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BEFORE THE  
ILLINOIS COMMERCE COMMISSION  
SPECIAL OPEN MEETING  
(PUBLIC UTILITIES)  
Springfield, Illinois  
Tuesday, January 28, 2014

Met, pursuant to notice, at 1:30 P.M. at 527  
East Capitol Avenue, Springfield, Illinois.

- PRESENT:
- MR. DOUGLAS P. SCOTT, Chairman
  - MR. JOHN T. COLGAN, Commissioner
  - MS. ANN McCABE, Commissioner
  - MS. SHERINA E. MAYE, Commissioner
  - MR. MIGUEL del VALLE, Commissioner (by video)
- MIDWEST LITIGATION SERVICES, by  
Angela C. Turner, Reporter  
CSR #084-004122

1 PROCEEDINGS

2 CHAIRMAN SCOTT: Is everything ready in  
3 Chicago?

4 COMMISSIONER DEL VALLE: We're set.

5 CHAIRMAN SCOTT: Thank you.

6 Pursuant to the provisions of the Open  
7 Meetings Act, I now convene a Special Open Meeting of  
8 the Illinois Commerce Commission. With me in  
9 Springfield are Commissioner Colgan, Commissioner  
10 McCabe and Commissioner Maye. With us in Chicago is  
11 Commissioner del Valle. I am Chairman Scott. We  
12 have a quorum.

13 Before moving into the agenda, according to  
14 Section 1700.10 of Title 2 of the Administrative  
15 Code, this is the time we allow members of the public  
16 to address the Commission. Members of the public  
17 wishing to address the Commission must notify the  
18 Chief Clerk's office at least 24 hours prior to  
19 Commission meetings. According to the Chief Clerk's  
20 office, we have no requests to speak at today's  
21 meeting.

22 The first item on our agenda today is our  
23 Introduction of Members of the Delegation to the  
24 Second Partnership Exchange of the National

1 Association of Regulatory Utility Commissioners, or  
2 NARUC, Partnership between the Energy and Water  
3 Utilities Regulatory Authority of Tanzania and the  
4 Illinois Commerce Commission, sponsored by the United  
5 States Agency for International Development, or  
6 USAID.

7 Commissioner Colgan was part of a delegation  
8 that travelled to Tanzania last year. And this is  
9 part of the learning exchange. The group from  
10 Tanzania is now here with us in Springfield. One  
11 thing that they have learned about is the Illinois  
12 weather at the end of January. We apologize for  
13 that. But having gotten to meet them and speak with  
14 them over the last couple of days, they're not only  
15 very, very smart people, but also very nice people as  
16 well. So we're very glad to welcome you to  
17 Springfield.

18 Let me turn it over to Commissioner Colgan  
19 to explain a little bit about the delegation.

20 COMMISSIONER COLGAN: Thank you, Chairman.

21 As most of us are aware, the National  
22 Association of Regulatory Utility Commissioners is  
23 comitted to helping developing countries with their  
24 utility regulatory efforts. With the trend of energy

1 market development internationally, several countries  
2 have approached NARUC and asked for some exchange  
3 back and forth between those countries and their  
4 American counterparts. So NARUC established the  
5 international committee to manage the outreach of the  
6 activity across the globe, including partnerships  
7 with numerous countries in Eastern Europe, Africa and  
8 Bangladesh.

9 I am happy to announce that one of those  
10 countries is the United Republic of Tanzania and  
11 their regulatory authority, the Energy and Water  
12 Utilities Regulatory Authority that have become known  
13 to us as EWURA, the acronym for Energy and Water  
14 Utilities Regulatory Authority. Through NARUC, the  
15 ICC has established a partnership with Tanzania and  
16 its regulatory authority EWURA. And five members of  
17 the EWURA staff are here with us here in Springfield  
18 for this week for the second phase of that  
19 partnership.

20 The funding for the project is being  
21 provided by the U.S. Department of International  
22 Development with NARUC as the coordinating -- that's  
23 coordinating the partnership program. And as the  
24 Chairman said, Linda Wagner, Randy Rismiller and I

1 travelled to Tanzania back in August for the first  
2 phase of this partnership activity. And while we  
3 were there, we focused on several areas of interest  
4 that centered generally on discussions concerning  
5 power purchase agreements for gas, hydro and  
6 geothermal projects and sharing experiences and  
7 providing models for them to develop regulatory  
8 framework for natural gas and renewable energy.

9           This project is also a part of Power Africa,  
10 which is an initiative that was announced by  
11 President Barack Obama when he was in Tanzania and  
12 Dar es Salaam, where our colleagues are from, when he  
13 was there last June. Tanzania is one of six  
14 countries that are involved in the Power Africa  
15 initiative. The other countries are Ethiopia, Ghana,  
16 Kenya, Liberia and Nigeria.

17           Power Africa is aimed at doubling access to  
18 power in the partner countries, developing newly  
19 discovered resources and managing those resources,  
20 and building out a power generation and transmission  
21 infrastructure and expand the reach of mini-grid and  
22 off-grid solutions. The ICC's role in that  
23 initiative is to provide this regulator-to-regulator  
24 exchange back and forth to the country of Tanzania.

