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BEFORE THE  
ILLINOIS COMMERCE COMMISSION

BENCH SESSION

February 5th, 2014  
Chicago, Illinois

Met, pursuant to notice, at 10:30 o'clock a.m. At  
160 North LaSalle Street, Chicago, Illinois 60601.

BEFORE:

- MR. DOUGLAS P. SCOTT, Chairman
- MR. JOHN T. COLGAN, Commissioner
- MS. ANN McCABE, Commissioner
- MR. MIGUEL del VALLE, Commissioner
- MS. SHERINA E. MAYE, Commissioner
- MR. JOHN T. COLGAN, Commissioner  
(Via videoconference)

MIDWEST LITIGATION SERVICES, by  
JOANNA VITALE,  
Certified Shorthand Reporter  
Illinois CSR No. 084-004323

1                   CHAIRMAN SCOTT: Is everyone ready in  
2 Springfield?

3                   COMMISSIONER COLGAN: We're ready to go.

4                   CHAIRMAN SCOTT: Pursuant to the provisions of the  
5 Open Meetings Act, I now convene a regularly scheduled  
6 Bench session of the Illinois Commerce Commission. With  
7 me in Chicago are Commissioner McCabe, Commissioner del  
8 Valle, and Commissioner Maye. In Springfield is  
9 Commissioner Colgan. I am Chairman Scott. We have a  
10 quorum.

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

19                   Turning now to the electric portion of today's  
20 agenda. Item E-1 is our motion to initiate a citation  
21 proceeding against CRM Marketing for its failure to file  
22 a Compliance Recertification Report as required by  
23 83 Ill. Adm. Code Section 454.110 and for failure to  
24 maintain corporate status. Staff recommends entry of an  
25 Order initiating the citation proceeding.

1                   Is there any discussion?

2                   Is there a motion to initiate the citation  
3 proceeding?

4           COMMISSIONER McCABE:   So moved.

5           CHAIRMAN SCOTT:   Moved by Commissioner McCabe.

6                   Is there a second?

7           COMMISSIONER MAYE:   Second.

8           CHAIRMAN SCOTT:   Seconded by Commissioner Maye.

9 All in favor say aye.

10                                   (Ayes heard.)

11           CHAIRMAN SCOTT:   Opposed?

12                                   (No response.)

13           CHAIRMAN SCOTT:   The vote is 5-0 and the Order  
14 initiating the proceeding is entered. We'll use this  
15 5-0 vote for the remainder of today's public utility  
16 agenda unless otherwise noted.

17                   Item E-2 is Docket No. 11-0687. This is our  
18 reconciliation of revenues collected under Rider EDR  
19 with actual costs associated with Energy Efficiency and  
20 Demand-Response Plans and under Rider GER with actual  
21 costs associated with natural gas Energy Efficiency  
22 Plans for Ameren. ALJ Albers recommends entry of an  
23 Order approving the reconciliation.

24                   Is there any discussion?

25                                   (No response.)



1 to billing/charges in Chicago. The parties have  
2 apparently settled their differences and have filed a  
3 stipulation and Joint Motion to Dismiss, which ALJ Benn  
4 recommends we grant.

5 Is there any discussion?

6 (No response.)

7 CHAIRMAN SCOTT: Any objections?

8 (No response.)

9 CHAIRMAN SCOTT: Hearing none, the Joint Motion to  
10 Dismiss is granted.

11 Item E-5 is Docket Nos. 13-0501 and 13-0517  
12 consolidated. This is the People of the State of  
13 Illinois' complaint to suspend tariff changes submitted  
14 by Ameren and to investigate Ameren's Rate MAP-P  
15 pursuant to Sections 9-201, 9-250 and 16-108.5 of the  
16 Public Utilities Act. It also concerns Ameren's  
17 revisions to its formula rate structure and protocols.  
18 ALJs Albers and Yoder recommend denying the AG's motion  
19 to revisit conclusions in Interim Order.

20 Is there any discussion?

21 (No response.)

22 CHAIRMAN SCOTT: Are there any objections?

23 (No response.)

24 CHAIRMAN SCOTT: Hearing none, the motion is  
25 denied.

1 COMMISSIONER del VALLE: (inaudible)

2 CHAIRMAN SCOTT: We'll take a vote then. All in  
3 favor say aye.

4 (Ayes heard.)

5 CHAIRMAN SCOTT: Opposed?

6 COMMISSIONER del VALLE: No.

7 CHAIRMAN SCOTT: The vote is 4-1 and the motion is  
8 denied.

9 Item E-6 is Docket No. 13-0515. This is  
10 Valerie Rodriguez-Hampton's complaint against ComEd as  
11 to deposit request and payment agreement in Dixmoor.  
12 ALJ Benn recommends entry of an Order dismissing the  
13 complaint for want of prosecution.

14 Is there any discussion?

15 (No response.)

16 CHAIRMAN SCOTT: Are there any objections?

17 (No response.)

18 CHAIRMAN SCOTT: Hearing none, the Order is entered  
19 and the complaint is dismissed.

20 Item E-7 is Docket No. 13-0552. This is  
21 ComEd's submission of its Rider NAM, Non-AMI Metering  
22 tariff. ALJ Haynes recommends entry of an Order  
23 approving Rider NAM as amended.

