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BEFORE THE
ILLINOIS COMMERCE COMMISSION

PUBLIC UTILITY REGULAR OPEN MEETING

Chicago, Illinois
February 10, 2010

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

BEFORE:

MR. MANUEL FLORES, Chairman

MS. LULA M. FORD, Commissioner

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

MR. SHERMAN J. ELLIOTT, Commissioner

MR. JOHN T. COLGAN, Commissioner

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1 The public utility agenda, we have minutes to
2 approve from the December 22nd, 2009, Regularly
3 Scheduled Open Meeting, the December 28, 2009 Special
4 Open Meeting, the January 5, 2010 Pre-Bench Session
5 and the January 12, 2010 Regular Scheduled Open
6 Meeting.

7 I understand that there are amendments to the
8 December 22, 2009 Bench minutes, as well as December
9 28, 2009, January 5, 2010, and January 12, 2010.
10 Is there a motion to adopt all of the amendments?

11 COMMISSIONER O'CONNELL: So moved.

12 CHAIRMAN FLORES: Is there a second?

13 COMMISSIONER COLGAN: Second.

14 CHAIRMAN FLORES: It's been moved and seconded.

15 All in favor say "aye."

16 (Chorus of ayes.)

17 Any opposed?

18 (No response.)

19 The vote is 5-0. The amendment is
20 adopted.

21 Is there a motion to adopt the minutes
22 as amended?

1 COMMISSIONER ELLIOTT: So moved.

2 CHAIRMAN FLORES: Is there a second?

3 COMMISSIONER O'CONNELL-DIAZ: Second.

4 CHAIRMAN FLORES: All in favor say "aye."

5 (Chorus of ayes.)

6 Any opposed?

7 (No response.)

8 The vote is 5-0. The minutes as
9 amended are accepted.

10 JUDGE WALLACE: Mr. Chairman, did you include
11 December 16th?

12 CHAIRMAN FLORES: Give me a second. No, I'd
13 like the record to reflect we are also including
14 December 16, 2009. Let the record reflect that the
15 December 16, 2009 date was also included and adopted
16 as amended as well under the 5-0 vote that was just
17 taken. Thank you.

18 We are holding Item G-4, and Item W-4
19 has been withdrawn. Item G-4 is a Citizens Utility
20 Board, Citizens Action/Illinois and AARP versus
21 Illinois Energy Savings Corporation d/b/a U.S. Energy
22 Savings Corporation complaint. At this time we're

1 holding that item.

2 And W-4 is Aqua Illinois
3 Incorporated's decision for declaratory judgment.

4 Electricity, Items E-1 through E-3
5 will be taken together. The Ameren Illinois
6 Utilities filed a tariff to revise language to its
7 Standards and Qualifications for Electric Service, to
8 revise its Power Smart Pricing Rider and to add a new
9 provision to its miscellaneous fees and charges.
10 Staff recommends that the Commission allow the
11 Company's proposed filings.

12 Is there a motion to not suspend the
13 filings?

14 COMMISSIONER O'CONNELL-DIAZ: So moved.

15 CHAIRMAN FLORES: Is there a second?

16 COMMISSIONER ELLIOTT: Second.

17 CHAIRMAN FLORES: It's been moved and seconded.

18 All in favor say "aye."

19 (Chorus of ayes.)

20 Any opposed?

21 (No response.)

22 The vote is 5-0. The filings will not

1 be suspended. I would just like to take the roll
2 call to make sure it's on the record so that we can
3 use this again for the remainder of the agenda. We
4 can start to my left with Commissioner
5 O'Connell-Diaz.

6 COMMISSIONER O'CONNELL-DIAZ: Aye.

7 CHAIRMAN FLORES: Commissioner Ford.

8 COMMISSIONER FORD: Aye.

9 CHAIRMAN FLORES: Commissioner Elliott.

10 COMMISSIONER ELLIOTT: Aye.

11 CHAIRMAN FLORES: Commissioner Colgan.

12 COMMISSIONER COLGAN: Aye.

13 CHAIRMAN FLORES: I am Chairman Flores voting
14 aye.

15 Let the record reflect we have a 5-0
16 roll call vote and we will use the 5-0 roll call vote
17 for the remainder of the agenda unless otherwise
18 noted.