1           So with that, I would like to introduce this  
2 delegation to you. First, I would like to introduce  
3 Kirsten Verclas. And Kirsten, if you would stand,  
4 and each of you stand when I call your name. Kirsten  
5 is -- you can stay standing. Kirsten has worked with  
6 NARUC and she works with the international group  
7 there. And she is the project manager for this  
8 project with Tanzania. And she's been our interface  
9 with our colleagues from Tanzania as we have been  
10 developing our partnership.

11           I would like to introduce the other members  
12 of the delegation as well. If you will just stay  
13 standing until I am finished. Anastas Mbawala, he is  
14 the Director of Electricity. Kapwete Mboya is the  
15 Manager of Licensing and Enforcement. Felix  
16 Ngamlagosi is the Director of Regulatory Economics.  
17 Thobias Rwelamira is the Gas Distribution Manager.  
18 And George Kabelwa is the Principal Economist.

19           And if you will join me in welcoming our  
20 colleagues from Tanzania and welcoming them to the  
21 United States of America through the State of  
22 Illinois and through the Illinois Commerce  
23 Commission.

24   (Applause.)

1           COMMISSIONER COLGAN:  And then, finally, I  
2    would just like to thank NARUC for the coordination,  
3    USAID, to the Commissioners, the Chairman, and my  
4    fellow Commissioners.  But there's some other people,  
5    I need to call their names, because they have done a  
6    lot of work on this.  Jonathan Feipel, our Director.  
7    Gene Beyer, Linda Wagner, Randy Rismiller, Carol  
8    Weller, Gayle Fuiten and Jodie Hovey.  They have done  
9    a lot of work in terms of just putting the details  
10   together.  And so we're, right now, in the middle of  
11   our second day, and we have three more days left.  
12   But it's just been a great experience to work with  
13   all of you.  And I hope the rest of your visit here  
14   is enjoyable and educational.  Thank you very much.

15           CHAIRMAN SCOTT:  Thank you, Commissioner.

16                            (Applause.)

17           CHAIRMAN SCOTT:  Thank you, Commissioner  
18   Colgan.

19           Any other comments?

20                            (No response.)

21           CHAIRMAN SCOTT:  Once again, welcome to  
22   Springfield.  Thank you very much for being here.

23           Moving on to Item 2 of the agenda is Docket  
24   Number 13-0495.  This is Commonwealth Edison's

1 Petition for Approval of its Energy Efficiency and  
2 Demand-Response Plan pursuant to Section 8-103(f) of  
3 the Public Utilities Act. ALJ Haynes recommends  
4 entry of an Order directing ComEd to file a revised  
5 plan.

6 I have some proposed edits to this Order.  
7 Starting with the Residential Lighting Program. It  
8 is under the Commission Analysis and Conclusions on  
9 pages 88 to 89 of the PEPO. These edits accomplish  
10 the following:

11 Adopt the AG's recommendation to transfer  
12 certain programs from ComEd's EEPS plan under Section  
13 8-103 to the IPA plan under Section 16-111.5B in  
14 second and third plan years. It is my position that  
15 the Commission is not limited to considering energy  
16 efficiency plans in silos and can recommend that  
17 ComEd shift successful EE programs to the IPA so that  
18 they can be more fully funded and expanded.

19 Section 16-111.5B includes no fewer than  
20 eight references to Section 8-103 of the Act. The  
21 General Assembly clearly linked the programs to be  
22 provided under both sections. While we cannot  
23 mandate IPA include the programs in their filing with  
24 the Commission, it seems important for the Commission



1 to recommend that they do so.

2           Second, within this set of edits, to the  
3 extent that funds are freed up for investment in  
4 Section 8-103 programs, direct that those funds  
5 should be spent on residential sector programs to  
6 maintain the diverse cross-section of opportunities  
7 for customers of all rate classes to participate in  
8 the programs.

9           And then reject IIEC's argument that such  
10 transfers might result in ComEd spending more on  
11 energy efficiency plans than would otherwise be  
12 permitted under Section 8-103 of the Act. There is  
13 no discernable indication that the General Assembly  
14 intended to consider the funding provided under  
15 Section 8-103 programs and Section 16-111.5B programs  
16 in total when taking into account the spending caps  
17 imposed by Section 8-103(d).

18           The next set of edits appears under CHP,  
19 Commission Analysis and Conclusions on pages 92 to 93  
20 of the PEPO. These edits simply encourage the  
21 Company to initiate a discussion with the Stakeholder  
22 Advisory Group evaluating a CHP Pilot Program as soon  
23 as possible to allow that program to be implemented  
24 in a timely manner.

1           The next set of edits appears under EM&V,  
2 Spillover, Commission Analysis and Conclusions on  
3 page 101 of the PEPO. These edits mirror the  
4 discussion of this topic in all of the energy  
5 efficiency proceedings currently before us and direct  
6 the evaluators to consider spillover while being  
7 mindful of excessive costs in relation to predicted  
8 impacts. And in addition, suggest that the  
9 program-wide spillover survey be completed in a  
10 timely fashion, as it would benefit all of the  
11 parties to these proceedings.

