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BEFORE THE  
ILLINOIS COMMERCE COMMISSION  
PUBLIC UTILITY SPECIAL OPEN MEETING  
Tuesday, January 21, 2020  
Chicago, Illinois

Met pursuant to notice at 9:30 a.m. at 160  
North LaSalle Street, Chicago, Illinois.

PRESENT:

- CARRIE ZALEWSKI, Chairman
- BRIEN J. SHEAHAN, Commissioner
- SADZI M. OLIVA, Commissioner
- MARIA S. BOCANEGRA, Commissioner
- D. ETHAN KIMBREL, Commissioner

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

1                   CHAIRMAN ZALEWSKI: Good morning. I have  
2                   9:30 on my watch.

3                                 Are we ready to proceed in  
4                   Springfield?

5                   THE CHIEF CLERK: Yes, we are.

6                   CHAIRMAN ZALEWSKI: Thank you.

7                                 Under the Open Meetings Act, I call  
8                   the January 21st, 2020, Special Open Meeting to  
9                   order.

10                                Commissioners Bocanegra, Oliva,  
11                   Kimbrel, and Sheahan are with me in Chicago. We have  
12                   a quorum.

13                                We have no requests to speak.

14                                Moving on to our Public Utilities  
15                   Agenda.

16                                There are edits to the December 19,  
17                   2019, Special Open Meeting Minutes.

18                                Are there any objections to approving  
19                   the Minutes as edited?

20                                (No response.)

21                                CHAIRMAN ZALEWSKI: Hearing none, the  
22                   Minutes are approved.

1 Under Electric Items:

2 Item E-1 concerns ERM 19-164, which  
3 is ComEd's filing to cancel Rider Energy Efficiency  
4 Demand Response Balancing Adjustment Mechanism or  
5 Rider EBAM. ComEd has completed all adjustments to  
6 retail customer bills for any over or under  
7 collections under this Rider. The Commission Staff  
8 recommends to not suspend the filings.

9 Are there any objections to not  
10 suspending the filing?

11 (No response.)

12 CHAIRMAN ZALEWSKI: Hearing none, the  
13 filing is not suspended.

14 Items E-2 through E-21 concern Orders  
15 initiating citation proceedings against retail  
16 electricity supply brokers, agents, or consultants  
17 to determine whether to suspend licenses for  
18 violation of Commission rules. The Orders initiate  
19 the citation proceedings due to failure to file  
20 compliance reports, to maintain a license bond, or to  
21 maintain authority to transact business in Illinois.  
22 The Orders direct licensees to appear before the

1 Administrative Law Judge to show cause why the  
2 Commission should not suspend the license.

3 Are there any objections to  
4 considering these items together and approving the  
5 Orders?

6 (No response.)

7 CHAIRMAN ZALEWSKI: Hearing none, the  
8 Orders are approved.

9 So moving on to Item E-22, which  
10 concerns the Mt. Carmel Public Utility's 2018  
11 Reliability Performance Report under Section 411 of  
12 the Commission's Rules. The Order adopts the  
13 Commission's Safety and Reliability Division's  
14 assessment of Mt. Carmel's Annual Reliability Report  
15 and Reliability Performance for 2018.

16 Are there any objections to approving  
17 the Order?

18 (No response.)

19 CHAIRMAN ZALEWSKI: Hearing none, the Order  
20 is approved.

21 Items E-23 through E-27 concern  
22 applications for Certifications to install

1 distributed generation facilities in Illinois. The  
2 Orders grant the Certificates, finding that the  
3 applicants meet the requirements.

4 Are there any objections to  
5 considering these items together and approving the  
6 Orders?

7 (No response.)

8 CHAIRMAN ZALEWSKI: Hearing none, the  
9 Orders are approved.

10 Item E-28 concerns a denial of  
11 application for Certification to install distributed  
12 generation facilities in Illinois. The Order denies  
13 the application, finding that the applicant failed to  
14 amend the application as necessary to complete the  
15 application process.