19 Item E-4 initiates a rulemaking
20 proceeding and authorization for the first notice
21 period. The rule amends Part 451 of the Illinois
22 administrative rules regarding certification of

1 alternative retail electrical suppliers. Staff
2 recommends entering the Order.

3 Is there any discussion?

4 (No response.)

5 Any objections?

6 (No response.)

7 Hearing none, the Order is entered.

8 Item E-5 initiates a rulemaking
9 proceeding and authorization for the first notice
10 period. The rule amends Part 455 of the Illinois
11 Administrative Rules regarding portfolio standard and
12 clean coal standard for alternative retail electric
13 suppliers and utilities operating outside of their
14 service areas. Staff recommends entering the Order
15 initiating the rulemaking, authorizing the first
16 notice period, and establishing emergency rules.

17 Is there any discussion?

18 (No response.)

19 Any objections?

20 (No response.)

21 Hearing none, the Order is entered.

22 Item E-6 is Docket 08-0481. These are

1 the standards for electric interconnections that are
2 not subject to Part 466 of the Illinois
3 Administrative Rules. ALJ Sainsot recommends
4 entering the Order adopting the rules.

5 Is there any discussion?

6 (No response.)

7 Any objection?

8 (No response.)

9 Hearing none, the Order is entered.

10 Item E-7 is 09-0111. This is
11 Commonwealth Edison's Company's reconciliation
12 proceeding for revenues collected under its coal tar
13 rider. ComEd agreed to Staff's adjustments.
14 ALJ Sainsot recommends entering the Order approving
15 ComEd's 2008 coal tar reconciliation.

16 Is there any discussion?

17 COMMISSIONER FORD: It's pronounced Sainsot.

18 CHAIRMAN FLORES: Thank you.

19 COMMISSIONER FORD: Everybody struggles with
20 that one.

21 JUDGE SAINSON: It's fine. I have a tough
22 schedule.

1 CHAIRMAN FLORES: Can I write that on my hand?

2 Going back to Item E-6 Docket 08-0481.

3 These are standards for electric interconnections
4 that are not subject to Part 466 of the Illinois
5 Administrative Rules. ALJ Sainsot recommends
6 entering the Order adopting the rules.

7 Is there any discussion?

8 (No response.)

9 Any objection?

10 (No response.)

11 Hearing none, the Order is entered.

12 Item E-7 is Docket 09-0111. This is
13 Commonwealth Edison Company's reconciliation
14 proceeding for revenues collected under its coal tar
15 rider. ComEd agrees to Staff's adjustments. ALJ
16 Sainsot recommends entering the Order approving
17 ComEd's 2008 coal tar reconciliation.

18 Is there any discussion?

19 (No response.)

20 Any objection?

21 (No response.)

22 Hearing none, the Order is entered.

1 Item E-8 is Docket 09-0389. The
2 Department of Transportation moves to withdraw its
3 petition for approval for a taking of property in
4 Will County. ALJ Riley recommends granting the
5 motion to withdraw the petition.

6 Is there any discussion?

7 (No response.)

8 Any objections?

9 (No response.)

10 Hearing none, the motion to withdraw
11 the petition is granted.

12 Item E-9 is Docket 09-0438. This is a
13 complaint filed by Patrice Marie Knabusch against
14 Commonwealth Edison Company regarding a billing
15 dispute. The parties moved to dismiss the complaint.
16 ALJ Hilliard recommends granting the joint motion to
17 dismiss, with prejudice.

18 Is there any discussion?

19 (No response.)

20 Any objections?

21 Hearing none, the joint motion to
22 dismiss is granted, with prejudice.

1 E-10 is Docket 09-0479. Commonwealth
2 Edison Company petitions for approval to enter into a
3 Tax Sharing Agreement pursuant to Section 7-101 of
4 the Public Utilities Act. ALJ Sainsot recommends
5 entering the Order approving the agreement.

6 Is there any discussion?

7 (No response.)

8 Any objection?

9 (No response.)