12           The next set of edits appears under Illinois  
13 TRM Measure Research, Commission Analysis and  
14 Conclusions on page 134 of the PEPO. These edits  
15 further expand upon the reasons why the TRM is  
16 important and make clear that all parties agree on  
17 the importance of measuring and preserving its  
18 accuracy.

19           With that, I would move for the adoption of  
20 these edits. Is there a second?

21           COMMISSIONER MAYE: Second.

22           CHAIRMAN SCOTT: Second by Commissioner  
23 Maye.

24           Is there any discussion on the edits?

1 (No response.)

2 CHAIRMAN SCOTT: All in favor of the edits  
3 say aye.

4 (Chorus of ayes.)

5 CHAIRMAN SCOTT: Any opposed?

6 (No response.)

7 CHAIRMAN SCOTT: The vote is five to nothing  
8 and the edits are adopted.

9 Commissioner McCabe has some joint edits to  
10 propose.

11 Commissioner.

12 COMMISSIONER MCCABE: I propose edits to the  
13 Order that appear on pages 80 to 81. These  
14 amendments contain the ALJ's legal determination that  
15 the Smart Meter Devices Program may be considered.  
16 They approved the ELPC's proposed Smart Devices  
17 Program and encouraged the Company to use the  
18 emerging technologies program. Recognizing that the  
19 Stakeholder Advisory Group, also known as SAG, has  
20 not vetted ELPC's recommended program, the amendments  
21 ask the Company to gather SAG input and report back  
22 to the Commission within six months.

23 We're witnessing a dynamic period in the  
24 utility industry. Electric delivery companies are

1 the center of a fast-paced evolution in how consumers  
2 use, track, and reduce their energy usage. Company's  
3 involved in the innovative products like the in-home  
4 energy display can provide consumers with a more  
5 detailed look into their electric usage.

6 ComEd and Ameren are investing billions in  
7 Smart infrastructure, including EMI meters. As  
8 Commissioners, we should ensure that EMI investments  
9 are leveraged so that consumers are given the best  
10 tools available to reduce their energy consumption.  
11 I would say reduce and manage their energy  
12 consumption.

13 The Smart Device Program is one way in which  
14 Smart meters can be paired with in-home products to  
15 give customers greater control over energy usage.

16 I want to thank the Chairman's office for  
17 their help with these edits and move for their  
18 adoption.

19 CHAIRMAN SCOTT: The amendments have been  
20 moved. Is there a second?

21 COMMISSIONER COLGAN: Second.

22 CHAIRMAN SCOTT: Second by Commissioner  
23 Colgan.

24 Is there any discussion on the edits?

1 (No response.)

2 CHAIRMAN SCOTT: All in favor say aye.

3 (Chorus of ayes.)

4 CHAIRMAN SCOTT: Any opposed?

5 (No response.)

6 CHAIRMAN SCOTT: The vote is five to nothing  
7 and the edits are adopted.

8 Is there any further discussion or further  
9 edits to propose?

10 (No response.)

11 CHAIRMAN SCOTT: Is there then a motion to  
12 enter the Order as amended?

13 COMMISSIONER MCCABE: So moved.

14 CHAIRMAN SCOTT: Moved by Commissioner  
15 McCabe.

16 COMMISSIONER COLGAN: Second.

17 CHAIRMAN SCOTT: Second by Commissioner  
18 Colgan.

19 Any further discussion?

20 (No response.)

21 CHAIRMAN SCOTT: All in favor say aye.

22 (Chorus of ayes.)

23 CHAIRMAN SCOTT: Any opposed?

24 (No response.)

1           CHAIRMAN SCOTT: The vote is five to nothing  
2 and the Order, as amended, is entered.

3           Item 3 is Docket Number 13-0498. This is  
4 Ameren's Petition for Approval of its Energy  
5 Efficiency and Demand-Response Plan pursuant to  
6 Sections 8-103(e) and (f) and 8-104(e) and (f) of the  
7 Public Utilities Act. ALJ Yoder recommends entry of  
8 an Order conditionally approving Ameren's Energy  
9 Efficiency and Demand-Response Plan. I have some  
10 proposed edits to this Order.

11           The first set of edits appears under  
12 Adequacy of Savings Goals, Commission Conclusions on  
13 pages 24 and 25 of the PEPO. It's my opinion, and  
14 the opinion of many intervenors in this proceeding,  
15 that Ameren is setting its savings goals far lower  
16 than it should be in an effort to be conservative. I  
17 don't think that that is the correct path, as we  
18 encouraged Ameren in the last Three-Year Plan  
19 proceeding to continue to innovate to meet the goals  
20 it is required to meet. While these edits do not  
21 prescribe any specific numerical goal, they do direct  
22 Ameren to present a revised plan that includes  
23 increased proposed savings in line with previous  
24 years.