24 Is there any discussion?

25 My office would like to propose edits to the

1 Order, which can be found on pages 17-18 of the PEPO.  
2 These edits reverse the conclusion not to include the  
3 sunset provision at this time. It is my opinion that  
4 the sunset provision is necessary to inform customers  
5 that their refusal of a meter is not a permanent  
6 solution given the statute. I think it's important, and  
7 only fair to be transparent and honest with the  
8 customers, from the start, concerning the binding nature  
9 of the General Assembly's language in the Act. With  
10 that I would move for adoption of this edit.

11 Is there a second?

12 COMMISSIONER del VALLE: Second.

13 CHAIRMAN SCOTT: Seconded by Commissioner del  
14 Valle.

15 Is there any discussion on the edit?

16 All in favor of the edit vote aye.

17 (Ayes heard.)

18 CHAIRMAN SCOTT: Opposed?

19 (No response.)

20 CHAIRMAN SCOTT: Vote is 5-0 and the edit is  
21 approved. Commissioner del Valle, you have an edit on  
22 this, as well.

23 COMMISSIONER del VALLE: Yes. Thank you,  
24 Mr. Chairman. My proposed edit would be added to the  
25 Commission and Analysis and Conclusion section on

1 page 13 of the proposed Order. It reads as follows:  
2 Purpose of this charge is primarily to motivate  
3 customers to switch while also avoiding the  
4 socialization of costs incurred by customers' refusals.  
5 In the interest of transparency and to insure that this  
6 tariff has the desired effect, the Commission directs  
7 ComEd to make this charge a separate line item in each  
8 customer's bill and use language for that line item that  
9 makes it absolutely clear that the charge is a penalty  
10 assessed as a consequence of the customer's refusal.  
11 The Commission recommends smart meter refusal charge as  
12 the language.

13 CHAIRMAN SCOTT: Are you moving that amendment?

14 COMMISSIONER del VALLE: I move.

15 CHAIRMAN SCOTT: Is there a second?

16 COMMISSIONER McCABE: Second.

17 CHAIRMAN: Seconded by Commissioner McCabe.

18 Discussion on the proposed amendment, all in favor say  
19 aye.

20 (Ayes heard.)

21 CHAIRMAN SCOTT: Any opposed?

22 (No response.)

23 CHAIRMAN SCOTT: The vote is 5-0 and the amendment  
24 is adopted. Any further discussion.

25 I just want to make a couple quick comments on



1 this, we're going to -- obviously let the sunset  
2 provision back in. I appreciate that. I think that's  
3 important. Also, the provision is in here to revisit  
4 these costs on a regular basis, which I really think  
5 we're going to want to do for a lot of reasons. When  
6 this was sold to the General Assembly, it was sold on  
7 the basis that having all these meters in place means a  
8 lot for the system. That was part of the reason behind  
9 the hundred percent language in the statute are all  
10 customers' language in the statute. And we really don't  
11 know what efficiencies are lost if the subdivision on  
12 chooses on un not to put the meters in and -- or what  
13 happens to the efficiencies, not just the cost of  
14 complying with that, what the meter readers then have to  
15 do. So we're really kind of at a loss for a lot of  
16 information that I think we're going to need as we  
17 continue on this process over the period of time that  
18 these meters are getting installed and refusals happen.

19 I also think we need to revisit the cost issue  
20 itself. We've got tariffs for similar kinds of  
21 operations that are a lot more expensive than this. I  
22 understand not wanting to have rate shock on particular  
23 customers; but the reality is whatever we don't charge  
24 these customers, other customers are paying for. So  
25 it's just as true that the well-to-do customer may be

1 getting subsidized by the person of moderate or low  
2 means as well if they choose -- if the person of means  
3 chooses to refuse in this case. And I don't think  
4 that's what anybody wants either. So I agree with you  
5 that the purpose here is to try to make sure we don't  
6 have as many refusals. I think a cost does that, but I  
7 really think we need to continue to revisit to make sure  
8 that the cost is a correct one for a lot of different  
9 reasons.

10 COMMISSIONER del VALLE: I fully agree.

11 CHAIRMAN SCOTT: I thought you might have.

12 Is there any other discussion on this issue?  
13 I'm sure we'll see it again. We've had a motion to  
14 approve the Order as amended and a second. Did we do  
15 that yet? Let me make sure.

16 Is there a motion to approve the Order as  
17 amended?

18 COMMISSIONER del VALLE: So moved.

19 CHAIRMAN SCOTT: Moved by Commissioner del Valle.

20 Is there a second?

21 COMMISSIONER McCABE: Second.

22 CHAIRMAN SCOTT: Seconded by Commissioner McCabe.

23 All in favor say aye.

24 (Ayes heard.)

25 CHAIRMAN SCOTT: Any opposed?

1 (No response.)

2 CHAIRMAN SCOTT: The vote is 5-0 on the Order, as  
3 amended is approved.

4 Item E-8 is Docket No. 13-0575. This is IDOT,  
5 on behalf of the People of the State of Illinois'  
6 petition for approval of the taking or damaging of  
7 certain properties owned by ComEd in Will County by  
8 exercising the right of eminent domain. ALJ Hilliard  
9 recommends entry of an Order granting the petition.

10 Is there any discussion?

11 (No response.)

12 CHAIRMAN SCOTT: Any objections?

13 (No response.)