10 Hearing none, the Order is entered.

11 Items E-11 through E-16 will be taken
12 together. These are applications for licensure of
13 agents, brokers and consultants pursuant to
14 Section 16-115C of the Public Utilities Act. The
15 ALJs recommend granting the certificates.

16 Is there any discussion?

17 I have a question -- and please
18 forgive me if this seems like a rather mundane
19 question, but it's one that peaked my interest given
20 some of the testimony that was given yesterday. This
21 speaks to either the Administrative Law Judges or to
22 the office of the our general counsel, the -- but I

1 think more towards -- or Staff. Do we have Staff
2 here?

3 JUDGE YODER: Judge Yoder is present here in
4 Springfield.

5 CHAIRMAN FLORES: So the question I have in
6 reviewing applications for folks who are petitioning
7 for these certificates, can you just give us a
8 briefing in terms of what -- do we take a look at
9 whether or not these companies are doing business in
10 other states?

11 JUDGE YODER: Chairman, let me check the
12 petition application because I don't think we do
13 other than the fact that they have to indicate in
14 their technical and managerial qualifications, their
15 occupational backgrounds. In looking at the
16 application, unlike some of the Telecom applications,
17 I don't believe we have a form that was developed
18 specifically asking if they are doing business in
19 other states.

20 CHAIRMAN FLORES: Do we ask at any point
21 whether or not there are actions pending in other
22 jurisdictions against them for the kind of license

1 that they are seeking in the State of Illinois, the
2 certification in particular?

3 JUDGE YODER: Unlike the Telecom certificate,
4 it doesn't appear that that question is asked on this
5 application.

6 CHAIRMAN FLORES: The reason I ask is that
7 yesterday in the proceeding there was references made
8 on the record that other jurisdictions had actually
9 approved certificates, but after taking into account
10 action that was taking place in other states. And so
11 I thought that that was something that, perhaps, we
12 should take a look at internally as a vetting process
13 to look at these cases more proactively and to
14 provide additional information that I think would be
15 helpful in analyzing the granting of certificates
16 and, in particular, whether or not we want to impose
17 or review any potential conditions to avoid any abuse
18 or any questions or allegations of violations under
19 the laws that govern -- well, under the PUA and other
20 regulations that we're in charge of.

21 COMMISSIONER O'CONNELL-DIAZ: You raise a very
22 good point.

1 Judge Yoder, were hearings conducted
2 in these matters?

3 JUDGE YODER: No, they're handled generally to
4 the proceedings in which there is generally no
5 hearing formal hearing conducted.

6 COMMISSIONER O'CONNELL-DIAZ: Just going back
7 to my days hearing cases that were for certificates,
8 that was the normal question that was asked. An
9 inquiry was made into are there or have there been
10 any actions taken by the Commission. We're currently
11 changing the case because obviously many of these
12 companies were certificated in other states and I
13 move that that's an important inquiry for us to make
14 because we need to know are they acting and
15 purporting themselves well in other states and have
16 they been responsive to -- just as we saw yesterday,
17 have they been responsive to consumer complaints or
18 are there a whole host of consumer complaints? So
19 I'm really quite aghast that it's not -- how is this
20 form --

21 JUDGE WALLACE: Commissioner O'Connell-Diaz, we
22 spent a lot of time over the form, over the rules for

1 the ABCs. We're among a minority of states that have
2 decided to license the ABCs at this time. We had to
3 balance the concerns of the ABCs over -- balancing
4 between how much regulation the law imposed and that
5 type of balancing act.

6 COMMISSIONER O'CONNELL-DIAZ: So what you're
7 suggesting, Judge Wallace, is that legally due to the
8 structure of the statute that enabled us to have
9 certificates like this, that we would be walking on
10 thin ice to make that inquiry?

11 JUDGE WALLACE: Probably not. It was one of
12 those things that -- when we have a -- we were able
13 to build in a longer period of time with the ABCs
14 than the areas of the Acts because they have to go
15 very quickly and they're not designed to have a
16 hearing.

