or  
20 not there is a lag here or not. This was remitted in  
21 the month after it was collected. So it's very  
22 difficult to figure out how, for me, how you can

1 actually have a lag when something is remitted a  
2 month after it's already been collected, not the  
3 month it's to be collected, the month after it's been  
4 collected. So from both a legal and a practical  
5 standpoint, I believe the passthrough taxes language  
6 should be amended.

7 I've submitted that revision and I  
8 would move for its adoption.

9 Is there a second?

10 COMMISSIONER ELLIOTT: I will second that.

11 CHAIRMAN SCOTT: Any further discussion?

12 COMMISSIONER O'CONNELL-DIAZ: Yeah. Initially  
13 when I saw your revisions and I looked at them -- and  
14 I excused myself for not paying more attention to  
15 this early on -- I was not clear that the record was  
16 as it is and that is my problem. My problem is that  
17 the record is not reflective that there is no lag. I  
18 think that Staff has a position that is not fully  
19 developed and therefore leaves holes in coming to the  
20 conclusion that you would like to come to.

21 Additionally, I think the ALJ as he  
22 just went through the thought and rationale of his

1 determination on this issue, that the notion -- and I  
2 believe it was an issue in the 2009 case -- that we  
3 should adopt this type of methodology in every single  
4 case just is not winning the day because the evidence  
5 doesn't support that. The evidence is clear that  
6 there is a lag, that there is a number associated  
7 with that, the company witness testified to that.  
8 Staff did not follow through with bringing something  
9 else for us to look at. And on that basis,  
10 I would -- and I know I don't have the votes for  
11 this -- but I would look to somebody asking for a  
12 rehearing on this because I think if we make a  
13 mistake in this -- and it really shouldn't be a  
14 cookie cutter thing where if we did it for one  
15 utility we do it for another, when it's really based  
16 on what that individual utility is doing in those  
17 with that issue. I think we need to be fair and we  
18 need to be clear about it.

19 COMMISSIONER FORD: I think what you're saying,  
20 Commissioner, is this is a regulatory body and  
21 because it's a regulatory body, we can address each  
22 matter freely. We do not have to vote on res



1       judicata to address these issues and I certainly  
2       support what you're saying about the lag.

3               COMMISSIONER O'CONNELL-DIAZ: Thank you. You  
4       made it sound much better than I was making it sound.  
5       So that's why I cannot support it. I tried to look  
6       really clearly at this and with all due respect I  
7       cannot -- given the rendition that we just had of the  
8       rationale and the actual facts of the case, I would  
9       not be able to be supportive of your revisions.

10              CHAIRMAN SCOTT: Any further discussion on this  
11       matter?

12                               (No response.)

13                               All in favor say "aye."

14                               (Chorus of ayes.)

15                               Any opposed?

16                               COMMISSIONER O'CONNELL-DIAZ: No.

17                               COMMISSIONER FORD: No.

18              CHAIRMAN SCOTT: The vote is 3-2. They "ayes"  
19       have it and that revision is adopted.

20                               I have two other revisions that I  
21       would like to offer. I'll just describe them very  
22       briefly. One is on a case involving a rate case, one

1 is on incentive compensation, disallowing 27 percent  
2 of the remaining incentive plan which is based on  
3 performance in part on other affiliates including  
4 non-Illinois affiliates and disallows 50 percent of  
5 the balance because that's tied to Integrys' net  
6 income.

7                   The standard is that the companies  
8 have to show benefits for Peoples and North Shore  
9 ratepayers and I don't believe that that's supported  
10 by the record in this case. So I would move the  
11 incentive compensation revision as well as the rate  
12 case expense revision. I talked about rate cases  
13 before and what I believe 9-229 calls for and I  
14 believe in this case it's pointed out again.

15                   I think you have specific reductions  
16 here, to the company it would be 40 percent of the  
17 intercompany affiliate billing, consulting with  
18 expense for SFIO because of lack of billing detail,  
19 reducing of legal expenses for two different law  
20 firms by 20 and 25 percent respectively, again,  
21 because of not providing the type of information that  
22 we would expect as clients. And certainly ratepayers

1 should be able to expect to find out where these  
2 expenses are being paid to and why.