14 CHAIRMAN SCOTT: Hearing none, the Order is  
15 entered.

16 Items E-9 and E-10 can be taken together.  
17 These items concern complaints against ComEd as to the  
18 erroneous tampering and billing/charges. In both cases,  
19 the parties have apparently settled their differences  
20 and filed a Stipulation and Motion to Dismiss, which the  
21 ALJ in each case recommends we grant.

22 Is there any discussion?

23 (No response.)

24 CHAIRMAN SCOTT: Any objections?

25 (No response.)

1 CHAIRMAN SCOTT: Hearing none, the Orders are  
2 entered.

3 Item E-11 is Docket No. 13-0624. This is NRG  
4 Kiosk's Application for Licensure as Agents, Brokers and  
5 Consultants under Section 16-115C of the Public  
6 Utilities Act. ALJ Kimbrel recommends entry of an Order  
7 granting the requested certificate.

8 Is there any discussion?

9 (No response.)

10 CHAIRMAN SCOTT: Any objections?

11 (No response.)

12 CHAIRMAN SCOTT: Hearing none, the Order is  
13 entered.

14 Items E-12 and E-13 can be taken together.  
15 These items concern Applications for certificate of  
16 service authority under Section 16-115 of the Public  
17 Utilities Act. In both cases ALJ Von Qualen recommends  
18 entry of an Order granting the requested certificate.

19 Is there any discussion?

20 (No response.)

21 CHAIRMAN SCOTT: Any objections?

22 (No response.)

23 CHAIRMAN SCOTT: Hearing none, the Orders are  
24 entered.

25 Item E-14 is Docket No. 13-0638. This is

1 Ameren's petition for Approval of Commercial Customer  
2 Release pursuant to Sections 2 and 6 of the Electric  
3 Supplier Act. ALJ Yoder recommends entry of an Order  
4 granting the requested relief.

5 Is there any discussion?

6 (No response.)

7 CHAIRMAN SCOTT: Any objections?

8 (No response.)

9 CHAIRMAN SCOTT: Hearing none, the Order is  
10 entered.

11 Items E-15 through E-23 can be taken together.  
12 These items concern Applications for Certification as an  
13 Installer of Distributed Generation facilities under  
14 Section 16-128A of the Public Utilities Act. In each  
15 case ALJ Haloulos-Baker recommends entry of an Order  
16 granting the certificate.

17 Is there any discussion?

18 COMMISSIONER COLGAN: I have a question.

19 CHAIRMAN SCOTT: Commissioner Colgan?

20 COMMISSIONER COLGAN: I think this is the second time we've  
21 seen some of these Applications for Distributed  
22 Generation, a certification to install distributed  
23 generation. And I didn't find in the cover memo or the  
24 Order that these people who were applying, I didn't see  
25 any information about whether or not they had provided

1 this service in other jurisdictions. And if they had  
2 provided that service, if there were any problems or  
3 complaints that were pending against them. And I guess  
4 my question is, is there a question like that on the  
5 application?

6 JUDGE BAKER: No.

7 COMMISSIONER COLGAN: To be quite honest, it appeared all  
8 these were going to be Illinois companies. I don't  
9 think -- and Judge Baker can -- maybe she knows. I  
10 believe they're all Illinois companies.

11 JUDGE BAKER: They are.

12 COMMISSIONER COLGAN: I don't think that we actually  
13 anticipated, at least in the initial round, having to  
14 check out of state or, you know, what consumer  
15 complaints. I'm not even sure it would be a place where  
16 consumer complaints would be registered for any of the  
17 companies that had been doing installation prior to  
18 our -- the new statute and the new rules. Judge Baker,  
19 would you say they're mostly electrical contractors?

20 JUDGE BAKER: Yes. And this actually did come up  
21 with counsel. And I don't think there is any way at  
22 this point to fact check that. Or there's no way, at  
23 least from our perspective, to determine that out of  
24 state. If there's something going on out of state,  
25 complaints.

1           JUDGE WALLACE: I was going to drop it off  
2 on Eric, but he's not here. We can certainly add that  
3 to the application to determine if they do operate in  
4 other states or if they've had complaints in other  
5 states.

6           COMMISSIONER COLGAN: Well, I, for one, would like to know.  
7 And just because they're Illinois companies, doesn't  
8 mean they don't work in Indiana, Michigan, Wisconsin,  
9 Iowa. I mean, they could be working in many different  
10 jurisdictions, and I'd like to know that if we're going  
11 to certificate them to do these installations in  
12 Illinois, that they're going to be a good player in  
13 doing those installations.

14          JUDGE WALLACE: I agree with that. I don't  
15 know that we've looked into whether our surrounding  
16 states have a similar statute that we do or not. We may  
17 be in the forefront.

18          COMMISSIONER McCABE: Judge Baker, do you have any  
19 sense of how many of the applicants have been doing this  
20 kind of work?

21          JUDGE BAKER: No. I mean, there's a minimum  
22 requirement that they've done it a few times. But  
23 beyond that, no.