17 COMMISSIONER O'CONNELL-DIAZ: You mean the time
18 that they filed and the Commission has to take action
19 on them?

20 JUDGE WALLACE: Yes, but I don't believe that
21 it would be anything to prevent us from asking if
22 there are complaints from other jurisdictions.

1 COMMISSIONER ELLIOTT: Yes, I would suggest
2 going forward that would be one of the minimum
3 questions that we would ask considering what we've
4 experienced in the Telecom cases over the years and
5 others.

6 COMMISSIONER COLGAN: I agree with that and I
7 have the same thought as I was reading through. It
8 kind of becomes perfunctory on our part to approve
9 these if Staff recommends it; but in light of that
10 discussion we've had recently, I think it's a good
11 idea. I don't think there's anything that could be
12 construed to imply that we don't want these
13 organizations, these companies to be licensed. It's
14 just, I think, in our best interest and interest of
15 the consumers that we just ask that question.

16 COMMISSIONER O'CONNELL-DIAZ: I'm quite
17 surprised. In many instances especially in the
18 Telecom area if there were outstanding complaints,
19 that would be something that I, as the ALJ, would
20 inquire severely about because you want to know how
21 are they acting and are we opening the doors for our
22 consumers to have bad experiences.

1 COMMISSIONER ELLIOTT: It seems to the degree
2 that we've experienced this in the Telecom industry
3 over the last decade that we would look to that
4 certification process as guidance for anything along
5 these lines.

6 COMMISSIONER O'CONNELL-DIAZ: And the time line
7 on these cases are 45 days or 30 days? What is the
8 time line?

9 JUDGE WALLACE: The ABCs are generally 90-day
10 cases.

11 COMMISSIONER O'CONNELL-DIAZ: If they've got
12 some dirty laundry, then let's get it out there.
13 Then they have to deal with it in that 90-day time
14 period or they'll have to come back in and file
15 again. I guess that's the --

16 JUDGE WALLACE: Commissioner, the one
17 distinction is in the Telecom area, we had companies
18 filing in 30 or 40 states, so there was certainly a
19 body of other states to inquire about. We have not
20 seen that yet in the ABCs, but that would be the one
21 distinction.

22 COMMISSIONER O'CONNELL-DIAZ: Sure. Well, if

1 they aren't operating in other states, then they
2 won't have any consumer complaints pending in other
3 states.

4 CHAIRMAN FLORES: And I just think that it's an
5 easy question to ask and it's one that should just be
6 included as a standard performer-type question in the
7 analysis.

8 COMMISSIONER COLGAN: Would it be appropriate
9 to ask Staff to take this under advisement and report
10 back to us in some future point as to what they see
11 the issue is and if it creates any complications that
12 we have not anticipated?

13 JUDGE WALLACE: We'll certainly put the
14 question on the form. We'll redo it.

15 CHAIRMAN FLORES: What is the timing for these
16 particular filings in front of us? Frankly, my view
17 is that these companies should be asked the questions
18 and they should answer it.

19 JUDGE WALLACE: Mr. Chairman, they filed under
20 the -- if you want to -- they filed as we requested
21 them to file. The clock is running on them.

22 CHAIRMAN FLORES: That's fine.

1 Well, I think it's important going
2 forward. This is an important issue. It's one
3 where, again, we want to promote and see more
4 competition; but we want to make sure that we are
5 also balancing the interest and in particular, the
6 protected interest of the consumers here. And given
7 the testimony that was shared yesterday, given that
8 other states are obviously undertaking and other
9 Commissions in other states are undertaking that kind
10 of analysis, that I think from the best practice
11 standpoint we should be doing the same.

12 So is there any other discussion or
13 question regarding this matter?

14 MS. STEPHENSON: Mary Stephenson, I was just
15 going to say on a going-forward basis, we can add it
16 to the form.

17 COMMISSIONER ELLIOTT: I would be interested in
18 just seeing some comparison between CLEC
19 certifications and how consistent we are across the
20 industries.

21 COMMISSIONER O'CONNELL-DIAZ: I think that it's
22 important that if we have cases today that it's on

1 that form and they're asking that question today and
2 we can do a follow-up if we desire or Staff may want
3 to enlighten us. But there's probably many cases in
4 the queue, so if we can get that on the form and then
5 this afternoon if there is a case and that question
6 is asked, I think that would help the Commissioners.