1           The second set of edits appears under  
2 Proposed Spending Requirements, Commission  
3 Conclusions on pages 29 to 30 of the PEPO. The  
4 original conclusion did not adequately evaluate  
5 Staff's proposal, which was to spend all of the  
6 funding to the extent practicable on cost-effective  
7 energy measures. I believe this is a reasonable  
8 position between what we saw as the Company's "spend  
9 only what is safe" position and CUB and NRDC's "spend  
10 it all regardless" position.

11           The third set of edits appears under  
12 Removing Programs from the Plan into the IPA  
13 Procurement Plan, Commission Conclusions on pages 62  
14 to 63 of the PEPO. These edits accomplish the  
15 following:

16           First, adopt the AG's recommendation to  
17 transfer certain programs from Ameren's EEPS plan  
18 under Section 8-103 to the IPA plan under Section  
19 16-111.5B in the second and third plan years. It is  
20 my position, as we said earlier in the earlier docket  
21 item, that the Commission is not limited to  
22 considering energy efficiency plans in silos and can  
23 recommend that Ameren shift successful EE programs to  
24 the IPA so that they can be more fully funded and

1 expanded. Section 16-111.5B includes no fewer than  
2 eight references to Section 8-103 of the Act. The  
3 General Assembly clearly linked the programs to be  
4 provided under both sections.

5           Next, reject Ameren's argument that they  
6 "cannot rely on a presumption of approval". Again,  
7 while we can't mandate the IPA include the programs  
8 in their filing with the Commission, we would  
9 encourage them, obviously, to treat our  
10 recommendation favorable. Further, it's unclear why  
11 third party vendors would decline to participate in  
12 the expansion of a successful program simply because  
13 the funding is different and the requirements to run  
14 that program are slightly different.

15           To the extent funds are freed up for  
16 investment in Section 8-103 programs, these edits  
17 would direct that those funds should be spent on  
18 residential sector programs to maintain the diverse  
19 cross-section of opportunities for customers of all  
20 rate classes to participate in the programs.

21           And the edits would reject the IIEC's  
22 argument that such transfers might result in ComEd  
23 spending more on energy efficiency plans than would  
24 otherwise be permitted under Section 8-103 of the



1 Act. Again, as we discussed in the earlier item,  
2 there is no discernable indication that the General  
3 Assembly intended to consider the funding provided  
4 for Section 8-103 programs and Section 16-111.5B  
5 programs in total when taking into account the  
6 spending caps imposed by Section 8-103(d).

7           The fourth set of edits appears under  
8 On-Bill Financing, Commission Conclusions on page 85  
9 of the PEPO. Instead of rejecting the AG's proposal,  
10 these edits agree with the AG that Ameren should  
11 evaluate including an OBF program in its plan.  
12 Obviously, the program was successful and in demand,  
13 given that Ameren exhausted its other financing  
14 program and discontinued offering it. I believe it  
15 could be successful here as well. These edits also  
16 suggest that if the OBF is not ultimately included,  
17 that they propose it in their IPA plan.

18           The fifth set of edits appears under  
19 Spillover and Free Ridership Factors for NTG Values,  
20 Commission Conclusions on page 99 of the PEPO. These  
21 edits mirror previous edits on this topic directing  
22 evaluators to consider spillover while being mindful  
23 of excessive costs in relation to predicted impacts.

24           The sixth set of edits appears under

1 Modified NTG Framework Proposals, Commission  
2 Conclusions on page 122 of the PEPO. These edits  
3 encourage the parties to continue discussions on  
4 modified framework that is not excessively  
5 complicated or burdensome.

6 With that, I would move for the adoption of  
7 these edits. Is there a second?

8 COMMISSIONER COLGAN: Second.

9 CHAIRMAN SCOTT: Second by Commissioner  
10 Colgan.

11 Is there any discussion on the edits?  
12 Commissioner McCabe.

13 COMMISSIONER MCCABE: Mr. Chairman, on the  
14 Residential Lighting Program, is it fair to say both  
15 here and in the ComEd Order that to the extent funds  
16 are freed up, they're going to be allocating towards  
17 the residential programs that should allay some of  
18 IECC's concerns?

19 CHAIRMAN SCOTT: Yes.

20 Further discussion on the edits?

21 (No response.)

22 CHAIRMAN SCOTT: It's been moved and  
23 seconded. All in favor say aye.

24 (Chorus of ayes.)

1                   CHAIRMAN SCOTT: Any opposed?

2                                   (No response.)

3                   CHAIRMAN SCOTT: The vote is five to nothing  
4 and the edits are adopted.

5                   Commissioner McCabe, I believe you have some  
6 edits.

7                   COMMISSIONER MCCABE: I propose edits to the  
8 PEPO that appear on pages 78 to 79. Similar to the  
9 edits in the ComEd Order. These edits approve ELPC  
10 Smart Devices Program. The PEPO rejected the program  
11 but adopted part of the CUB's recommendation, which  
12 was to require AIC to discuss this program with the  
13 Stakeholder Advisory Group. These edits keep that  
14 recommendation and add CUB's other recommendation,  
15 which was to spend remaining amounts of Ameren's  
16 emerging technologies budget to develop the Smart  
17 Devices Program.