3 And so for that reason, I would move  
4 both the incentive compensation and the rate case  
5 expense revision language.

6 COMMISSIONER ELLIOTT: I'll second those  
7 revisions. And with regard specifically to the rate  
8 case expense language -- I think as I sort of eluded  
9 to in our prior discussion in the Ameren case -- I  
10 feel this case is distinguishable with the decision  
11 in that case mainly because I think the record  
12 evidence in the case is significantly different. I  
13 think the issues here were contested and so I would  
14 support your proposal regarding rate case language in  
15 this case.

16 CHAIRMAN SCOTT: Further discussion on this  
17 issue?

18 (No response.)

19 All this favor say "aye."

20 Aye.

21 COMMISSIONER ELLIOTT: Aye.

22 Any opposed?

1 COMMISSIONER FORD: No.

2 COMMISSIONER O'CONNELL-DIAZ: No.

3 ACTING COMMISSIONER COLGAN: No.

4 COMMISSIONER FORD: Are we on incentive or  
5 rate?

6 CHAIRMAN SCOTT: We're on both incentive and  
7 rate.

8 COMMISSIONER O'CONNELL-DIAZ: We should do a  
9 separate vote.

10 CHAIRMAN SCOTT: Okay. Then we will take the  
11 incentive compensation first.

12 All in favor say "aye."  
13 (Chorus of ayes.)

14 Any opposed?

15 COMMISSIONER COLGAN: No.

16 COMMISSIONER O'CONNELL-DIAZ: No.

17 CHAIRMAN SCOTT: The "ayes" have that 3-2 and  
18 that revision passes.

19 COMMISSIONER O'CONNELL-DIAZ: Which one?

20 CHAIRMAN SCOTT: That was incentive  
21 compensation.

22 COMMISSIONER O'CONNELL-DIAZ: Okay. I'm sorry.

1           CHAIRMAN SCOTT: On rate case expense, it's  
2    been moved and seconded to approve that revision --

3           COMMISSIONER O'CONNELL-DIAZ: Mr. Chairman,  
4    we're confused here. Excuse me. You're on incentive  
5    compensation. We are in agreement.

6           JUDGE WALLACE: Mr. Chairman, can you repeat  
7    the vote on incentive compensation.

8           CHAIRMAN SCOTT: On incentive compensation, all  
9    in favor say "aye."

10                           (Chorus of ayes.)

11                           Any opposed?

12                           (No response.)

13                           The "ayes" have it 5-0 and the  
14    incentive compensation revision is approved.

15                           On rate case expense it's been moved  
16    and seconded.

17                           All in favor say "aye."

18                           Aye.

19           COMMISSIONER ELLIOTT: Aye.

20                           Any opposed?

21           COMMISSIONER FORD: No.

22           COMMISSIONER O'CONNELL-DIAZ: No.

1           ACTING COMMISSIONER COLGAN:  No.

2           CHAIRMAN SCOTT:  That vote is 3-2 and that  
3 motion fails and that revision would be denied.

4           COMMISSIONER O'CONNELL-DIAZ:  Mr. Chairman, I  
5 had some revisions -- and because I had so many, I'm  
6 not finding it -- but we had some revisions that were  
7 circulated so that the determination with regard to  
8 rate case expense syncs up with what our  
9 determination was in the Ameren case.

10          CHAIRMAN SCOTT:  Rate case expense or on --

11          COMMISSIONER O'CONNELL-DIAZ:  Rate case  
12 expense.

13          COMMISSIONER ELLIOTT:  I think you had language  
14 to that affect.

15          COMMISSIONER O'CONNELL-DIAZ:  Yes, and it  
16 mirrors what's in the Ameren case that has already  
17 been adopted.

18          CHAIRMAN SCOTT:  That's the language on  
19 Page 84?

20          COMMISSIONER O'CONNELL-DIAZ:  Yes.  So I would  
21 just offer that so that we are in sync with what we  
22 just determined on the rate case expense for the

1 Ameren case. It's the exact same language.

2 CHAIRMAN SCOTT: Is there a second?

3 COMMISSIONER FORD: Second.

4 CHAIRMAN SCOTT: It's been moved and seconded  
5 to approve the revision on rate case expense found on  
6 Page 84 of the Order.