16 Are there any objections to approving  
17 the Order?

18 (No response.)

19 CHAIRMAN ZALEWSKI: Hearing none, the Order  
20 is approved.

21 Item E-29 concerns a Complaint  
22 against Ameren regarding issues associated with an

1 easement on Complainant's property related to the  
2 electric transmission line.

3 The Commission makes two rulings on  
4 this item.

5 First, the Complainant has filed a  
6 request for Oral Argument. The Commission finds that  
7 the issues discussed in this proceeding have been  
8 thoroughly and adequately addressed, and the request  
9 for Oral Argument should be denied.

10 Are there any objections to denying  
11 the request for Oral Argument?

12 (No response.)

13 CHAIRMAN ZALEWSKI: Hearing none, the  
14 request is denied.

15 Second, Ameren has filed a Motion to  
16 Dismiss for lack of jurisdiction. The Commission  
17 Order grants Ameren's Motion to Dismiss finding that  
18 the Commission does not have the authority to decide  
19 easement disputes of this nature. The Order notes  
20 that the Commission only has jurisdiction over  
21 matters granted to it by the legislature. The  
22 Commission does not have jurisdiction over a dispute

1 between private parties concerning the terms of an  
2 easement created pursuant to the contract. A court  
3 of general jurisdiction might be a proper venue to  
4 make this claim.

5 Are there any objections to granting  
6 the Motion to Dismiss?

7 (No response.)

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

10 Item E-30 concerns Docket 19-0940,  
11 which is a Complaint against ComEd regarding a  
12 wrongful service termination and refusal of new  
13 service. The parties have filed a Stipulation and a  
14 Joint Motion to Dismiss with prejudice, stating that  
15 the matters in dispute have been resolved.

16 Are there any objections to granting  
17 the Motion to Dismiss?

18 (No response.)

19 CHAIRMAN ZALEWSKI: Hearing none, the  
20 Motion is granted.

21 Item E-31 concerns MidAmerican's  
22 request to reconcile revenues under its Rider

1 Purchased Power Zero Emission or Rider PZE from June  
2 2018 to May 2019. The Order approves the  
3 reconciliation as set in the Appendix to the Order,  
4 finding that the costs during the reconciliation  
5 period were prudently incurred.

6 Are there any objections to approving  
7 the Order?

8 (No response.)

9 CHAIRMAN ZALEWSKI: Hearing none, the Order  
10 is approved.

11 Item E-32 concerns Docket 19-0944,  
12 which is the Illinois Department of  
13 Transportation's petition for approval to  
14 acquire property owned by ComEd by means of eminent  
15 domain.

16 IDOT seeks a permanent easement on  
17 ComEd's property for a highway safety project.  
18 Although ComEd agrees that IDOT can acquire the  
19 Subject Property, the parties have been unable to  
20 resolve a disagreement on all the documents needed to  
21 conclude a voluntary transfer of title. The  
22 Commission's approval of this Order will allow IDOT



1 to acquire property by filing an eminent domain case  
2 against ComEd in the Circuit Court of Cook County.  
3 The parties, however, advised the Administrative Law  
4 Judge that there are no contested issues in this  
5 docket and that an Order by the Commission approving  
6 the taking of ComEd's property may be entered by  
7 agreement.

8 Are there any objections to approving  
9 the Order?

10 (No response.)

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

13 Item E-33 concerns Docket 19-0945,  
14 which is ComEd's application for authority to incur  
15 debt pursuant to Section 6-102 of the Public  
16 Utilities Act. The Order grants the authority and  
17 directs ComEd to pay a fee pursuant to Section 6-108  
18 of the Act.

19 Are there any objections to approving  
20 the Order?

21 (No response.)

22 CHAIRMAN ZALEWSKI: Hearing none, the Order

1 is approved.