18                   In addition, the edits require AIC to  
19 discuss its plan with the Stakeholder Advisory Group  
20 and report back to the Commission on the progress  
21 within six months.

22                   My comments in regards to ComEd energy  
23 efficiency Order edits apply equally here. It's my  
24 hope that they continue to look for ways to give

1 consumers greater control over energy usage. With  
2 that, I move for the adoption of these amendments.

3 CHAIRMAN SCOTT: The adoption has been  
4 moved. Is there a second?

5 COMMISSIONER MAYE: Second.

6 CHAIRMAN SCOTT: Second by Commissioner  
7 Maye.

8 Any discussion on the amendments?

9 (No response.)

10 CHAIRMAN SCOTT: All in favor say aye.

11 (Chorus of ayes.)

12 CHAIRMAN SCOTT: Any opposed?

13 (No response.)

14 CHAIRMAN SCOTT: The vote is five to nothing  
15 and the edits are adopted.

16 Is there any further discussion or any  
17 further edits to propose?

18 (No response.)

19 CHAIRMAN SCOTT: Is there a motion to enter  
20 the Order as amended?

21 COMMISSIONER MCCABE: So moved.

22 CHAIRMAN SCOTT: Moved by Commissioner  
23 McCabe.

24 COMMISSIONER COLGAN: Second.

1           CHAIRMAN SCOTT: Second by Commissioner  
2 Colgan.

3           Any further discussion?

4                           (No response.)

5           CHAIRMAN SCOTT: All in favor say aye.

6                           (Chorus of ayes.)

7           CHAIRMAN SCOTT: Any opposed?

8                           (No response.)

9           CHAIRMAN SCOTT: The vote is five to nothing  
10 and the Order, as amended, is entered.

11           Item 4 is Docket Number 13-0499. This is  
12 the Illinois Department of Commerce and Economic  
13 Opportunity's Petition for Approval of its Energy  
14 Efficiency Portfolio and Demand-Response Plan  
15 pursuant to Section 8-103(e) and (f) and 8-104(e) and  
16 (f) of the Public Utilities Act. ALJ Haynes  
17 recommends entry of an Order directing DCEO to file a  
18 revised plan.

19           I have some proposed edits for this Order.  
20 First, I want to thank the other offices for their  
21 assistance in tightening up some of the language in  
22 the edits. I think those suggestions have made these  
23 edits stronger. So thank you very much for that.

24           The first set of edits appears on pages 19

1 and 20 of the PEPO under Spillover. They merely  
2 emphasize that the evaluators should consider  
3 excessive costs and compare them to the predicted  
4 impact of the measurements being taken. This  
5 language is then consistent with language in the AIC  
6 Order and the ComEd Order on the topic of spillover.

7           The second set of edits appears on page 23  
8 of the PEPO under Stakeholder Advisory Group,  
9 Commission Analysis and Conclusions. My office felt  
10 that the language "possibly culminating in a policy  
11 manual" was too weak. And instead, we have added  
12 language that directs the SAG to complete the Policy  
13 Manual. We understand that these EE Orders put a lot  
14 on the SAG, but we feel that this is a very important  
15 item that should be given priority.

16           The third set of edits appears on pages 25  
17 to 26 of the PEPO under Program Flexibility,  
18 Commission Analysis and Conclusions. We wanted to  
19 draw a distinction between what we have asked the  
20 utilities to do with regard to flexibility -- filing  
21 reports, etc. -- versus what we were asking of DCEO.  
22 First, DCEO agreed to this proposal as an alternative  
23 if its first proposal is not adopted. And second,  
24 DCEO has a much smaller budget and fewer resources;

1 and thus, may benefit more potentially from the input  
2 of the SAG.

3 The last set of edits appears on page 42 of  
4 the PEPO under Low Income Programs, Commission  
5 Analysis and Conclusions. The PEPO's conclusion  
6 directs DCEO to work with the SAG on improving the  
7 programs to serve more customers and use funds more  
8 efficiently; but nonetheless, approves DCEO's  
9 portfolio with no changes.

10 I felt it was important to highlight CUB and  
11 Staff's suggestion that DCEO not use top-of-the-line  
12 furnaces when the corresponding energy savings does  
13 not warrant doing so and additional language  
14 underscoring the importance of reaching as broad a  
15 population as possible with these programs.

16 With that, I would move for adoption of  
17 these edits. Is there a second?

18 COMMISSIONER MCCABE: Second.

19 CHAIRMAN SCOTT: Second by Commissioner  
20 McCabe.

21 Is there any discussion on the edits?

22 (No response.)

23 CHAIRMAN SCOTT: All in favor say aye.

24 (Chorus of ayes.)

1                   CHAIRMAN SCOTT: Any opposed?

2                                   (No response.)

3                   CHAIRMAN SCOTT: The vote is five to nothing  
4 and the edits are adopted.

5                   Is there any further discussion or further  
6 edits to propose?

7                                   (No response.)

