

1 testimony that you provide as we are bound by ex
2 parte rules and other regulations concerning our
3 communications as Commissioners.

4 Mr. Harle.

5 MR. THOMAS HARLE: Good morning. My name is
6 Thomas Harle. I'm a resident here in Chicago. I
7 live on the South Side. I'm a missionary. I have
8 been a missionary for 25 years serving in the
9 Catholic Church. And I'm coming here this morning to
10 speak in behalf of the poor in our neighborhood.

11 As I said, I live on the South Side
12 and I'm very much aware of the people who are living
13 with me in the area, who are very poor. And I think
14 that it's not advisable, I don't think it's a good
15 idea, to raise the rates -- the electric rates that
16 the electric company wants to raise.

17 First of all, raising the rates will
18 hinder and even hurt more of the poor who are already
19 poor and not able to make -- not able to meet their
20 own particular needs. I've been aware of recent
21 months of how the poor have been affected. They have
22 to pay their -- if they pay their utility bills, they

1 have to go without -- sometimes without food,
2 sometimes go without shelter and also medical care.

3 We live in a society which should be
4 free and if we can keep big companies like ComEd from
5 continuing to want to raise their rates when there's
6 really no particular need to raise their rates, then
7 the poor will be able to have their needs met, be
8 able to meet the needs -- their health needs, their
9 spiritual needs and their emotional needs.

10 I feel that this is an issue related
11 to the ethics -- good ethics would help -- would help
12 the people, especially the poor people that I've come
13 to represent and speak in behalf of.

14 Thank you for your time and listening
15 to me this morning and I hope that through what I
16 have said that it will influence your decision not to
17 raise -- not to allow ComEd to raise their rates.

18 Thank you.

19 ACTING CHAIRMAN FLORES: Thank you, Mr. Harle.

20 Now, we have Miss Pilar Vargas.

21 MISS PILAR VARGAS: Good morning. My name is
22 Pilar Vargas and I am a Chicago resident. I am here

1 today to speak on behalf of the Cook County Workers
2 Benefit Council, a delegate body that represents the
3 needs and interests of service workers and other
4 low-paid workers in Cook County.

5 We demand that you, the ICC, deny any
6 rate increase to ComEd. The state law clearly
7 defines this as your duty. The Illinois General
8 Assembly's Public Utilities Act of 2001 states that
9 the ICC is a State agency to regulate utilities and
10 that -- and I quote, the goals and objectives of such
11 regulation shall be to ensure the rates for utility
12 services are affordable and therefore preserve the
13 availability of the such services to all citizens.

14 Electricity is not affordable and
15 available to all in our city. CBS News reported that
16 over 67,000 households in the Chicago area had no
17 electricity in October 2009. Even when we manage to
18 keep the lights on, the sky-high utility rates for
19 ComEd hit low-income working families the hardest as
20 more and more of us are trying to support our
21 families on just that pay minimum wage or not much
22 when we have work at all. We are forced to cut back

1 on food, short our landlord on rent and go without
2 necessary medications.

3 Each rate hike means we'll have less
4 money to spend in our communities and local
5 businesses are happy with customers. Chicago area
6 businesses are already suffering from the effects of
7 high unemployment and more of us working for lower
8 wages cannot afford to have \$396 million more taken
9 out of our pockets. This rate increase request is
10 clearly a profit grab. ComEd increased profits by
11 24 percent in 2009 after you, the ICC, approved a
12 \$274 million rate increase for ComEd.

13 John W. Rowe, the CEO of ComEd's
14 parent company Exelon, received compensation of
15 nearly \$6 million in 2010. For you, the ICC, to
16 grant this rate increase could be a clear abandon of
17 your duty. The Cook County Workers Benefit Council
18 calls on you to fulfill the mandate of the Public
19 Utilities Act of 2001 to ensure you deliver service
20 that is affordable and available to all.

21 We demand that the ICC direct ComEd to
22 suspend shutoffs and reconnect service without charge

1 to households whose income is 300 percent or less
2 than the Federal Poverty line whose service was
3 terminated due to nonpayment of arrears. We demand
4 that the ICC direct ComEd to work out reasonable
5 payment plans for customers unable to pay their bills
6 in full at time of received. We demand that the ICC
7 direct ComEd to cease all future shutoffs for those
8 whose income are 300 percent or lower than the
9 Federal Poverty Level.

10 Again, we demand the State of Illinois
11 through the ICC fulfill the mandate of the Public
12 Utilities Act of 2001, that utilities will be
13 affordable and available to all and reject ComEd's
14 \$396 million rate increase request. ICC, do your
15 duty, please.

16 Thank you very much.

17 ACTING CHAIRMAN FLORES: Thank you,
18 Miss Vargas.

19 COMMISSIONER FORD: Thank you.

20 ACTING CHAIRMAN FLORES: Very well. Those are
21 the only two speakers that we have for today's
22 session -- section of the public statements.