2 Item E-34 concerns Docket 19-0946,  
3 which is ComEd's petition to engage in transactions  
4 with affiliated interest. The affiliated interest  
5 will assist with ComEd's issuance of debt in Docket  
6 19-0945. The Order grants the request.

7 Are there any objections to approving  
8 the Order?

9 (No response.)

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

12 Item E-35 concerns an application for  
13 a license to operate as a Retail Electric Agent,  
14 Broker, and Consultant in Illinois. The Order grants  
15 the license, finding that the applicant meets the  
16 requirements.

17 Are there any objections to approving  
18 the Order?

19 (No response.)

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

22 Items E-36 through E-39 concern

1 requests for proprietary treatment of information in  
2 the Environmental Disclosure Reports of Alternative  
3 Electric Suppliers. The Orders grant the protection,  
4 finding that the information is highly proprietary  
5 and confidential.

6 Are there any objections to  
7 considering these items together and approving the  
8 Orders?

9 (No response.)

10 CHAIRMAN ZALEWSKI: Hearing none, the  
11 Orders are approved.

12 Item E-40 concerns a dismissal of an  
13 application for authority to install Energy  
14 Efficiency Measures due to the applicant's decision  
15 to withdraw the application.

16 Are there any objections to approving  
17 the Order?

18 (No response.)

19 CHAIRMAN ZALEWSKI: Hearing none, the Order  
20 is approved.

21 Items E-41 through E-43 concern  
22 denials of applications for authority to install

1 Energy Efficiency Measures. The Orders deny the  
2 Certifications, finding that the applicants did not  
3 meet the requirements.

4 Are there any objections to  
5 considering these items together and approving the  
6 Orders?

7 (No response.)

8 CHAIRMAN ZALEWSKI: Hearing none, the  
9 Orders are approved.

10 Items E-44 through E-59 concern  
11 application for authority to install Energy  
12 Efficiency Measures. The Orders grant the  
13 Certificates, finding that the applicants meet the  
14 requirements.

15 Are there any objections to  
16 considering these items together and approving the  
17 Orders?

18 (No response.)

19 CHAIRMAN ZALEWSKI: Hearing none, the  
20 Orders are approved.

21 Under our Gas Items.

22 Item G-1 concerns Docket 19-0788,

1       which is Ameren's request to reconcile revenues under  
2       Rider VITA or Variable Income Tax Adjustment during  
3       2018. The Order approves the reconciliation as set  
4       in the Appendix to the Order, finding that the costs  
5       during the reconciliation period were prudently  
6       incurred.

7                               Are there any objections to approving  
8       the Order?

9                               (No response.)

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

12                              Item G-2 concerns Docket 19-1105,  
13       which is Nicor Gas' Petition for Special Permission  
14       to approve revised tariffs allowing large gas  
15       customers to continue voluntary participation in  
16       Energy Efficiency Programming. The tariff  
17       modifications are to Nicor Gas' Rider 30, which  
18       concerns its Energy Efficiency Cost Recovery Plan.  
19       The special permission would allow Nicor to file the  
20       tariff on less than 45 days' notice and without  
21       suspension.

22                              Staff has reviewed the filing and

1 recommends denying the special permission and  
2 initiating an investigation into the tariff filing.  
3 The Citizens Utility Board has also filed a  
4 letter requesting the investigation. The Order  
5 denies the special permission and initiates the  
6 investigation.

7 Are there any objections to approving  
8 the Order?

9 (No response.)

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

12 Under our Telecommunications Items.  
13 Item T-1 and T-2 concern petitions  
14 for voluntary cancellation of Certificates of Service  
15 Authority. The Orders cancel the applicants'  
16 certificates to provide interexchange  
17 telecommunications services and find that the  
18 cancellations will not deprive any Illinois customers  
19 of necessary telecommunications service.

20 Are there any objections to  
21 considering these items together and approving the  
22 Orders?

1 (No response.)