8                   CHAIRMAN SCOTT: Is there then a motion to  
9 enter the Order as amended?

10                   COMMISSIONER MAYE: So moved.

11                   CHAIRMAN SCOTT: Moved by Commissioner Maye.

12                   COMMISSIONER MCCABE: Second.

13                   CHAIRMAN SCOTT: Second by Commissioner  
14 McCabe.

15                   Any further discussion?

16                                   (No response.)

17                   CHAIRMAN SCOTT: All in favor say aye.

18                                   (Chorus of ayes.)

19                   CHAIRMAN SCOTT: Any opposed?

20                                   (No response.)

21                   CHAIRMAN SCOTT: The vote is five to nothing  
22 and the Order, as amended, is entered.

23                   I want to thank Judges Haynes and Yoder for  
24 their work on these three plans. A lot of issues to



1 get through, and we really appreciate all of the work  
2 that they have put into these items.

3           Item 5 is Docket Number 13-0506. This is  
4 our investigation concerning the applicability of  
5 Sections 16-122 and 16-108.6 of the Public Utilities  
6 Act, with reference to the release of customer  
7 information and AMI. ALJ Teague-Kingsley recommends  
8 entry of a Post-Exceptions Proposed Order.

9           I believe Commissioner del Valle has a  
10 proposed edit to this Order.

11           Commissioner.

12           COMMISSIONER DEL VALLE: Yes. Thank you,  
13 Mr. Chairman.

14           First of all, I want to thank your office  
15 for the assistance and the input on these edits.

16           My proposed edit can be found on page 17 of  
17 the Proposed Order under the Commission Conclusions  
18 for the Aggregated Anonymous Data section. The edit  
19 amends that data protocol by adopting CUB's proposed  
20 15/15 rule.

21           When the Commission initiated this docket,  
22 it sought to strike a careful balance between  
23 protecting the customers' privacy while unlocking the  
24 full benefits of the Smart Meter infrastructure. I

1 believe this edit does not diminish the first goal of  
2 protecting the customers' privacy, while at the same  
3 time, it aids the second goal.

4 With that, I move the adoption of this edit.

5 CHAIRMAN SCOTT: The edit has been moved.

6 Is there a second?

7 COMMISSIONER COLGAN: Second.

8 CHAIRMAN SCOTT: Is there any discussion on  
9 the proposed edit?

10 (No response.)

11 CHAIRMAN SCOTT: All in favor say aye.

12 (Chorus of ayes.)

13 CHAIRMAN SCOTT: Any opposed?

14 (No response.)

15 CHAIRMAN SCOTT: The vote is five to nothing  
16 and the edit is adopted.

17 Thank you, Commissioner del Valle.

18 And I believe Commissioner Maye also has  
19 proposed edits.

20 COMMISSIONER MAYE: I do. Thank you.

21 The Chairman and I have circulated joint  
22 proposed edits to add clarifying language to the PEPO  
23 that states Section 16-122 does not allow the utility  
24 to release customer specific usage data unless it's

1 provided anonymously to the service provider. In  
2 this case, in ARES or a municipality aggregating its  
3 resident electric service or the customer has  
4 provided consent. Section 16-122(a), as well as (b)  
5 and (c) are clear that customer-specific billing  
6 usage or load shape data cannot be provided unless a  
7 customer provides that authorization.

8           The edit further clarifies that the  
9 Commission is of the opinion that Section 16-122 and  
10 Section 108.6(d) are an exclusive list, and to  
11 interpret the statute otherwise ignores the plain  
12 meaning in the language of Section 16-122(a), which  
13 provides that customer information can only be  
14 released to a customer or a customer's agent who  
15 presents verifiable authorization.

16           As Commissioner del Valle stated, this  
17 Commission does see the importance of striking a  
18 careful balance between protecting a customer's  
19 privacy while unlocking the full benefits of the  
20 Smart Meter infrastructure. Research institutions  
21 and program administrators are an important part of  
22 maximizing this benefit of technology implemented as  
23 a result of EIMA. However, the Commission believes  
24 that the measures in this Order protect the

1 customers' privacy and are consistent with the  
2 statutes in place at this time.

3 With that, I move that these edits be  
4 adopted.

5 CHAIRMAN SCOTT: It's been moved. Is there  
6 a second?

7 COMMISSIONER COLGAN: Second.

8 CHAIRMAN SCOTT: Second by Commissioner  
9 Colgan.

10 Any discussion on the edits?

11 COMMISSIONER DEL VALLE: Yes, Mr. Chairman.

12 I appreciate all the work that has gone into  
13 this particular edit. I know our Staff has spent  
14 quite a bit of time talking about this. We have a  
15 difference of opinion here though, and I would like  
16 to express my opinion for the record here.

17 The question is whether the Commission can  
18 expand on the list of parties included in Section  
19 16-122 of the Public Utilities Act. The Commission  
20 has the authority to interpret Section 16-122, and  
21 should do so. In light of the important goals of the  
22 EIMA, and in doing so, should not read into it  
23 exclusions that are not expressed.