1 (The Transportation portion of
2 the proceedings was held at
3 this time and is contained in a
4 separate transcript.)

5 ACTING CHAIRMAN FLORES: We are now moving to
6 the Public Utility Agenda. We will begin with the
7 Electric Portion. Items E-1 and E-2 will be taken
8 together. These items concern reconciliation
9 proceedings for Ameren's hazardous materials
10 adjustment clause and for coal tar riders for various
11 Illinois utilities. In each case Staff recommends
12 that the Commission enter an Order commencing the
13 reconciliation proceedings.

14 I will make a motion to enter the
15 Orders.

16 Is there a second?

17 COMMISSIONER O'CONNELL-DIAZ: Second.

18 ACTING CHAIRMAN FLORES: It's been moved and
19 seconded.

20 All in favor say "aye."

21 (Chorus of ayes.)

22 ACTING CHAIRMAN FLORES: Any opposed?

1 (No response.)

2 ACTING CHAIRMAN FLORES: The vote is 5-0 and
3 the reconciliation proceedings are commenced.

4 We will use this 5-0 vote for the
5 remainder of the Public Utility Agenda unless
6 otherwise noted.

7 Item E-3 concerns Ameren's Petition
8 for Special Permission to revise its tariff sheet to
9 correct the typo in Rate DS-3. Staff recommends the
10 Commission allow the Company's proposal by granting
11 the Company's request for Special Permission.

12 Any discussion?

13 (No response.)

14 ACTING CHAIRMAN FLORES: Any objections?

15 (No response.)

16 ACTING CHAIRMAN FLORES: Hearing none, the
17 request for Special Permission is granted.

18 Item E-4 is Docket No. 09-0602. This
19 item concerns Ameren's petition for approval of its
20 reliability project surcharge rider to recovery costs
21 of implementing the recommendations of the Liberty
22 audit. Ameren has moved to withdraw its petition

1 without prejudice and Administrative Law Judge Tapia
2 recommends that the Commission grant the Company's
3 motion.

4 Any discussion?

5 (No response.)

6 ACTING CHAIRMAN FLORES: Any objections?

7 (No response.)

8 ACTING CHAIRMAN FLORES: Hearing none, the
9 Motion to Withdraw is granted.

10 Item E-5 is Docket No. 10-0286. This
11 item concerns Patricia Callon's complaint as to
12 billing and/or charges against ComEd. Administrative
13 Law Judge Sainsot recommends that the Commission
14 dismiss this matter without prejudice for want of
15 prosecution.

16 Any discussion?

17 (No response.)

18 ACTING CHAIRMAN FLORES: Any objections?

19 (No response.)

20 ACTING CHAIRMAN FLORES: Hearing none, the
21 Docket is dismissed.

22 Item E-6 through E-12 can be taken

1 together. These items each concern customer
2 complaints against ComEd or Ameren. In each case the
3 parties have settled their differences and brought
4 Joint Motions to Dismiss which the Administrative Law
5 Judges recommend we grant.

6 Any discussion?

7 (No response.)

8 ACTING CHAIRMAN FLORES: Any objections?

9 (No response.)

10 ACTING CHAIRMAN FLORES: Hearing none, the
11 Joint Motions to Dismiss are granted.

12 Item E-13 is Docket No. 10-0138. This
13 is ComEd's PORCB case and last week we denied
14 parties' Petitions for Rehearing. However, we did
15 not want -- we did not want to resolve an issue on
16 the blended uncollectible charges through an
17 Amendatory Order. I'm sorry. I said "we did not
18 want to." I meant to say -- strike that. I've had a
19 head cold. I'm getting over it. We wanted to
20 resolve an issue on the blended uncollectible
21 charges, but we wanted to do it through an Amendatory
22 Order. And, I believe, Commissioner Ford has put

1 that language together for us.

2 Commissioner Ford.

3 COMMISSIONER FORD: Yes. We simply -- it was
4 inadvertently omitted, and it has been put back
5 into the -- the paragraph has been put back into the
6 Docket. So we would move that that Amendatory Order
7 by addressed and the blended rates become acceptable
8 to our fellow Commissioners.

9 ACTING CHAIRMAN FLORES: Yes. And, you know, I
10 appreciate the parties bringing this matter,
11 obviously, to our attention and I know all of the
12 Staff's work on this matter and led by Commissioner
13 Ford.

14 So any discussion -- any further
15 discussion on this matter?

16 (No response.)

17 ACTING CHAIRMAN FLORES: Any objections?

18 (No response.)

19 ACTING CHAIRMAN FLORES: Hearing none, the
20 Amendatory Order is entered.

21 Item E-14 is Docket 10-0157. This
22 item will be held for disposition at a future

1 Commission proceeding.

2 Item E-15 is Docket --

3 COMMISSIONER O'CONNELL-DIAZ: Who's holding
4 that?

5 ACTING CHAIRMAN FLORES: Commissioner Elliott.

6 Item E-15 is Docket No. 10-0508. This
7 is a Petition for Eminent Domain brought by the
8 Illinois Department of Transportation concerning
9 obtaining an easement for widening a road in DuPage
10 County. Administrative Law Judge Riley recommends
11 that the Commission enter an Order granting the
12 Petition for Eminent Domain.