2 CHAIRMAN ZALEWSKI: Hearing none, the  
3 Orders are approved.

4 Item T-3 concerns a petition to  
5 protect highly proprietary information from  
6 disclosure in the Petitioner's Annual Report to the  
7 Commission. The Order protects the proprietary  
8 information from disclosure.

9 Are there any objections to approving  
10 the Order?

11 (No response.)

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

14 There are no Water and Sewer Items.

15 We're going to move on to our  
16 Miscellaneous Items.

17 Item M-1 concerns Docket 19-0673,  
18 which is Dakota Access and Energy Transfer's Joint  
19 Petition to install additional pumping stations  
20 and pumping facilities on existing certified  
21 pipelines.

22 Sierra Club and Save Our Illinois

1 Land, or SOIL, petitioned the Commission to review  
2 the denial of their motion to require Joint  
3 Petitioners to respond to certain data requests  
4 concerning the identity of shippers and affiliates  
5 and documentation demonstrating the need for  
6 additional throughput capacity on Joint Petitioner's  
7 pipelines. There are four related requests filed by  
8 Sierra Club and SOIL that are now pending before the  
9 Commission.

10 First, the initial December 9, 2019,  
11 Petition For Interlocutory Review against the  
12 Administrative Law Judge's December 5, 2019, ruling  
13 that denied SOIL and Sierra Club's Motion to  
14 Compel;

15 Second, on December 13, 2019, SOIL  
16 and Sierra Club also filed a Verified Motion For  
17 Leave to Supplement Petition for Interlocutory  
18 Review;

19 Third, on December 31, 2019, SOIL  
20 and Sierra Club filed a Verified Amended Motion for  
21 Leave to Supplement Petition For Interlocutory  
22 Review; and



1                   Fourth, on January 3, 2020, SOIL and  
2                   Sierra Club filed a Verified Motion for Leave to File  
3                   Instant a Reply in Support of Petition for  
4                   Interlocutory Review.

5                   Joint Petitioners oppose the  
6                   Petition.

7                   The Commission has reviewed the  
8                   Petition, the Motions, the responses, and the record.  
9                   Myself and a few other Commissioners are persuaded by  
10                  Sierra Club and SOIL arguments that the Joint  
11                  Petitioners' responses to the data requests were not  
12                  sufficient.

13                  Do any of the other Commissioners  
14                  have anything to say?

15                  COMMISSIONER SHEAHAN: Should we have a  
16                  vote on this?

17                  CHAIRMAN ZALEWSKI: I will vote. I wanted  
18                  to know if you have a comment on it.

19                  COMMISSIONER SHEAHAN: I don't have a  
20                  comment, but I'd like to vote.

21                  COMMISSIONER KIMBREL: I thought  
22                  Commissioner Bocanegra was getting ready to make a

1 comment.

2 COMMISSIONER BOCANEGRA: Yes, I do. Thank  
3 you, Commissioner, and thank you, Chairman.

4 I just want to add that I'm in  
5 agreement with the Chair in terms of being persuaded  
6 by SOIL and Sierra Club's Petition For Interlocutory  
7 Review.

8 With that said, I just want to add --  
9 these are my own remarks and my own observations.  
10 That, first, I think that the ruling today really  
11 allows the parties to exchange information and to  
12 continue the discovery process.

13 The second thing I will add, that for  
14 me, the decision really is based here on whether  
15 there was noncompliance with the Data Request. I  
16 will make the observation that whatever was produced  
17 by Dakota, in my opinion, is hearsay. It was a  
18 document created specifically for litigation, and for  
19 me, the rules of evidence are not suspended in this  
20 particular proceeding.

21 So I just want to make clear that  
22 that's one of the reasons I'm basing my vote on that.

1                   And the last thing I will add is I do  
2 believe that SOIL and Sierra have properly triggered  
3 the exception under the federal statute that's  
4 applicable in this case.