7 Any further discussion on that?

8 (No response.)

9 All in favor say "aye."

10 (Chorus of ayes.)

11 Any opposed?

12 No.

13 COMMISSIONER ELLIOTT: No.

14 CHAIRMAN SCOTT: That vote is a 3-2 in favor  
15 and that revision is approved.

16 Further revisions to come in the case?

17 COMMISSIONER ELLIOTT: I think I can jump in.  
18 My office worked with Commissioner Ford's on language  
19 with regard to return on equity. And in this case,  
20 again, as was eluded to in the Ameren case, I made a  
21 very difficult decision. We came down to the suicide  
22 punch, so I think we are certainly consistent with

1 our thought process and our decision-making process  
2 that we arrived at in the Ameren case and I would  
3 moved that language as revised.

4 COMMISSIONER FORD: Thank you.

5 And I just simply want to say I also  
6 would like to propose changes as well. It was noted  
7 that the methodologies such as the DCFF model and the  
8 Cap M model do assist the Commission a great deal  
9 with determining reasonable rate of return. However,  
10 there are instances in which even these models can be  
11 manipulated such as with the use of spot date data  
12 which might not accurately reflect the truest market  
13 conditions. Therefore I would propose using language  
14 that takes into account and consistently reflects  
15 what was highlighted within the 2009 Peoples rate  
16 case, and I second yours Commissioner Elliott.

17 CHAIRMAN SCOTT: Any further discussion on this  
18 matter?

19 (No response.)

20 All in favor say "aye."

21 (Chorus of ayes.)

22 Any opposed?



1 (No response.)

2 The "ayes" have it and that revision  
3 is adopted on a vote of 5-0.

4 Further revisions?

5 COMMISSIONER O'CONNELL-DIAZ: Mr. Chairman, I  
6 had revisions to that particular section of the Order  
7 that was circulated among the Commissioners and it in  
8 no way changes the substance of the revisions that we  
9 have just approved. However, I believe that the  
10 Proposed Order misunderstood the testimony of a  
11 certain witness that I think is important for  
12 purposes of complete view of the factors that the  
13 condition looks as we make these difficult decisions.

14 In particular, it was the testimony of  
15 Mr. Fedor (phonetic) who -- his testimony, I don't  
16 believe, was about him previously being a  
17 Commissioner of the Michigan Commission; but that he,  
18 in fact, was a professional in the financial  
19 industry. And in that testimony he sought to shed  
20 light on how certain decisions can affect the credit  
21 rating of a utility and it's ability to access  
22 capital markets.

1                   This in turn would have a -- if a  
2 utility has a credit downgrade which unfortunately  
3 we're kind of familiar with in our country and in our  
4 state, can have a deleterious effect on the bottom  
5 line of a consumer's bill because that debt service  
6 that the companies need to go to the market to will  
7 be more expensive due to the impaired credit rating.  
8 So this is a factor that, I think, is certainly in  
9 the Commission's mind as we look at setting rates and  
10 we do our due diligence in setting those rates of  
11 return. So I thought it was important to include  
12 this language and I would offer it up for approval  
13 along with the other revisions to rate of return.

14               CHAIRMAN SCOTT: Is there a second?

15               COMMISSIONER FORD: Second.

16               CHAIRMAN SCOTT: I just have a quick question.  
17 Is there difficulty in identifying him as a former  
18 Commission member because I believe he did, didn't  
19 he, when he was testifying -- or is there additional  
20 an problem with that?

21               COMMISSIONER O'CONNELL-DIAZ: No. It's just  
22 the language that was contained in the Proposed

1 Order, it kind of singled him out. And I think that  
2 the thrust of the Proposed Order was that someone  
3 that was a former commissioner of another state and  
4 their decisions have no bearing on what this  
5 Commission should do with regard to setting rates in  
6 an Illinois proceeding. When, in fact, the testimony  
7 that was adduced in the record was reflective of  
8 really kind of not the fact he happened to be a  
9 commissioner from Michigan, but he was -- his  
10 background was he was like a senior partner at  
11 Fitch's Rating and that was his background before he  
12 went to be a Commissioner.