24 In the course of this docket, the City of

1 Chicago, CUB, CNT, ICEA, RESA, ELPC and the NRDC all  
2 agree with my reading of the section. This proposed  
3 joint edit excludes education or research  
4 institutions, such as the IIT Galvin Center, the Gas  
5 Technical Institute, and other local or national  
6 cutting-edge organizations. These institutions are  
7 crucial in developing studies on energy efficiency,  
8 demand-response, economic development, customer  
9 assistance, and other innovative products and  
10 services.

11 Earlier, we talked about Smart devices, for  
12 example, and the importance of giving customers  
13 greater control over energy usage. We're all agreed  
14 on that and agree with that goal. But the question  
15 is how do you reach that goal? At a time when we are  
16 highlighting all the benefits of EIMA, we close the  
17 door on making these a reality.

18 These edits -- this edit assumes the  
19 legislative intent was not to protect customers, but  
20 rather to micromanage who is excluded from accessing  
21 anonymous data, which cannot be traced back to its  
22 owner. The proposed Order shows adequate protection  
23 and research through anonymous data are not an  
24 either/or proposition.

1           In light of all this, the Commission must  
2   exercise its authority to set the limits to who can  
3   receive anonymous data in a manner to best facilitate  
4   the benefits promised to captive ratepayers -- are we  
5   still on?

6           CHAIRMAN SCOTT:   Yes.

7           COMMISSIONER DEL VALLE:   Okay.

8           Benefits promised -- I am seeing a screen  
9   that I thought had cut me off.  Let me repeat that  
10  last line.

11           In light of this, the Commission must  
12  exercise its authority to set the limits to who can  
13  receive anonymous data in a manner to best facilitate  
14  the benefits promised to captive ratepayers when they  
15  were locked into an expensive modernization program.  
16  Excluding our educational and research institutes and  
17  their potential for innovation falls short of our  
18  obligation to ratepayers.  Therefore, I will be  
19  voting no on this edit.

20           CHAIRMAN SCOTT:  Thank you, Commissioner.

21           Further discussion?

22           Commissioner Colgan?

23           COMMISSIONER COLGAN:  No.

24           CHAIRMAN SCOTT:  No?

1           The only thing I'll say in response,  
2 Commissioner del Valle, I think your points are very  
3 well taken. And I would like it to be the way that  
4 you set it out for all of the reasons that you said.  
5 And as we sat down to look through this language, it  
6 was even difficult to come up with a potential harm  
7 of what would happen if we read it that way.

8           But unfortunately, I think that list is  
9 clear. I think the statute is very clear. They  
10 don't have any "including, but not limited to" or  
11 "examples are such" that lead me to believe that the  
12 General Assembly meant something other than to make  
13 that list an exclusive list.

14           So as much as I wish it weren't so, my  
15 reading of it leads me to the opposite conclusion. I  
16 think it's very worthwhile for something to go back  
17 to the General Assembly on this issue. They've  
18 certainly showed a willingness to amend this before.  
19 So I think they may again if we can point out the  
20 issues as you said them, Commissioner.

21           But for those reasons, I am going to support  
22 the edits. I just think that that statute is that  
23 clear.

24           Further discussion on the amendment?

1 Commissioner Colgan?

2 COMMISSIONER COLGAN: Yes, just briefly.

3 I think that it is maybe important that this  
4 would go back and the General Assembly would take  
5 another look at this, because I think this is  
6 indicative of some things that are going to continue  
7 to happen as we roll out this new way, new paradigm  
8 of doing things. And I think it's so important that  
9 we continue to develop the side of this benefit that  
10 will actually reach the customer. And while there  
11 are benefits to be realized here -- many, many  
12 benefits -- but it's almost like, you know, we have  
13 put this infrastructure, we're putting it in place  
14 and we haven't developed a plan for how the customer  
15 is going to benefit from it. And I think the quicker  
16 we can get to that, to those benefits, justifies the  
17 expenditure.

18 And so I hear this discussion. I have been  
19 following this discussion for a few days now. And I  
20 think it's really important for us as we continue to  
21 develop our positions and our policies to try to,  
22 like we did in our policy meeting last week, have  
23 that dialogue back and forth with the General  
24 Assembly so that we do get to the possible benefit in



1 that the intent of the law is made very clear.

2 COMMISSIONER MAYE: I just want to add one  
3 more thing in response to Commissioner del Valle's  
4 comment.

5 I do concur with the Chairman. I think that  
6 we all here -- I think it's safe to say that all five  
7 of us do want the same thing. And that, definitely,  
8 we agree that this is an issue that does need to go  
9 before the General Assembly. That's something that  
10 they need to work out. They need to put that intent  
11 there.

12 But again, in reading the statute, that is  
13 just not the intent that I got from it. I definitely  
14 understand that we do want to maximize all of the  
15 benefits of EIMA. At some point in time, as  
16 Commissioner Colgan stated, consumers are going to  
17 start wondering, "Okay. What benefits are we getting  
18 on this?" And we need to be able to justify that.  
19 And we want to give them the most benefits from this.  
20 But again, in reading this statute, to me, it was  
21 just clear that was just not there. I concur with  
22 everything you're saying, Commissioner del Valle.  
23 This is a case we'll agree to disagree.