5                   So I will leave it at that. Thank  
6 you.

7                   CHAIRMAN ZALEWSKI: If there are no other  
8 comments, I will go ahead and call for a vote.

9                   COMMISSIONER KIMBREL: Yes, I have a  
10 comment, Madam Chair.

11                   CHAIRMAN ZALEWSKI: Sure.

12                   COMMISSIONER KIMBREL: In this docket, the  
13 ALJ found that the Dakota Access and Energy Transfer,  
14 a crude oil company, are complying with the federal  
15 statutory and contractual confidentiality and  
16 nondisclosure obligations. The Joint Petitioners  
17 provided the information sought in SOIL Data Request  
18 1.018, 1.019, 1.022, 1.023, and 1.024 with the  
19 shippers' names redacted in order for the parties to  
20 make a determination of the need for the increased  
21 capacity.

22                   This information is similar to the

1 information provided in discovery in Dockets 14-0754  
2 and 14-0755 when the Joint Petitioners were found to  
3 be fit, willing, and able to construct and operate  
4 the pipelines which underlie this docket.

5 I agree with the ALJ that the  
6 interveners have not demonstrated that the identities  
7 of the affiliates or the shippers are necessary to  
8 make a determination under Section 8-503 of the  
9 Public Utilities Act, that there is a public need for  
10 the project and that the project will serve the  
11 public convenience and necessity.

12 I also find troubling Section 15-13  
13 of the Interstate Commerce Act regarding  
14 nondisclosure of shipments and this Commission's  
15 failure to directly address the exceptions. I  
16 know that Commissioner Bocanegra just mentioned  
17 it, but I'm not sure which exception she's  
18 referring to.

19 CHAIRMAN ZALEWSKI: Anything else?

20 (No response.)

21 CHAIRMAN ZALEWSKI: Okay. I'm going to  
22 call the vote, and the vote I'm calling for is to

1 grant the Petition For Interlocutory Review and the  
2 two Motions to Amend, treating the leave to file a  
3 reply as moot.

4 All those in favor of granting the  
5 Petition and treating the leave to file as moot, say  
6 aye.

7 (Chorus of ayes.)

8 CHAIRMAN ZALEWSKI: All opposed, say nay.

9 COMMISSIONER KIMBREL: Nay.

10 COMMISSIONER SHEAHAN: Nay.

11 CHAIRMAN ZALEWSKI: The Petition for  
12 Interlocutory Review is granted. The ayes have it.

13 The ALJ shall work with the parties  
14 to ensure that the information produced by the Data  
15 Request is properly handled under the Protective  
16 Order in this docket.

17 Under our Petitions For Rehearing.

18 Item PR-1 concerns Docket 19-0387,  
19 which is ComEd's Formula Rate Update and Revenue  
20 Requirement Reconciliation. The Attorney General has  
21 filed an application for rehearing, to reopen the  
22 docket and rehear two issues.



1 record captures all evidence addressing all issues in  
2 this docket, including any potential additional  
3 benefits and methods to get to a shorter period to  
4 return the money to ratepayers.

5 For this reason, I'm in favor of  
6 granting the Petition For Rehearing.

7 I'm going to call the vote if there's  
8 no other comments. All those --

9 COMMISSIONER KIMBREL: Madam Chair, I would  
10 disagree with you and don't think that there is a  
11 reason to grant the Petition For Rehearing. We heard  
12 Oral Argument in this docket, and I think that the  
13 records stand for itself and that we could conserve  
14 Commission resources and move on from this.

15 CHAIRMAN ZALEWSKI: Anyone else?

16 (No response.)

17 CHAIRMAN ZALEWSKI: All those in favor of  
18 denying the Petition For Rehearing, say aye.

19 (Chorus of ayes.)