13 And so his testimony was reflective of  
14 what credit rating agencies look at when they look at  
15 different Commission decisions and how we go about  
16 doing our work and setting returns and how they  
17 arrive at those ratings for commissions as well as  
18 the import of what that means to have a stable  
19 credited rating so that when our utilities need to go  
20 to market, they can access capital that's needed.  
21 And I thought that that was an important distinction  
22 that, I think, the Proposed Order kind of missed.

1           COMMISSIONER ELLIOTT: I just assumed the gist  
2 of it was that it was his subject matter expertise  
3 and what he brought to bear on this case, not the  
4 fact that he was a decisionmaker in other  
5 jurisdictions that had any bearing whatsoever on the  
6 matter before us, so I will support the language as  
7 well.

8           CHAIRMAN SCOTT: Any further discussion?

9                           (No response.)

10                          All in favor say "aye."

11                          (Chorus of ayes.)

12                          Any opposed?

13                          (No response.)

14                          The vote is 5-0 nothing and that  
15 particular revision is adopted.

16                          Commissioner Elliott.

17           COMMISSIONER ELLIOTT: I proposed some language  
18 in SC1 adopting essentially the utility's position  
19 with regard to the rate design for residential small  
20 commercials. I think it's consistent with the  
21 decision in the Ameren case, it's consistent with our  
22 position in the prior Peoples case, and I would move

1 that language.

2 COMMISSIONER FORD: Second.

3 CHAIRMAN SCOTT: It's been moved and seconded.

4 Is there any discussion on that  
5 particular language.

6 (No response.)

7 All in favor say "aye."

8 (Chorus of ayes.)

9 Any opposed?

10 No.

11 ACTING COMMISSIONER COLGAN: No.

12 CHAIRMAN SCOTT: The vote is 3-2 and the  
13 revision is adopted.

14 COMMISSIONER ELLIOTT: I also have one small  
15 revision on Page 222, but it didn't change the  
16 subjects of the conclusion and it's nonsubstantive  
17 and I would offer that change as well.

18 CHAIRMAN SCOTT: I will second that.

19 Is there further discussion on this  
20 revision proposal.

21 (No response.)

22 All in favor say "aye."

1 (Chorus of ayes.)

2 Any opposed?

3 (No response.)

4 The vote is 5-0 and the revision is  
5 adopted.

6 Commissioner O'Connell-Diaz, I believe  
7 you had a revision with respect to Rider VBA?

8 COMMISSIONER O'CONNELL-DIAZ: Yes. Thank you,  
9 Chairman.

10 With regard to Rider VBA, the  
11 revisions herein find that it's appropriate at this  
12 time to make Rider VBA a permanent -- nothing needs  
13 to be gained from furthering this pilot program. The  
14 program has worked how we thought it would. It has  
15 resulted in refunds of some \$28 million to  
16 ratepayers. And so at this juncture I believe Staff  
17 was the successor of the day on this issue. I recall  
18 coming out of the oral arguments and being convinced  
19 based on the great job that they did in the oral  
20 argument on this issue. Then as I really dug into  
21 the record and looked at Dr. Brightwells testimony, I  
22 became further convinced that this was an appropriate

1 move for to us make. I do recognize that  
2 Commissioner Elliot is not a big fan, but I would  
3 offer this.

4 COMMISSIONER ELLIOTT: I'm not a big fan. I  
5 will second your language. I think it's fairly clear  
6 and evident to most people that listened to what I  
7 said that I considered this to be the second best  
8 solution to a problem that is of our own creation.  
9 However, that being said, I cannot see any reason to  
10 continue this as a pilot or temporary decision. I  
11 know the courts are going to look at this and we've  
12 got that phone, so we might as well move this forward  
13 and see where we go.

14 COMMISSIONER O'CONNELL-DIAZ: And we have  
15 confidence.

16 CHAIRMAN SCOTT: It's been moved and seconded.  
17 Is there any further discussion on the  
18 Rider VBA revision?

19 (No response.)