24          COMMISSIONER del VALLE: Is that the five  
25 installations?

1 JUDGE BAKER: Yes.

2 CHAIRMAN SCOTT: It probably would be something  
3 worthwhile to have -- add that into the form.

4 JUDGE BAKER: Not a problem.

5 CHAIRMAN SCOTT: Thank you. Further discussion?

6 Is there any objections to granting -- or  
7 approving the Orders?

8 Hearing none, the Orders are entered.

9 Item E-24 is Docket No. 14-0025. This is Corn  
10 Belt Energy Corporation and American Illinois' Joint  
11 Petition for Approval of Amendment No. 14 to the service  
12 area agreements between the two companies. ALJ Jones  
13 recommends entry of an Order granting the Joint  
14 Petition.

15 Is there any discussion?

16 (No response.)

17 CHAIRMAN SCOTT: Any objections?

18 (No response.)

19 CHAIRMAN SCOTT: Hearing none, the Order is  
20 entered.

21 Turning now to Natural Gas, Items G-1 through  
22 G-4 can be taken together. These items concern  
23 complaints against Peoples Gas as to billing/charges and  
24 service. In each case, ALJ Benn recommends entry of an  
25 Order dismissing the proceeding.



1                   Is there any discussion?

2                                   (No response.)

3           CHAIRMAN SCOTT: Any objections?

4                                   (No response.)

5           CHAIRMAN SCOTT: Hearing none, the Orders are  
6 entered.

7                   Item G-5 is Docket No. 12-0657. This is our  
8 reconciliation of revenues collected under gas  
9 adjustment charges with actual costs prudently incurred  
10 for Mt. Carmel Public Utility Co. ALJ Jones recommends  
11 an entry of an Order approving the reconciliation.

12                   Is there any discussion?

13                                   (No response.)

14           CHAIRMAN SCOTT: Any objections?

15                                   (No response.)

16           CHAIRMAN SCOTT: Hearing none, the Order is  
17 entered.

18                   Item G-6 is Docket No. 14-0019. This is  
19 Integrys Energy Services' Petition for Relief to Protect  
20 Confidential and Proprietary Information in TEGE LLC's  
21 financial reporting requirements from disclosure for not  
22 less than two years. ALJ Albers recommends entry of an  
23 Order granting the requested relief.

24                   Is there any discussion?

25                                   (No response.)

1 CHAIRMAN SCOTT: Any objections?

2 (No response.)

3 CHAIRMAN SCOTT: Hearing none, the Order is  
4 entered.

5 On to telecommunications, Item T-1 is Docket  
6 No. 12-0680. This is American broadband and  
7 Telecommunications Company's Petition for Limited  
8 Designation as a Wireless Eligible Telecommunications  
9 Carrier. ALJ Riley recommends entry of an Order  
10 granting the Petition.

11 Is there any discussion?

12 (No response.)

13 CHAIRMAN SCOTT: Any objections?

14 Yes, Commissioner del Valle?

15 COMMISSIONER del VALLE: This is for the lifeline  
16 service, right?

17 CHAIRMAN SCOTT: Judge Riley?

18 COMMISSIONER del VALLE: I have the same question  
19 regarding this telecommunications company that  
20 Commissioner Colgan had just a couple minutes ago. The  
21 process for review does not look into whether or not the  
22 company has had complaints filed against it in other  
23 states for this type of service.

24 JUDGE RILEY: Well, actually the staff is bound by  
25 nothing. The Commission staff is bound by absolutely

1 nothing. That's something they would look into. They  
2 would check with other states.

3 COMMISSIONER del VALLE: They do?

4 JUDGE RILEY: Yes.

5 COMMISSIONER del VALLE: But there's no mention in  
6 the Order of --unlike with the ABCs, for example, where  
7 there's always a mention that there are no complaints.

8 JUDGE RILEY: The Order itself does not  
9 specifically address that, no.

10 COMMISSIONER del VALLE: Why not?

11 JUDGE RILEY: I really don't know.

12 COMMISSIONER del VALLE: Let's explore that.

13 JUDGE RILEY: Okay.

14 COMMISSIONER del VALLE: Because there have been  
15 problems in the past.

16 JUDGE RILEY: Right.

17 COMMISSIONER del VALLE: With the provision of the  
18 service, and we're on record as saying we're very  
19 supportive of the lifeline program, but you have these  
20 folks sometimes setting up tents in neighborhoods and  
21 just passing these things out like hotcakes. So I think  
22 it's important that we do everything to make sure that  
23 those that are providing the service are doing so in a  
24 correct manner.

25 JUDGE RILEY: Right. I understand that. The best

1 answer I can give you is that if there were problems in  
2 other states, that would appear in the Order. If there  
3 were no problems in other states, then it wouldn't be  
4 addressed. But it would definitely be brought up by  
5 staff and be part of our -- certainly be part of the  
6 record.

7 CHAIRMAN SCOTT: Maybe just add a line to the  
8 Orders; because I know that's something Commissioners  
9 look for in other cases. So it's probably worthwhile to  
10 do that. Thank you, Judge.