13 Any discussion?

14 (No response.)

15 ACTING CHAIRMAN FLORES: Any objections?

16 (No response.)

17 ACTING CHAIRMAN FLORES: Hearing none, the
18 Order is entered.

19 Item E-16 through E-20 can be taken
20 together. These items concern applications for the
21 licensure of Agents, Brokers and Consultants under
22 Section 16-115C of the Public Utilities Act. In each

1 case Administrative Law Judge Yoder recommends that
2 the Commission enter an Order granting the requested
3 certificate.

4 Any discussion?

5 (No response.)

6 ACTING CHAIRMAN FLORES: Any objections?

7 (No response.)

8 ACTING CHAIRMAN FLORES: Hearing none, the
9 Orders are entered and the certificates are granted.

10 Item E-21 is Docket No. 10-0734. This
11 item is Ameren's petition pursuant to Section 6-102
12 of the Illinois Public Utilities Act for an Order
13 authorizing entry of an \$800 million revolving credit
14 agreement. Administrative Law Judge Jones recommends
15 that the Commission enter an Order approving the
16 proposed financing.

17 Any discussion?

18 (No response.)

19 ACTING CHAIRMAN FLORES: Any objections?

20 (No response.)

21 ACTING CHAIRMAN FLORES: Hearing none, the
22 Order is entered.

1 Items E-22 through E-24 can be taken
2 together. These items each concern joint petitions
3 for approval of residential customer releases. In
4 each case the Administrative Law Judge recommend this
5 Commission enter an Order granting the petition and
6 approving the customer release.

7 Any discussion?

8 (No response.)

9 ACTING CHAIRMAN FLORES: Any objections?

10 (No response.)

11 ACTING CHAIRMAN FLORES: Hearing none, the
12 Orders are entered and the petitions are granted.

13 We're now moving to the Gas Section of
14 the agenda. Item G-1 concerns a rulemaking
15 proceeding for Title 83 Part 5-90 of the
16 Administrative Code concerning pipeline safety rules.
17 Staff recommends entry of an Order authorizing the
18 submission of the first notice of the proposed
19 amendment of Part 5-90.

20 Any discussion?

21 (No response.)

22 ACTING CHAIRMAN FLORES: Any objections?

1 (No response.)

2 ACTING CHAIRMAN FLORES: Hearing none, the
3 Order is entered.

4 Item G-2 through G-4 can be taken
5 together. These items concern complaints by
6 customers against their gas utilities. In each case
7 the parties have apparently settled their differences
8 and brought a Joint Motion to Dismiss, which the
9 Administrative Law Judge recommends that we grant.

10 Any discussion?

11 (No response.)

12 ACTING CHAIRMAN FLORES: Any objections?

13 (No response.)

14 ACTING CHAIRMAN FLORES: Hearing none, the
15 Joint Motions to Dismiss are granted.

16 Item G-5 is Docket Nos. 10-0399,
17 10-0400 and 10-0401 consolidated. This matter
18 concerns citations for alleged violations of
19 Commission rules regarding plastic pipe fusion
20 processes by the Ameren Illinois utilities. The
21 parties have filed a joint motion of entry for an
22 Order citing for the terms of a settlement agreement.

1 And Administrative Law Judge Tapia recommends that
2 the Commission enter the Order and Stipulation agreed
3 to by the parties.

4 Any discussion?

5 (No response.)

6 ACTING CHAIRMAN FLORES: Any objections?

7 (No response.)

8 ACTING CHAIRMAN FLORES: Hearing none, the
9 Order is entered and the settlement is approved.

10 Item G-6 is Docket No. 10-0588. This
11 item concerns an Application for Reorganization by
12 Peoples Energy, Peoples Gas and North Shore Gas. The
13 reorganization would allow Peoples Energy to become a
14 Delaware Limited Liability Company. Administrative
15 Law Judge Kimbrel recommends the Commission enter an
16 Order authorizing approval of the Reorganization.

17 Any discussion?

18 (No response.)

19 ACTING CHAIRMAN FLORES: Any objections?

20 (No response.)

21 ACTING CHAIRMAN FLORES: Hearing none, the
22 Order is entered.

1 Item G-7 is Docket No. 11-0003. This
2 is Cross Plains Natural Gas application for
3 certificate of service authority under Section 19-110
4 of the Public Utilities Act. The Company has made a
5 Motion to Withdraw its petition which Administrative
6 Law Judge Tapia recommends that we grant.

7 Any discussion?

8 (No response.)

9 ACTING CHAIRMAN FLORES: Any objections?

10 (No response.)