20 All in favor say "aye."

21 (Chorus of ayes.)

22 Any opposed?

1 (No response.)

2 The "ayes" have it. The vote is 5-0  
3 and the revision is adopted.

4 That exhausts my list of proposed  
5 revisions. Does anyone else have anything else?

6 (No response.)

7 Judge?

8 JUDGE HILLIARD: I've been asked to inform the  
9 Commission, as the chair noted, there was a public  
10 forum on September 8th and there were public comments  
11 on e-Docket, 41 public comments in regard to the  
12 Peoples case and 13 public comments with regard to  
13 the North Shore case. That's all I have to say.

14 CHAIRMAN SCOTT: Thank you, Judge.

15 Is there a motion to enter the Order  
16 as revised?

17 COMMISSIONER FORD: So moved.

18 CHAIRMAN SCOTT: Is there a second?

19 COMMISSIONER ELLIOTT: Second.

20 CHAIRMAN SCOTT: All in favor of the order as  
21 amended say "aye."

22 (Chorus of ayes.)



1 Any opposed?

2 (No response.)

3 The vote is 5-0 and the Order as  
4 amended is entered. I'd like to thank all the  
5 parties on the matter and ALJs Kimbrel and Hilliard  
6 on the work that they put into the case.

7 Item 8 is Docket No. 11-0710. This  
8 matter concerns a coal gasification plant proposed by  
9 Chicago Clean Energy and the Commission's  
10 responsibility to approve a Sourcing Agreement with  
11 respect to the facility. ALJ Wallace recommends  
12 entry of an Order approving the Sourcing Agreement.

13 Is there any discussion on this  
14 matter?

15 COMMISSIONER FORD: Chairman, I, in full  
16 disclosure, I'm a member of the Board of Directors of  
17 the Black United Fund and I'm certainly well aware of  
18 the economic development associated with this Order  
19 which has caused me angst. Therefore I have to vote  
20 "no" and request that the parties ask for a rehearing  
21 on this matter.

22 CHAIRMAN SCOTT: Any further discussion on this

1 matter?

2 ACTING COMMISSIONER COLGAN: Mr. Chairman, I  
3 think that this Order puts the Commission in a unique  
4 situation. As a matter of fact, when we entered our  
5 Interim Order on this matter, we said that the  
6 Commission finds itself in nominal territory. We  
7 went on to say that we are unable to set a return on  
8 equity in any fashion approaching our normal method  
9 of setting a return on equity --

10 MS. MARISSA BROWN: This is disgusting.

11 MR. DYLAN HEYWORTH-WESTE: Thanks for  
12 supporting the ratepayers of Chicago.

13 MS. MARISSA BROWN: This is a joke.

14 MS. ALEX FITZGERALD: Shame on you.

15 MS. MARISSA BROWN: We are the 99 percent.

16 ACTING COMMISSIONER COLGAN: -- that is in the  
17 context of a rate case with parties submitting  
18 testimony and exhibits, offer up expert witnesses for  
19 cross-examination in a proper briefing schedule. The  
20 Order before us today includes conclusions to a  
21 number of disagreements about the parties. And those  
22 disagreements are whether -- in brief and not all of

1 the disagreements -- but whether the Order should  
2 specify the capital structure to be used; whether the  
3 Commission has authority to determine the billing  
4 determinants used to establish the capital recovery  
5 factor and L & M recovery factor; whether the  
6 Commission has the authority to implement certain  
7 customer protections.

8           The proposed proposal puts forward a  
9 commercial-scale carbon capture and sequestration  
10 proposal that, I think, deserves some serious  
11 consideration and I'm sure that all of us have  
12 provided that serious consideration. But I'd like to  
13 note that as we look to the future, I think we really  
14 need to figure a way to mitigate the impact of coal  
15 on the environment and this is one of the proposals  
16 that's out there that, I think, deserves some serious  
17 consideration on our part.