11 COMMISSIONER Colgan: I think that's a good point. I  
12 remember back when we first -- we were proving ARES  
13 and AGs and ABCs in the Orders,  
14 there was no mention of if they provided service in  
15 another state or if there had been problems. And I  
16 remember this was a few years ago we asked for that to  
17 start showing up in the Order. And I remember at the  
18 time Jim Zolnierek , I believe it was Jim, said  
19 they had done that from the beginning for these Telecom  
20 Orders. And so we saw that as a best practice. Since  
21 then, the AGS, the AREs and the ABCs have --  
22 you know, when those come through, I always look for  
23 that. I find that in there to find out if -- you know,  
24 it's one thing to say I'm going to comply with all the  
25 rules and regulations for how to operate this service in

1 the State of Illinois. But it's quite another thing to  
2 see that they've provided this service in other states  
3 and have or have not followed those rules and  
4 regulations. I think that that's a really good thing  
5 for us to -- you know, it's just to add one sentence in  
6 an Order that makes that clear.

7 CHAIRMAN SCOTT: Absolutely.

8 Any further discussion?

9 (No response.)

10 CHAIRMAN SCOTT: Are there any objections?

11 (No response.)

12 CHAIRMAN SCOTT: Hearing none, the Order is  
13 entered.

14 Items T-2 and T-3 can be taken together.  
15 These items are Petitions for Withdrawal or cancellation  
16 of service authority. In both cases, ALJ Haloulos-Baker  
17 recommends entry of an Order granting the petition.

18 Is there any discussion?

19 (No response.)

20 CHAIRMAN SCOTT: Are there any objections?

21 (No response.)

22 CHAIRMAN SCOTT: Hearing none, the Orders are  
23 entered.

24 Items T-4 through T-9 can be taken together.

25 These are our motions to amend 83 Ill. Adm. Code

1 Sections 210, 220, 710, 711, 712, and 715. In each  
2 case, the ALJ recommends entry of an Order authorizing  
3 the submission of the Second Notice of Proposed  
4 Amendments to the Joint Committee on Administrative  
5 Rules.

6 Is there any discussion?

7 (No response.)

8 CHAIRMAN SCOTT: Are there any objections?

9 (No response.)

10 CHAIRMAN SCOTT: Hearing none, the Orders are  
11 entered.

12 Item T-10 is Docket No. 13-0570. This is Sage  
13 Telecom's application to Cancel Certificates of Local  
14 and Interexchange Authority to operate as a reseller and  
15 facilities-based carrier of telecommunications services,  
16 and resold wireless services in Illinois. ALJ  
17 Haloulos-Baker recommends entry of an Order granting the  
18 Petition to Withdraw.

19 Are there any discussions?

20 (No response.)

21 CHAIRMAN SCOTT: Are there any objections?

22 (No response.)

23 CHAIRMAN SCOTT: Hearing none, the Order is  
24 entered.

25 Items T-11 and T-12 can be taken together.

1 These are Joint Petitions for Approval of a Negotiated  
2 Interconnection Agreement, or an Amendment to the  
3 Interconnection Agreement, pursuant to 47 U.S.C. Section  
4 252. In both cases, ALJ recommends entry of an Order  
5 approving the Agreement.

6 Is there any discussions?

7 (No response.)

8 CHAIRMAN SCOTT: Are there any objections?

9 (No response.)

10 CHAIRMAN SCOTT: Hearing none, the Orders are  
11 entered.

12 Item T-13 is Docket No. 13-0667. This is  
13 Granite Telecommunication's Application for a  
14 Certificate of Wireless Authority to operate as a  
15 reseller of commercial mobile radio service in Illinois.  
16 ALJ Riley recommends entry of an Order granting the  
17 certificate.

18 Is there any discussion?

19 (No response.)

20 CHAIRMAN SCOTT: Are there any objections?

21 (No response.)

22 CHAIRMAN SCOTT: Hearing none, the Order is  
23 entered.

24 Items T-14 and T-15 can be taken together.  
25 These items are Petitions for cancellation certificates

1 to provide service. In both cases, ALJ Riley recommends  
2 entry of an Order cancelling the certificates.

3 Are there any discussions?

4 (No response.)

5 CHAIRMAN SCOTT: Are there any objections?

6 (No response.)

7 CHAIRMAN SCOTT: Hearing none, the Orders are  
8 entered.

9 Items T-16 through T-26 can be taken together.  
10 These items concern Petitions for relief to protect  
11 highly proprietary information in the Petitioner's  
12 annual report from disclosure for not less than two  
13 years. In each case, ALJ Benn recommends entry of an  
14 Order granting the requested relief.

15 Is there any discussion?

16 (No response.)

17 CHAIRMAN SCOTT: Are there any objections?

18 (No response.)

19 CHAIRMAN SCOTT: Hearing none, the Orders are  
20 entered.

21 We have one miscellaneous item on today's  
22 agenda, Item M-1 is Docket No. 11-0711. This is our  
23 development and adoption of rules concerning rate case  
24 expense. ALJ Sainsot recommends entry of a First Notice  
25 Order.



1           Is there any discussion?

2           Commissioner McCabe ...

3           COMMISSIONER McCABE: Good morning. Two  
4 questions -- or two sets of questions, if the Commission  
5 decides to exclude in-house or affiliate expenses from  
6 9-229 scope, what happens to those expenses in a rate  
7 case? Are they simply added to your operating expenses  
8 or are they separated out since the proposed rules does  
9 provide some reporting for in-house expenses?

10          JUDGE SAINCOT: They would be separated out and  
11 looked at with scrutiny just to make -- if for no other  
12 reason than to make sure that there's no double billing,  
13 that in-house counsel isn't duplicating or in-house  
14 expert isn't duplicating what an outside person is  
15 doing. If they were approved, ultimately they would be  
16 considered an operating expense, but they would receive  
17 heightened scrutiny.