11 ACTING CHAIRMAN FLORES: Hearing none, the
12 Motion to Withdraw is granted.

13 Now, moving to the Telecommunications
14 Section of the agenda. Item T-1 concerns Frontier
15 North's filing to update language to allow the
16 Transparent Local Area Network Service to be
17 available to more exchanges. Staff recommends that
18 the Commission allows the Company's request by not
19 suspending the filing.

20 Any discussion?

21 (No response.)

22 ACTING CHAIRMAN FLORES: Any objections?

1 (No response.)

2 ACTING CHAIRMAN FLORES: Hearing none, the
3 filing will not be suspended.

4 Item T-2 concerns Illinois
5 Telecommunications Access Corporation's filing to
6 provide instruction for monthly remittance of
7 assessments by interconnected Voice over Internet
8 Protocol Providers. Staff recommends that the
9 Commission allow the Company's request by not
10 suspending the filing.

11 Any discussion?

12 (No response.)

13 ACTING CHAIRMAN FLORES: Any objections?

14 (No response.)

15 ACTING CHAIRMAN FLORES: Hearing none, the
16 filing will not be suspended.

17 Item T-3 is Docket No. 10-0581. This
18 is Intrado Communication's application for
19 certificates of service authority to provide
20 facilities-based and resold local and interexchange
21 telecommunication services in Illinois. The
22 applicant has brought a Motion to Withdraw its

1 application, which Administrative Law Judge Teague
2 recommends that the Commission grant.

3 Any discussion?

4 (No response.)

5 ACTING CHAIRMAN FLORES: Any objections?

6 (No response.)

7 ACTING CHAIRMAN FLORES: Hearing none, the
8 motion is granted and the docket is dismissed.

9 Item T-4 is Docket No. 10-0639. This
10 is SOS Telecom's application for a certificate of
11 wireless authority to operate as a reseller of
12 telecommunication services throughout the State of
13 Illinois. Administrative Law Judge Riley recommends
14 that the Commission enter an Order granting the
15 requested certificate.

16 Any discussion?

17 (No response.)

18 ACTING CHAIRMAN FLORES: Any objections?

19 (No response.)

20 ACTING CHAIRMAN FLORES: Hearing none, the
21 Order is entered and the certificate is granted.

22 Item T-5 is Docket No. 11-0029. This

1 is Highland Communication Services' application for a
2 State-issued authorization to provide cable service
3 pursuant to Section 401 of the Cable and Video
4 Competition Law of 2007. Administrative Law Judge
5 Riley recommends that the Commission issue an
6 authorization to use, occupy and construct facilities
7 in the public rights of way to deliver video service
8 and authorization to provide video service.

9 Any discussion?

10 (No response.)

11 ACTING CHAIRMAN FLORES: Any objections?

12 (No response.)

13 ACTING CHAIRMAN FLORES: Hearing none, the
14 notice is issued.

15 Item T-6 is Docket No. 10-0654. This
16 is SYNIVERSE Technologies' effort to cancel a
17 certificate of service authority in Docket
18 No. 07-0546 to provide resold cellular service in
19 Illinois. Administrative Law Judge Baker recommends
20 the Commission enter an Order granting the
21 cancellation of the certificate.

22 Is there any discussion?

1 (No response.)

2 ACTING CHAIRMAN FLORES: Any objections?

3 (No response.)

4 ACTING CHAIRMAN FLORES: Hearing none, the
5 Order is entered and the certificate is canceled.

6 Items T-7 through T-9 can be taken
7 together. These concern petitions to withdraw
8 certificates of interexchange service authority. In
9 each case the Administrative Law Judge recommends
10 that the Commission enter an Order granting the
11 Petition for Withdrawal.

12 Any discussion?

13 (No response.)

14 ACTING CHAIRMAN FLORES: Any objections?

15 (No response.)

16 ACTING CHAIRMAN FLORES: Hearing none, the
17 Orders are entered and the certificates are
18 withdrawn.

19 Item T-10 is Docket No. 10-0679. This
20 is Geckotech's Petition to Withdraw its certificate
21 of local authority to operate as a resale and
22 facilities-based UNE carrier of telecommunications

1 services throughout the State of Illinois.

2 Administrative Law Judge Baker recommends that the
3 Commission enter an Order granting the withdrawal of
4 the certificates.

5 Any discussion?

6 (No response.)

7 ACTING CHAIRMAN FLORES: Any objections?

8 (No response.)

9 ACTING CHAIRMAN FLORES: Hearing none, the
10 Order is entered and the certificates are withdrawn.

11 Item T-11 Docket No. 10-0335. This is
12 TruComm's Petition for Withdrawal of its certificate
13 of interexchange service authority. Administrative
14 Law Judge Baker recommends that the Commission enter
15 an Order granting the withdrawal of the certificate.

16 Any discussion?

17 (No response.)

18 ACTING CHAIRMAN FLORES: Any objections?

19 (No response.)