18           And finally, I just want to say that I  
19 have concerns that we're potentially doing something  
20 here that would prevent the legislative intent of  
21 this project which passed the General Assembly with  
22 super majorities. So I join with Commissioner Ford

1 and I'm going to enter a "no" vote on this Order.

2 And I do also support Commissioner Ford's suggestion  
3 that the parties request a rehearing so that we can  
4 give this a further in-depth look and analysis.

5 CHAIRMAN SCOTT: Commissioner Elliott.

6 COMMISSIONER ELLIOTT: I have to register the  
7 fact that I'm somewhat troubled by this Order as  
8 well. I think that, again, we were in a nominal  
9 situation where we have literally limited opportunity  
10 to understand the implications of a very significant  
11 and complicated contractual relationship, nominal in  
12 its nature that comes before us at the Commission. I  
13 think that as difficult as that is, I think in  
14 certain conclusions of the Order, I'm supportive of  
15 where the Judge took us.

16 Unfortunately circumstances have  
17 changed since this bill was passed. I think we are  
18 all aware that Peoples has decided to extricate  
19 themselves from this process which leaves the two  
20 remaining utilities to shoulder the responsibility  
21 for this. And I think in this case, at least as far  
22 as what I can extricate from the little record we

1 have before us, I think the Judge has a reasonable  
2 decision. And I would note that the Illinois Power  
3 Agency also came to that conclusion along with Staff  
4 and the companies affected.

5                   So I think that these are difficult  
6 issues. We don't have as clear a road map as, I  
7 think, has been presented. And for that reason and  
8 the fact that we are tasked with, I think, the  
9 language in the law as accepting. This is the  
10 proposal before us and I'm willing to accept it as  
11 proposed.

12                   COMMISSIONER O'CONNELL-DIAZ: I would agree  
13 with what Commissioner Elliot said. I think the time  
14 frame for the work to be done in this proceeding was  
15 like in a nanosecond. It was a 90-day rocket docket  
16 and we were -- you know, that's what we were given  
17 and that was the time limit. And I think that while  
18 the record is complete, I think if we had had more  
19 time to look at this issue -- I don't know whether we  
20 would have come to a different resolution because the  
21 legislation is the legislation, that we are asked to  
22 implement as we always are. It's not a question of

1 opinion. It's a question of the legislature has  
2 given us these strictures and we have to comport with  
3 them.

4 I note that IPA -- and I even note  
5 that the AG's office said some nice things about the  
6 Commission in the brief and they agree with us, and  
7 that is a different situation than we normally see.  
8 I think the Judge gave the call that the law dictated  
9 that we have to make and I would look to a rehearing  
10 on this. We'll have more time. But I believe at  
11 this juncture I've read all that's in the record at  
12 this point and I think that I will echo the  
13 sentiments of the AG when they said, The Chief ALJs  
14 got it right. And with that, I move to vote "yes" on  
15 the recommendations of the ALJs.

16 CHAIRMAN SCOTT: Obviously as everybody said,  
17 this is an incredibly complicated, fascinating, fun  
18 case, actually, both in terms of the project, the  
19 statute that's involved, and, of course, the  
20 interpretation. And I certainly understand the  
21 concept the behind the project to look for next  
22 generation energy technologies. I agree with

1 Commissioner Colgan's comments very strongly.

2                   Obviously my time at the EPA saw a  
3 number of these projects including this one and  
4 appreciate the need to determine the viability of  
5 different technologies as it relate to coal. And as  
6 a former Mayor and former state rep, I certainly  
7 understand both the benefits of a large construction  
8 project in an abandoned facility, jobs and taxes and  
9 then other things that were brought to light during  
10 the course of the testimony in this case. And as a  
11 former state rep, I certainly appreciate the  
12 legislative process as well. But as we've heard,  
13 that's not really why we're here. Our job is to  
14 interpret the law that the General Assembly passed  
15 and to decide those issues specifically assigned to  
16 us and to provide the safeguards as required by the  
17 parts of the Public Utilities Act. And I really  
18 believe that Judge Wallace's Proposed Order does a  
19 very good job of cutting through those very difficult  
20 provisions and reaching highly defensible  
21 conclusions.