18          COMMISSIONER McCABE: Several parties including  
19 the AG and People's North Shore have argued that the  
20 Madigan Decision merely provides guidance to the  
21 Commission regarding the factors used in civil cases for  
22 attorneys' fees. Is the Commission bound by the factors  
23 outlined in the Kieser cases or is there flexibility  
24 given that a case is different in some respects to a  
25 civil case?

1           JUDGE SAINSOT: Well, on a very, very technical  
2 level, People Madigan did not absolutely  
3 require this Commission to be bound by that body of law.  
4 However, at this point, given the language in that  
5 opinion, if the Commission doesn't follow that body of  
6 law and doesn't explain on an evidentiary basis why it's  
7 not doing that, it could open the flood gates to  
8 reversal on appeal which creates a tremendous amount of  
9 uncertainty for the Commission and for the utilities and  
10 for other groups as well. Having said that, the Kieser  
11 line of case law is extremely flexible. In a nutshell,  
12 all it requires is verified evidence as to what these  
13 experts or attorneys do and quantifiable evidence.  
14 That's pretty standard in the legal community, and it's  
15 pretty standard in most service industries. So I hope  
16 that answered your question.

17           CHAIRMAN SCOTT: Commissioner del Valle ...

18           COMMISSIONER del VALLE: Two quick questions, first  
19 one is a general rate case filing a regular annual  
20 occurrence such that it should be considered a general  
21 operating expense or is a rate case a regular occurrence  
22 that can be considered extraordinary?

23           JUDGE SAINSOT: Are you asking that in terms of the  
24 employee expenses?

25           COMMISSIONER del VALLE: Right.

1           JUDGE SAINSOT: The employees get paid whether they  
2 work on a rate case or not. So they wouldn't -- it  
3 wouldn't be an extraordinary expense. They'd be doing  
4 something else.

5           COMMISSIONER del VALLE: The second question is  
6 does Section 9-229 with the Madigan appellate decision  
7 expressly define attorney or technical expert as  
8 excluding in-house employees?

9           JUDGE SAINSOT: It doesn't exclude them, but if you  
10 look at the language, it talks -- it speaks of an  
11 expenditure. There's no real expenditure involved in  
12 paying an employee you would be paying anyway.

13           COMMISSIONER del VALLE: Okay.

14           CHAIRMAN SCOTT: Further questions? Thank you,  
15 Judge. This item will be held for disposition at a  
16 future Commission proceeding.

17                       On to Petitions for Rehearing, Item PR-1 is  
18 Docket No. 13-0318. This is ComEd's annual formula rate  
19 update and revenue requirement reconciliation under  
20 Section 16-108.5 of the Public Utilities Act. ComEd,  
21 the Citizens Utility Board, and the AG have filed  
22 applications for rehearing which ALJs Dolan and Kimbrel  
23 recommend we deny.

24                                       Commissioner Maye ...

25           COMMISSIONER MAYE: Good morning, Mr. Dolan. In

1 your memo regarding CUBs Petition for Rehearing on the  
2 issue of the definition of rate year and reconciliation  
3 cycle, you stated that if there's a need to amend the  
4 Final Order and add more detail, it would be presented  
5 at the next Bench session. Can you give us an update on  
6 whether you will be presenting an Amended Order?

7 JUDGE DOLAN: Yes, Commissioner. After reviewing  
8 that section, I -- the information is in the record and  
9 it is just a matter of providing more details. So, yes,  
10 Judge Kimbrel and myself are actually working on it and  
11 we will have it ready for you for the next bench  
12 session.

13 COMMISSIONER MAYE: Thank you.

14 CHAIRMAN SCOTT: Anything further for Judge Dolan?  
15 The recommendation again is to deny rehearing.

16 Is there any objection to denying rehearing?

17 (No response.)

18 CHAIRMAN SCOTT: Hearing none, the Applications for  
19 Rehearing are denied.

20 Item PR-2 is Docket No. 13-0387. This is  
21 ComEd's filing concerning revenue-neutral tariff changes  
22 related to rate design. ComEd and REACT filed  
23 Applications for Rehearing, which ALJs Hilliard and  
24 Jorgenson recommend we deny. ComEd also filed a Motion  
25 for Clarification of the Commission's final Order in

1 this proceeding, which we will address here first.

2 By way of discussion, I agree with the Staff  
3 and ComEd regarding the need for further clarification  
4 as to the Commission's Order. This is the second time  
5 that the Commission has directed ComEd to provide  
6 evidence regarding cost of service for low use customers  
7 and/or explore how it defines the low use customer  
8 subclass. The first time being in Docket No. 10-0467 in  
9 the context of a SFV rate design. In this Order, we  
10 alluded to the fact that the evidence should be  
11 presented in the next proceeding, though we were not as  
12 clear as we should have been. It is my position that  
13 the most appropriate next proceeding would be a separate  
14 Section 9-250 investigation to further analyze how the  
15 SFV rate design impacts low use residential customers.  
16 Therefore, I would move to grant the Motion for  
17 Clarification, direct Staff to open a Section 9-250  
18 proceeding to investigate the impact of an SFV rate  
19 design on low use residential customers and direct ComEd  
20 to provide the evidence regarding cost of service for  
21 low use customers in that proceeding.