20 ACTING CHAIRMAN FLORES: Hearing none, the
21 Order is entered and the certificate is withdrawn.

22 Item T-12 is Docket No. 10-0637. This

1 is NTS Services' complaint against CenturyLink
2 alleging that CenturyLink's charges and policies
3 violate the terms of the current interconnection
4 agreement. Administrative Law Judge Tapia recommends
5 that the Commission dismiss the complaint without
6 prejudice assessing Commission fees and costs to NTS.

7 Is there any discussion?

8 (No response.)

9 ACTING CHAIRMAN FLORES: Any objections?

10 (No response.)

11 ACTING CHAIRMAN FLORES: Hearing none, the
12 complaint is dismissed.

13 Item T-13 through T-21, these items
14 each concern Joint Petitions for Interconnection
15 Agreements or Amendments to Interconnection
16 Agreements under 47 U.S.C. Section 252. In each
17 docket the Administrative Law Judge recommends
18 entering an Order approving an agreement or amending
19 an existing agreement.

20 Any discussion?

21 (No response.)

22 ACTING CHAIRMAN FLORES: Any objections?

1 (No response.)

2 ACTING CHAIRMAN FLORES: Hearing none, the
3 Orders are entered.

4 Items T-22 through T-38 can be taken
5 together. These items each concern potential
6 citation proceedings against telecommunication
7 carriers for failure to file their annual reports
8 with the Commission. In each case the Staff
9 recommends that the Commission enter an Order
10 initiating a citation proceeding against the company.

11 Any discussion?

12 (No response.)

13 ACTING CHAIRMAN FLORES: Any objections?

14 (No response.)

15 ACTING CHAIRMAN FLORES: Hearing none, the
16 Orders are entered and the citation proceedings are
17 initiated.

18 Item T-39 concerns the same issue but
19 this item has been withdrawn and will be resubmitted
20 at a future Commission meeting.

21 Items T-40 and T-41 can be taken
22 together. These items each concern potential

1 citation proceedings against telecommunications
2 carriers for failure to file their annual reports
3 with the Commission. In each case Staff recommends
4 that the Commission enter an Order initiating the
5 citation proceeding against the company.

6 Any discussion?

7 (No response.)

8 ACTING CHAIRMAN FLORES: Any objections?

9 (No response.)

10 ACTING CHAIRMAN FLORES: Hearing none, the
11 Orders are entered and the citation proceedings are
12 initiated.

13 Items T-42 through T-63 can be taken
14 together. These items concern petitions to protect
15 against the disclosure of confidential and/or
16 proprietary information in the petitioners' annual
17 reports. In each case the Administrative Law Judge
18 recommends entry of an Order granting the requested
19 relief for a period of two years.

20 Any discussion?

21 (No response.)

22 ACTING CHAIRMAN FLORES: Any objections?

1 (No response.)

2 ACTING CHAIRMAN FLORES: Hearing none, the
3 Orders are entered and the requested relief is
4 granted for two years.

5 Item T-64 is Docket No. 10-0578. This
6 item concerns a proposed repeal of Title 83 Part 792
7 of the Illinois Administrative Code. Administrative
8 Law Judge Kimbrel recommends that the Commission
9 submit the second notice of the proposed amendment to
10 the Joint Committee and that the Commission enter an
11 Order authorizing the submission of the proposed
12 repeal.

13 Any discussion?

14 (No response.)

15 ACTING CHAIRMAN FLORES: Any objections?

16 (No response.)

17 ACTING CHAIRMAN FLORES: Hearing none, the
18 order is entered.

19 We are now moving to the Water and
20 Sewer portion of today's agenda. Items W-1 and W-2
21 are proposed general increases in rates brought by
22 Camelot Utilities and Lake Holiday Utilities

1 Corporation. In order to determine the
2 reasonableness of the proposed increase in rates for
3 each company, Staff recommends the filings be
4 suspended and set for hearing and the Commission
5 enter Suspension Orders.

6 Any discussion?

7 (No response.)

8 ACTING CHAIRMAN FLORES: Any objections?

9 (No response.)

10 ACTING CHAIRMAN FLORES: Hearing none, the
11 Suspension Orders are entered.

12 Item W-3 is Docket No. 10-0613. This
13 is Jody Kimbrell's complaint as to billing and/or
14 charges against Illinois-American Water Company.
15 Administrative Law Judge Tapia recommends that the
16 Commission enter an Order dismissing the complaint
17 with prejudice.

18 Any discussion?

19 (No response.)

20 ACTING CHAIRMAN FLORES: Any objection?

21 (No response.)

22 ACTING CHAIRMAN FLORES: Hearing none, the

1 complaint is dismissed.

2 Items W-4 and W-5 can be taken
3 together. These items concern reconciliation
4 proceedings for the Illinois-American Water Company
5 and Aqua Illinois for Qualifying Infrastructure Plant
6 or QIP. In each case the Administrative Law Judge
7 recommends that the Commission enter an Order
8 approving the reconciliation.

9 Any discussion?

10 (No response.)

11 ACTING CHAIRMAN FLORES: Any objections?

12 (No response.)