22                   Having said that, the legislation that

1 brings us here with respect to the CCE Project did  
2 leave some gaps. It's very specific on some  
3 instances and not so in others, which leads the ALJ  
4 and perhaps the Commission to believe that the items  
5 having not been discussed are to be left to the  
6 Commission and other parts of Public Utilities Act.  
7 And it is necessary not to have an absurd result,  
8 which is the word that was used in the course of this  
9 and with which it's hard to argue with.

10 If the legislature, which allowed for  
11 companies to opt out from participating in the  
12 purchase of Chicago Clean Energy's output, also meant  
13 for the ratepayers of the remaining companies to pay  
14 a disproportionate share of the cost to make up the  
15 difference, the legislators could have said that in  
16 the legislation and they didn't. Similarly if the  
17 legislature had intended not to have the Commission  
18 rule on the capital recovery charge instead of merely  
19 some of the inputs, they could have said that in the  
20 legislation as well and they didn't.

21 It's one thing to have the ratepayers  
22 assume the cost of a project that the legislature



1 intended, it's quite another to have assumed costs  
2 that were not intended or which simply weren't  
3 contemplated and not spelled out in the law. The  
4 time tables, as you've heard, involved in this docket  
5 were extremely challenging to say the least. Perhaps  
6 a rehearing could help in clarifying some of the  
7 issues which I would certainly welcome as well.  
8 Obviously the parties can also choose to further  
9 refine those issues in the General Assembly as well.  
10 But given the law that's before us, I believe Judge  
11 Wallace's Proposed Order is well reasoned, a well  
12 reasoned sorting of the issues and I'm prepared to  
13 support the Order.

14 Any further discussion?

15 (No response.)

16 All in favor of the Order vote "aye."

17 (Chorus of ayes.)

18 Any opposed?

19 COMMISSIONER FORD: No.

20 ACTING COMMISSIONER COLGAN: No.

21 CHAIRMAN SCOTT: The vote is 3-2 and the Order  
22 is entered. I'd like to thank Judge Wallace and all

1 the parties who put their time in on this matter.  
2 Obviously a lot of people spent a lot of time on  
3 this. It's a very complicated matter in a very  
4 compressed timeline, so I want to express the  
5 Commission's appreciation to everyone who worked on  
6 this project.

7 Item 9 concerns initiating an  
8 investigation into MTI's possible noncompliance with  
9 requirements for eligible telecommunications carriers  
10 and into continuing eligibility for Linkup Subsidy  
11 Reimbursement. Staff recommends entry of an Order  
12 initiating an investigation.

13 Is there any discussion?

14 (No response.)

15 Any objections?

16 (No response.)

17 Hearing none, the Order is entered.

18 Items 10 through 13 will be held for  
19 disposition at a future Commission proceeding.

20 Item 14 is Docket No. 11-0753. This  
21 is Coretec Communications' application for  
22 certificate of local and interexchange authority to

1 operate as a facilities-based carrier of  
2 telecommunication services in Illinois. ALJ Baker  
3 recommends entry of an Order granting the  
4 certificate.

5 Is there any discussion?

6 (No response.)

7 Any objections?

8 (No response.)

9 Hearing none, the Order is entered.

10 Judge Wallace, is there any other  
11 matters to come before the Commission today?

12 JUDGE WALLACE: No, I think that just about  
13 wraps it up.

14 CHAIRMAN SCOTT: I think everybody in the room  
15 would agree with you. Thank you, sir.

16 Hearing none, this meeting stands  
17 adjourned. Thank you.

18 (And those were all the  
19 proceedings had.)

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1 STATE OF ILLINOIS )  
2 COUNTY OF COOK ) SS:

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Auhdikiam Carney, being first duly sworn on oath, says that he is a Certified Shorthand Reporter, that he reported in shorthand the proceedings given at the taking of said hearing, and that the foregoing is a true and correct transcript of his shorthand notes so taken as aforesaid and contains all the proceedings given at said hearing.

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Certified Shorthand Reporter  
License No. 084-004658

Subscribed and sworn to before  
me this \_\_\_\_ day of \_\_\_\_\_  
2012.

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Notary Public