24 COMMISSIONER DEL VALLE: Thank you. I

1 appreciate that. And I agree with you that all of us  
2 want to see the full realization of all the benefits  
3 that have been promised. But I think if your  
4 interpretation is correct, then obviously, the  
5 Chairman and others feel that that is what the  
6 statute says, I think it becomes a great example of  
7 how the statute is not coming close to keeping up  
8 with the activity that's taking place, particularly  
9 the fact that it was the General Assembly that  
10 authorized the modernization plan, which translated  
11 into increased cost for ratepayers at the time that  
12 we were promising benefits. And yet, if we don't  
13 have this research capability, if we don't have the  
14 activity to develop the new products, and if we don't  
15 put that on a track that's as fast as the  
16 implementation of this modernization plan, at the  
17 end, ratepayers will not have benefited as much as  
18 they were promised.

19           So I appreciate all the comments that have  
20 been made.

21           CHAIRMAN SCOTT: Thank you, Commissioner.

22           Any further discussion on this item?

23   (No response.)

24           CHAIRMAN SCOTT: The motion and a second to

1 approve the edits that were moved by Commissioner  
2 Maye. All in favor say aye.

3 (Chorus of ayes by Chairman Scott,  
4 Commissioner McCabe, Commissioner  
5 Colgan and Commissioner Maye.)

6 CHAIRMAN SCOTT: Any opposed?

7 COMMISSIONER DEL VALLE: No.

8 CHAIRMAN SCOTT: The vote is 4 to 1, and the  
9 edits are adopted.

10 Is there any further discussion or further  
11 edits to propose?

12 (No response.)

13 CHAIRMAN SCOTT: Is there then a motion to  
14 enter the Order as amended?

15 COMMISSIONER MCCABE: So moved.

16 CHAIRMAN SCOTT: Moved by Commissioner  
17 McCabe.

18 COMMISSIONER MAYE: Second.

19 CHAIRMAN SCOTT: Second by Commissioner  
20 Maye.

21 Any discussion?

22 (No response.)

23 CHAIRMAN SCOTT: All in favor say aye.

24 (Chorus of ayes.)

1                   CHAIRMAN SCOTT: Any opposed?

2                                   (No response.)

3                   CHAIRMAN SCOTT: The vote is five to nothing  
4 and the Order, as amended, is entered.

5                   Judge Wallace, is there any other matters to  
6 come before the Commission today?

7                   JUDGE WALLACE: No, that's all, Mr.  
8 Chairman.

9                   CHAIRMAN SCOTT: Thank you.  
10 Commissioner Colgan.

11                   COMMISSIONER COLGAN: Well, I knew when I  
12 started to make a list of Staff members to thank that  
13 that could be a mistake. And I made a little note to  
14 thank everybody else that put a lot of work in here.  
15 And there are a bunch of other Staff people who have  
16 put the time into -- I see a few of them in the  
17 audience. Scott Struck and Tom Kennedy back there.  
18 And I know Richard Zuraski -- and there I go again  
19 starting to name people, and I know I'm going to  
20 leave people out.

21                   This has been an all-out effort on the part  
22 of the Staff. It's been from my perspective as, you  
23 know, the daunting task of organizing this and making  
24 it if people are going to come halfway around the

1 earth for an experience, we wanted it to be a full  
2 and good experience. I just thank the Staff so much  
3 for how they have mobilized and stepped up to the  
4 plate and responded to this.

5 CHAIRMAN SCOTT: I wholeheartedly agree with  
6 that. Thank you very much. If there is nothing  
7 else --

8 COMMISSIONER MAYE: May I say something?

9 CHAIRMAN SCOTT: Yes. Commissioner.

10 COMMISSIONER MAYE: I just wanted to add, I  
11 know that you don't get the thank you's, but most  
12 definitely, I think that we have to thank  
13 Commissioner Colgan here. I remember when I first  
14 learned about this trip, I thought, I can't believe  
15 he's vacationing in Tanzania. And then I quickly  
16 learned that he was not going on vacation. He was  
17 busting his behind. He was working and he was making  
18 all five of us look stellar in another continent.  
19 Now, our guests are here and he's continuing to make  
20 all five of us look stellar with the help of our  
21 Executive Director and entire agency. I just want to  
22 thank him and his assistants for their very, very  
23 hard work.

24 COMMISSIONER COLGAN: Thank you.

1 COMMISSIONER MCCABE: Second.

2 CHAIRMAN SCOTT: Absolutely.

3 There's nothing else to come before the  
4 Commission today. This meeting stands adjourned.  
5 Thank you, everyone.

6 SPECIAL OPEN MEETING ADJOURNED.

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CERTIFICATE OF REPORTER

I, Angela C. Turner, a Certified Shorthand Reporter within and for the State of Illinois, do hereby certify that the meeting aforementioned was held on the time and in the place previously described.

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

---

Angela C. Turner  
IL CSR #084-004122