13 ACTING CHAIRMAN FLORES: Hearing none, the
14 Orders are entered and the reconciliations are
15 approved.

16 We have some Petitions for Rehearing.
17 Item PR-1 is Docket No. 10-0568. This is the Ameren
18 Illinois Utility's energy efficiency case. And
19 before us today is a Petition for Rehearing brought
20 by the Environmental Law & Policy Center concerning a
21 calculation of the spending limit for the gas
22 utilities under Section 8-104 of the Public Utilities

1 Act. Administrative Law Judge Yoder recommends that
2 the Commission deny the Petition for Rehearing.

3 However --

4 COMMISSIONER O'CONNELL-DIAZ: Is Judge Yoder
5 there?

6 ACTING CHAIRMAN FLORES: Your Honor?

7 JUDGE YODER: Yes.

8 COMMISSIONER O'CONNELL-DIAZ: Good morning,
9 Judge Yoder. Could you just step us through your
10 recommendation to the Commission on this issue.

11 JUDGE YODER: I will try to do that.

12 In the Order the Order adopted the
13 agreed spending plan -- or the -- I'm sorry -- the
14 spending numbers that were suggested by both Ameren
15 and Staff. The Order also adopted -- but the Order
16 adopted an increase in therm savings as suggested by
17 Staff.

18 The Environmental Law & Policy Center
19 argued for an increased spending limit based on gas
20 trans- -- used by transportation customers carried
21 through Ameren's system, that that -- I guess the
22 value of that gas be included in calculating the

1 spending limit. That position was rejected in the
2 Order that was adopted.

3 ELPC argues that their reading of a
4 proposed Order in Docket 10-0564 agrees with their
5 argument; although it's kind of ambiguous as to what
6 that language actually says since it says, Staff and
7 the Intervenors' calculation. Staff's calculation
8 and Intervenors' calculations are different, so I
9 assume there'll be some -- that will be hashed out in
10 the final Order.

11 COMMISSIONER O'CONNELL-DIAZ: And we have no
12 final Order in that proceeding at this point;
13 correct?

14 JUDGE YODER: No. No, nor the Nicor Gas
15 sufficiency docket. I don't believe the final
16 Order's come out in that, which in its proposed order
17 adopted similar language to the Order -- the language
18 in this Order.

19 ACTING CHAIRMAN FLORES: Well, let me just say
20 that, you know, I had an opportunity to read over the
21 statutory language and the parties' briefs and there
22 is -- at least -- I mean, there are questions about,

1 you know, how we should be calculating the budget for
2 gas efficiency programs.

3 And, you know, we're dealing with --
4 obviously, it's still -- it's a new issue. I think
5 that we would benefit from further fleshing this
6 issue out. It's a rehearing. We're not making a
7 decision ultimately on the merits today, but it gives
8 us an opportunity to hear further arguments and to
9 really, you know, bear down on some of these issues
10 further. And in that view, I think it would be
11 helpful to this Commission to at least provide for
12 further briefing through a rehearing.

13 So I would like to make a motion to
14 allow for a rehearing, and I'd like to know if there
15 is a second for that?

16 COMMISSIONER ELLIOTT: I'll second that motion.

17 I think with all the confusion and
18 apparent differing perspectives in other dockets I
19 think we could benefit from additional testimony on
20 this.

21 COMMISSIONER O'CONNELL-DIAZ: Judge Yoder, we
22 will also have Motions for Clarification that are

1 still outstanding in this proceeding; correct?

2 JUDGE YODER: Correct.

3 COMMISSIONER O'CONNELL-DIAZ: If I might, as I
4 read through all of this, I find it somewhat
5 confusing. However, I believe what the relief that's
6 being requested would more appropriately have been
7 pled as a Motion for Clarification.

8 Number one, for a party to assert that
9 a proposed Order is somehow authority for the
10 Commission to look at, is premature and
11 inappropriate. So, you know, I found that to be
12 wanting in the pleading that's before us.

13 Additionally, this is -- these are new
14 provisions that we're interpreting. And the notion
15 that we should not look at legislative history to
16 figure out, you know, how we're going to determine
17 the end result of this, I believe, is incorrect and I
18 think that the movants in this instance are
19 suggesting that we should do just that.

20 So while I don't have a problem with a
21 Motion for Clarification, I believe that this has
22 been pled wrong as a request for rehearing. I agree

1 with the ALJ. I do agree with my colleagues that
2 this is confusing, we want to get it right; but I
3 would suggest that in the future that the parties
4 that bring these motions to us plead them
5 appropriately. And I found this pleading is just
6 wrong here.

7 So I would be in favor of granting the
8 rehearing, slash, clarification as proffered by
9 Acting Chairman Flores. But, you know, when we have
10 this instance come up again, I'd like the parties to,
11 like, plead them properly. So -- these are lawyers
12 and it's kind of pulling hairs but, you know, this is
13 how -- this is -- the words that are -- that we deal
14 in on a regular basis and I found their arguments not
15 convincing. So...