22 Is there a second to that motion?

23 COMMISSIONER MAYE: Second.

24 CHAIRMAN SCOTT: Seconded by Commissioner Maye.

25 Discussion on the motion? All in favor of the motion

1 say aye.

2 (Ayes heard.)

3 CHAIRMAN SCOTT: Opposed?

4 (No response.)

5 CHAIRMAN SCOTT: The vote is 5-0 and the Motion for  
6 Clarification is granted.

7 Now we will address the Applications for  
8 Rehearing. Is there a motion to deny the requests for  
9 rehearing?

10 COMMISSIONER COLGAN: So moved.

11 CHAIRMAN SCOTT: Moved by Commissioner Colgan. Is  
12 there a second?

13 COMMISSIONER McCABE: Second.

14 CHAIRMAN SCOTT: Seconded by Commissioner McCabe.

15 Is there any discussion?

16 All in favor say aye.

17 (Ayes heard.)

18 CHAIRMAN SCOTT: Any opposed?

19 (No response.)

20 CHAIRMAN SCOTT: The vote is 5-0 the Petitions for  
21 Rehearing are denied.

22 Item PR-3 is Docket No. 13-0192. This is  
23 Ameren's tariff filing concerning a proposed general  
24 increase in gas rates. Ameren; the Retail Gas Suppliers  
25 together with the Retail Energy Supply Association and

1 the Illinois Competitive Energy Association; the  
2 Citizens Utility Board; and the Illinois Industrial  
3 Energy Consumers filed Applications for Rehearing. ALJ  
4 Jones recommends entry of an Order denying the  
5 applications.

6 We will first address Ameren, CUB, and the  
7 IIEC's Applications for Rehearing.

8 Is there any objection to denying rehearing?

9 (No response.)

10 CHAIRMAN SCOTT: Hearing none, the Applications for  
11 Rehearing are denied.

12 Next, with regard to RGS, RESA, and ICEA's  
13 Petition for Rehearing, I have some comments. I still  
14 believe the Commission's decision to include these  
15 consumer protections and reporting requirements in its  
16 Order regarding the SVT program are reasonable and  
17 appropriate supplements to the existing statutory  
18 requirements and will benefit consumers who choose to  
19 participate in retail gas choice program. However,  
20 these parties raised some interesting issues that  
21 surround the practical implementation of those  
22 additional requirements. Although the Order notes that  
23 we will not relitigate the issues decided in this  
24 proceeding, I would encourage the parties to continue  
25 the discussion of how best to implement the additional

1 requirements in the future tariff proceeding. With  
2 that, I would move to deny RGS, RESA and ICEA's Petition  
3 for Rehearing.

4 Is there a second?

5 COMMISSIONER COLGAN: Aye.

6 CHAIRMAN SCOTT: Seconded by Commission Colgan.

7 Any discussion on that?

8 COMMISSIONER MAYE: Yes.

9 CHAIRMAN SCOTT: Commissioner Maye ...

10 COMMISSIONER MAYE: I respectfully descent from my  
11 colleagues. I believe the Commission should grant the  
12 RGS, RESA Petition for Rehearing on the issue of  
13 Commission's approval of CUB's approval three consumer  
14 protection proposal. The petition raises some valid  
15 concerns. From a legal perspective, the most  
16 appropriate way to handle the questions raised is to  
17 grant the petition. Page 246 of the final Order states,  
18 The Commission hereby Orders AIC to promptly hold a  
19 workshop following the issuance of this Order focusing  
20 on the issues that are not resolved by this Order. AIC  
21 is also directed to file a petition, tariffs, and  
22 testimony in support of the SVT's program within 45 days  
23 of the date of this Order. The Commission reminds the  
24 parties that the purpose of a separate proceeding shall  
25 be to resolve the remaining issue not decided in this



1 Order. To the extent a resolution of them is not  
2 reached in the workshop. In my opinion, the final Order  
3 makes clear that the tariff proceeding is to be limited  
4 to issues not resolved by the Order. While I understand  
5 that some of my colleagues would prefer to adjudicate  
6 the issues as part of the upcoming tariff proceeding,  
7 I'm of the opinion that because the Commission  
8 previously decided this issue when it voted to adopt the  
9 proposal to include CUBs three consumer protection in  
10 the final Order, it would be procedurally improper to  
11 state that this issue has not been fully resolved and  
12 adjudicated.

13 CHAIRMAN SCOTT: Commissioner, any further  
14 discussion?

15 COMMISSIONER COLGAN: Well, I agree that it is -- that it  
16 has been decided that if we're going to do the consumer  
17 protections and your recommendation, Chairman, is to  
18 discuss that in the workshop setting, we're not  
19 discussing whether or not that would happen. We're  
20 discussing how that won't happen. That's what I  
21 support. And I appreciate your comments, Commissioner  
22 Maye.

23 CHAIRMAN SCOTT: Further discussion?

24 The motion to deny the RJS, RESA, and ICEA's  
25 Petition for Rehearing. All in favor say aye.

1 (Ayes heard.)