20 CHAIRMAN ZALEWSKI: I'm a nay. So the four  
21 ayes have it, and the Petition For Rehearing is  
22 denied.

1                   Item PR-2 concerns Docket 19-0436,  
2           which is Ameren's Rate MAP-P Modernization Action  
3           Plan, the Annual Formula Rate Update and Revenue  
4           Requirement Reconciliation. The Attorney General has  
5           filed an application for rehearing to rehear two  
6           issues:

7                   First, the amortization of Excess  
8           Deferred Income Taxes or EDIT; and

9                   Second is the treatment of  
10          construction-work-in-progress-related accumulated  
11          deferred income taxes.

12                  The Administration Law Judge  
13          recommends denying rehearing on this issue noting  
14          that the AG references and incorporates arguments  
15          that were previously made in briefs and that no new  
16          evidence or argument is presented.

17                  Is there any discussion from  
18          Commissioners?

19                                 (No response.)

20                  CHAIRMAN ZALEWSKI: Without restating  
21          everything, for the reasons I stated in 19-0387, I'm  
22          in favor of granting this Petition For Rehearing as



1 well.

2 So all those in favor of denying the  
3 Petition For Rehearing, say aye.

4 (Chorus of ayes.)

5 CHAIRMAN ZALEWSKI: All opposed, say nay.  
6 I'm a nay.

7 The four ayes have it, and the  
8 Petition For Rehearing is denied.

9 Under Other Business Items.

10 Item O-1 concerns the Commission's  
11 2019 Annual Report to the Governor and the General  
12 Assembly on Electricity, Gas, Water, and Sewer  
13 Utilities. The Annual Report is required by Section  
14 4-304 of the Public Utilities Act. The Report  
15 includes a review of the Commission's 2019 activities  
16 and the state of the Illinois utility industry in  
17 2019, among other topics.

18 Are there any objections to approving  
19 the Report?

20 (No response.)

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

1                   The Report should be put up on the  
2 website, so I encourage anyone who would like to read  
3 it to check it out under our ICC website under  
4 Reports.

5                   Item 0-2 concerns approval of  
6 Batches, Contracts, and Confirmations under the  
7 Illinois Adjustable Block Program.

8                   Are there any objections to approving  
9 the Program Administrator's Submissions?

10                                   (No response.)

11                   CHAIRMAN ZALEWSKI: Hearing none, the  
12 Submissions are approved.

13                   Item 0-3 concerns approval of  
14 Batches, Contracts, and Confirmations under the  
15 Illinois Solar For All Program.

16                   Are there any objections to approving  
17 the Program Administrator's Submissions?

18                                   (No response.)

19                   CHAIRMAN ZALEWSKI: Hearing none, the  
20 Submissions are approved.

21                   Item 0-4 concerns the Commission's  
22 request for rehearing to FERC on FERC consolidated

1 EL 16-49-000 and EL 18-178-000, which is the Calpine  
2 Corporation and other parties versus PJM  
3 Interconnection, LLC.

4 Are there any objections to approving  
5 the Submission of the Commission's Request For  
6 Rehearing?

7 (No response.)

8 CHAIRMAN ZALEWSKI: Hearing none, the  
9 Commission's Request for Rehearing is approved.

10 This concludes our Public Utilities  
11 Agenda.

12 Judge Teague-Kingsley, do you have  
13 any matters to come before the Commission today?

14 JUDGE TEAGUE-KINGSLEY: No, Madam Chairman.

15 CHAIRMAN ZALEWSKI: Do the Commissioners  
16 have any other business to discuss?

17 (No response.)

18 CHAIRMAN ZALEWSKI: I just wanted to  
19 mention that last Friday was our intern, Salhah  
20 Elaneizi's, last day. She's moving on with her  
21 studies. And I just want to express my gratitude for  
22 all her diligent and dedicated work. She's not here

1       today.  She was a great resource, and we are going to  
2       miss her.

3                               If there's no other business and  
4       without objection, the meeting stands adjourned.  
5       Thank you.

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

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