16 COMMISSIONER COLGAN: Commissioner, I think you
17 make good points there. And I also am going to
18 support the request for rehearing just from the point
19 of view that first time through, we need to get this
20 right. And so I don't think there is any harm in
21 hearing the arguments and so -- you know, it is a
22 confusing issue, and I think we would all benefit

1 from having a little more information put out
2 there in front of us so we can make the best decision
3 possible.

4 COMMISSIONER O'CONNELL-DIAZ: And just another
5 note, in the case in chief in this, this issue was
6 not brought forward till the brief on exceptions. If
7 parties have good arguments, it should be right out
8 there in front, not at the tail end of the case so
9 that it really flushes the issue out and keeps us
10 from having to do a rehearing on it. If you have a
11 good argument, you should be putting it forward in
12 your initial briefs.

13 So I believe the ALJ pointed that out
14 to us in the memo. So on a going-forward basis if --
15 you know, that's instructive I think to our counsels
16 that are practicing at the Commission, you know,
17 bring those good arguments or points in those briefs
18 on exceptions as opposed -- on your initial briefs as
19 opposed to the exceptions phase because it's, like, a
20 little bit too late.

21 ACTING CHAIRMAN FLORES: Thank you.

22 Those are good points and, in

1 particular, as it speaks to maintaining the judicial
2 efficiency of this Commission and making sure that we
3 are moving these cases forward in an expedited
4 fashion and that all of these issues are fully
5 litigated, especially in areas where we are
6 developing new programs and new policies. It's
7 critical that the various intervenors, through their
8 attorneys, do their best to raise these issues in the
9 very beginning. And I think that, again, it's in
10 that spirit that I believe this Commission wishes to
11 have this rehearing to make sure that we get these
12 issues right.

13 And there's a motion and it's been
14 seconded.

15 All in favor say "aye."

16 (Chorus of ayes.)

17 COMMISSIONER FORD: Any opposed?

18 (No response.)

19 ACTING CHAIRMAN FLORES: The vote is 5-0 and
20 the Petition for Rehearing is granted.

21 Item PR-2 is Docket No. 10-0570. This
22 is ComEd's energy efficiency docket and before us

1 today are Petitions for Rehearing brought by DCEO and
2 by ELPC concerning the scope of the Commission's
3 authority over DCEO's filed energy efficiency plans.
4 Administrative Law Judge Haynes recommends that the
5 Commission deny both parties' request for hearing.

6 Any discussion on these petitions?

7 You know, I have looked over the
8 petitions and I would be in favor of rehearing on
9 this issue for two reasons. The language in the
10 Order, as it currently stands -- want to make sure
11 that, again, it's an issue of making sure that our
12 Commission here is -- that we're being consistent
13 with our Commission's statutory responsibility under
14 Section 8-103.

15 There are questions of authority
16 and -- with regards to DCEO's filings, and I believe
17 that given that this is also -- it's a -- you know,
18 an area that we're just beginning to get involved in
19 here. I think it's -- it would be worth it to have
20 this matter heard in rehearing so that we are -- so
21 that all the parties understand what the rules of
22 engagement are here and what are -- what is the

1 appropriate jurisdiction and authority with regards
2 to DCEO's efficiency plans. So I would like to make
3 a motion to grant rehearing.

4 Is there a second?

5 COMMISSIONER COLGAN: I'll second that motion.
6 And I agree with things that you said, Mr. Chairman.

7 And, you know, the two issues of the
8 potential inconsistencies in the Order and the
9 argument that maybe they need to be consistent I
10 think should be fleshed out. I think the issue of
11 DCEO's authority versus the ICC authority, I'd like
12 to be sure that we walk through that issue
13 appropriately so that it doesn't appear that we're
14 trying to do anything here other than exercise the
15 statutory authority that's been given to us by the
16 General Assembly and that we definitely are not
17 trying to take over authority on any other matter
18 with DCEO.

19 Also the time lines on these came
20 through pretty quickly, and I think that gave us, you
21 know, the haste possibly making waste here. So let's
22 make sure we got it right. So let's -- what's the

1 harm in rehearing this? So I'll second your motion.

2 ACTING CHAIRMAN FLORES: Thank you.

3 Any further discussion?

4 COMMISSIONER O'CONNELL-DIAZ: I guess my only
5 question is, are we, in fact -- I hear this call for
6 consistency and, in fact, we ruled in opposite of
7 this a week ago with regards to the Ameren matter.
8 So, somebody, help me out.

9 COMMISSIONER FORD: I wanted to ask Judge
10 Haynes a question because it seems that it's
11 inconstancy and it's just the opposite, that's my
12 issue. DCEO knows what the Public Utility Act is, I
13 hope. And they know that we don't have jurisdiction
14 over another agency. So, I guess, I'm confused now
15 because this is in opposition of what was earlier
16 stated.