2 CHAIRMAN SCOTT: Opposed?

3 COMMISSIONER MAYE: No.

4 CHAIRMAN SCOTT: The vote is 4-1 and the Petition  
5 for Rehearing is denied.

6 Item PR-4 is Docket No. 13-0546. This is the  
7 Illinois Power Agency's Petition for Approval of the  
8 2014 IPA Procurement Plan pursuant to Section 16-111.5  
9 (d)(4) of the Public Utilities Act. The Renewable  
10 Suppliers filed an Application for Rehearing, which ALJ  
11 Wallace recommends we deny.

12 I would like to move to grant rehearing on  
13 this issue. In the final Order, the Commission  
14 expressly stated that if the Renewable Suppliers were to  
15 provide sufficient evidence to prove that the proposals  
16 would be in the public interest, we would be inclined to  
17 revisit the issue. I feel that the testimony provided  
18 by the Renewable Suppliers has the potential to provide  
19 much needed clarification on the ramifications of  
20 implementing either of the group's proposal concerning  
21 Long Term Power Purchase Agreements. Additionally, I  
22 find merit in the argument that there was not adequate  
23 opportunity for submission of this evidence in the  
24 original proceedings, which supports the need for  
25 rehearing at this time.

1                   So I would move to grant rehearing in this  
2 case. Is there a second?

3                   COMMISSIONER del VALLE: Second.

4                   CHAIRMAN SCOTT: Seconded by Commissioner del  
5 Valle.

6                   Is there discussion on that issue?

7                   All if favor say aye.

8   (Ayes heard.)

9                   CHAIRMAN SCOTT: Any opposed?

10                  COMMISSIONER MAYE: No.

11                  CHAIRMAN SCOTT: The vote is 4-1 and the  
12 Application for Rehearing is granted. We have one other  
13 item of business on today's agenda. This is a FERC  
14 matter concerning pending litigation, so we will go into  
15 closed session to address it. Is there a motion to go  
16 into closed session?

17                  COMMISSIONER McCABE: So moved.

18                  CHAIRMAN SCOTT: Is there a second?

19                  COMMISSIONER del VALLE: Second.

20                  CHAIRMAN SCOTT: Seconded by Commissioner del  
21 Valle. All in favor say aye.

22   (Ayes heard.)

23                  CHAIRMAN SCOTT: Any opposed?

24   (No response.)

25                  CHAIRMAN SCOTT: The vote is 5-0. The Commission

1 will now go into closed session. Please let me know  
2 when the room is ready in Springfield.

3 (At this point pages 37 - 42 of the  
4 proceedings are contained in a  
5 separate closed transcript.)

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CONTINUATION OF PROCEEDING

COMMISSIONER COLGAN: I think we're ready here. As we go back into session, I would like to make a comment on PR-4.

CHAIRMAN SCOTT: Okay. Let me take care of the closed session item first. In closed session the Commission discussed FERC Docket No. ER14-972-000 concerning comments on PJM's January 10th, 2014 filing regarding cost allocation for projects included in PJM's December 11th, 2013 regional transmission expansion plan. Is there a motion to file the comments with FERC?

COMMISSIONER McCABE: So moved.

CHAIRMAN SCOTT: Moved by Commission McCabe. Is there a second?

COMMISSIONER MAYE: Second by Commissioner Maye. All in favor say aye.

(Ayes heard.)

CHAIRMAN SCOTT: Any opposed?

(No response.)

CHAIRMAN SCOTT: The vote is 5-0. The filing will be made with FERC.

Commissioner Colgan, you wanted to make a comment?

COMMISSIONER COLGAN: Yeah. On the Petition for Rehearing

1 on the IPA Act, Procurement Plan, I think that there  
2 could be a case for arguing that, whether we grant that  
3 in both directions. I think that our rules are pretty  
4 clear that we grant rehearing for cases where there's  
5 clarification of facts or if there's new facts or if  
6 there's a change in the law. And I think this case was  
7 fully briefed and argued in the proceeding on the issues  
8 that we granted rehearing on. And I think that the  
9 reasons that you cited, Chairman, are probably reasons  
10 enough to grant rehearing. And certainly we can grant  
11 rehearing if we want to grant rehearing. But at the  
12 same time, I think we need to be clear that we're going  
13 to try to stick to those rules as much as we possibly  
14 can because rehearing is another costly issue, and I  
15 think we should take the time to make our decisions  
16 clear and without doubt in the Orders that we issue.  
17 This is an area which is new and evolving and I think we  
18 could benefit from discussion. I actually think maybe  
19 the discussion might be more appropriately handled in a  
20 policy meeting and discussion rather than rehearing.  
21 But, again, I voted in favor of rehearing on this and  
22 I'm going to stick with that in this case, that, you  
23 know, that I think it was debatable as to whether or not  
24 it kind of met that test.

25 CHAIRMAN SCOTT: I appreciate the comments. Thank

1 you. Judge Wallace, is there anything further to come  
2 before the Commission today?

3 JUDGE WALLACE: That's all, Mr. Chairman. Thank  
4 you.

5 CHAIRMAN SCOTT: If there's nothing else to come  
6 before the Commission, this meeting stands adjourned.

7 Thank you everyone.

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19 STATE OF ILLINOIS )

20 ) SS.

21 COUNTY OF COOK )

22 Joanna Vitale, being first duly sworn, on oath  
23 says that she is a Certified Shorthand reporter doing  
24 business in the City of Chicago, County of Cook and the  
25 State of Illinois;