17 It seems to be -- the ELPC seems to
18 want to gain control over both Commissions, in my
19 opinion, to keep having rehearings on the things that
20 we've already settled. So that's just my take on all
21 of this.

22 JUDGE HAYNES: Well, I did print out my memo

1 that I did think that because the Commission's
2 last -- at the last meeting denied DCEO's -- I
3 thought that that one should be denied.

4 But other than that, I don't know if
5 there's a question to me.

6 COMMISSIONER O'CONNELL-DIAZ: But, I mean, it
7 was the same issue that was brought to us by a
8 different party.

9 COMMISSIONER FORD: Right.

10 JUDGE HAYNES: Well, DCEO, I think, has the
11 same petition pretty much in both of them. I don't
12 know if ELPC filed one in the Ameren one.

13 COMMISSIONER O'CONNELL-DIAZ: And we rejected
14 that one.

15 JUDGE HAYNES: The DCEO one.

16 COMMISSIONER O'CONNELL-DIAZ: I'm missing why
17 we're going to be --

18 JUDGE HAYNES: Well, I think that there is an
19 inconstancy between mine -- or the ComEd Order and
20 the Ameren Order. But should it be just reheard in
21 this docket or should it be reheard in both? And do
22 you actually want rehearing with -- or do you just

1 want an amendatory Order conforming the dockets? So
2 I'm not really sure what I should do here.

3 COMMISSIONER FORD: Well, I guess, because --
4 being a nonlawyer I thought that each docket had to
5 speak on its own.

6 JUDGE HAYNES: True.

7 COMMISSIONER FORD: So I can't see how we could
8 amend an Ameren Order to be consistent with a ComEd
9 Order, being a nonlawyer. That's just -- for the
10 lawyers to know.

11 COMMISSIONER O'CONNELL-DIAZ: Then I think we
12 get back to the one-size-fits-all argument that was
13 discussed ad nauseam.

14 ACTING CHAIRMAN FLORES: That's why I think we
15 just, you know --

16 COMMISSIONER FORD: So we'd have to rehear both
17 Orders. Is that the way we would have to do it?

18 JUDGE HAYNES: So ELPC didn't -- I guess this
19 is a question for Judge Yoder. The ELPC doesn't have
20 the same one as the Ameren Order?

21 COMMISSIONER FORD: Judge Yoder went to his
22 seat.

1 COMMISSIONER O'CONNELL-DIAZ: It's also not
2 before us this morning, so we can't even talk about
3 it.

4 ACTING CHAIRMAN FLORES: I understand the --
5 you know, the questions and the comments. And,
6 again, I think it's a Petition for Rehearing to have
7 an opportunity to get more information. This is
8 rather -- this is still new territory. And to the
9 extent that it can provide for, you know, more
10 instruction, I think that it's a course -- it's a
11 good course to take.

12 So there's a -- a motion's been made.
13 It's been seconded. Understand the comments and
14 appreciate the comments that have been made by the
15 Commissioners.

16 All in favor say "aye."

17 (Chorus of ayes.)

18 ACTING CHAIRMAN FLORES: Any opposed?

19 (Chorus of noes.)

20 ACTING CHAIRMAN FLORES: All right. We'll do a
21 roll call.

22 Commissioner Ford.

1 COMMISSIONER FORD: Nay.

2 ACTING CHAIRMAN FLORES: Commissioner
3 O'Connell-Diaz.

4 COMMISSIONER O'CONNELL-DIAZ: Nay.

5 ACTING CHAIRMAN FLORES: Commissioner Elliott.

6 COMMISSIONER ELLIOTT: Aye.

7 ACTING CHAIRMAN FLORES: Commissioner Colgan.

8 COMMISSIONER COLGAN: Aye.

9 ACTING CHAIRMAN FLORES: Chairman Flores votes
10 aye.

11 Let the record reflect 3-2, a vote in
12 support of granting rehearing in this Petition for
13 Rehearing.

14 COMMISSIONER O'CONNELL-DIAZ: And that
15 they're -- the scope of the rehearing is?

16 ACTING CHAIRMAN FLORES: We're going to go
17 hear --

18 JUDGE HAYNES: Yeah, I guess -- so that's my
19 other question. Are you granting both Petitions for
20 Rehearing?

21 ACTING CHAIRMAN FLORES: I think we will grant
22 both Petitions for Rehearing.

1 JUDGE HAYNES: Because they both deal with
2 scope.

3 ACTING CHAIRMAN FLORES: They both deal with
4 scope. Right, the jurisdiction.

5 So that will be the Order.

6 JUDGE HAYNES: Okay.

7 ACTING CHAIRMAN FLORES: Okay?

8 Very well. Judge Wallace, are there
9 any other matters to come before the Commission
10 today, sir?

11 JUDGE WALLACE: No, Mr. Chairman.

12 ACTING CHAIRMAN FLORES: Thank you very much.

13 Hearing none, this meeting stands
14 adjourned.

15 MEETING ADJOURNED

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