7 MS. STEPHENSON: Sure. We'll see that it gets
8 taken care of.

9 CHAIRMAN FLORES: Any other discussions or
10 questions?

11 (No response.)

12 Hearing none, the Orders are entered.

13 Item E-17 is Docket 09-0618. This is
14 DPL Energy Resource, Inc.'s application for a
15 Certificate of Service Authority. ALJ Yoder
16 recommends entering the Order granting the
17 certificate.

18 Is there any discussion?

19 (No response.)

20 Any objections?

21 (No response.)

22 Hearing none, the Order is entered.

1 That concludes the electricity portion
2 of today's agenda.

3 Moving on to the Natural Gas section,
4 Items G-1 through G-3 will be taken together. The
5 Ameren Illinois Utilities filed tariffs to revise
6 language to its standards and qualifications for gas
7 service. Staff recommends not suspending the
8 filings.

9 Is there any discussion?

10 (No response.)

11 Any objections?

12 (No response.)

13 Hearing none, the filings will not be
14 suspended.

15 Item G-4, as indicated, will be held.

16 Item G-5 is Docket 08-0562. This is a
17 complaint by James H. Canel against North Shore Gas
18 Company regarding a billing dispute.

19 I understand that Commissioner
20 O'Connell-Diaz and Commissioner Elliot also have been
21 closely reviewing this docket.

22 Is there any discussion on this

1 matter?

2 COMMISSIONER O'CONNELL-DIAZ: Thank you,
3 Chairman. Yes, I've read through this order and I
4 see some -- I have some questions and it doesn't seem
5 that some of the information that I think is critical
6 for the Commission's determination is in the record,
7 such as the meter testing. And additionally I think
8 that there was -- counsel on both sides of the table
9 on this and there was some agreement that they would
10 run the case in accordance with Supreme Court rule as
11 well.

12 My understanding is that we only use
13 those rules in the absence of rules that we have at
14 the Commission and doing so, it can rob the
15 Commission of what I describe as critical information
16 in the record such as results. I would like to have
17 the record reopened and I know that Commissioner
18 Elliot has also been looking at this and we may have
19 some more questions as we go forward into the
20 reopening, but I would like to have the record
21 reopened to have those results entered into the
22 record and have testimony relative to that.

1 CHAIRMAN FLORES: Commissioner Elliott, do you
2 have anything to add?

3 COMMISSIONER ELLIOTT: That's sort of where I
4 came from as well. I thought there was significant
5 information lacking to make a reasonable judgment on
6 this as to who was at fault and there's a number of
7 questions that remain, and so I would support that
8 also as well.

9 COMMISSIONER O'CONNELL-DIAZ: And, again, I
10 believe the ALJ has concluded that the complaint
11 should be denied and I'm just not convinced that's
12 appropriate with the lack of the factors that I need
13 to look at to come to that conclusion. So I think
14 reopening it will accomplish that goal.

15 CHAIRMAN FLORES: I see Commissioner Colgan to
16 my right also nodding. Did you want to add
17 something?

18 COMMISSIONER COLGAN: I've come to that same
19 conclusion that it's hard to imagine what actually
20 happened in this case. There is missing pieces.

21 COMMISSIONER FORD: Judge Dolan is right there.

22 COMMISSIONER COLGAN: So I think another look

1 at it would be a good idea.

2 CHAIRMAN FLORES: Commissioner Ford.

3 COMMISSIONER FORD: Judge Dolan, did you want
4 to brief us on this?

5 JUDGE DOLAN: Well, as you all are aware it was
6 a very difficult case, even from the start.
7 Mr. Canal is a practicing attorney, so he brought the
8 complaint on his own and him and Mr. Goldstein for
9 the gas company, they made the discussion between
10 themselves how they would set their discovery
11 schedule. And I indicated that if there was any
12 issues with the discovery schedule, let me know.

13 It turned out that when Mr. Canal
14 served the Rule 237 notice, given it's a Supreme
15 Court Rule dealing with witnesses and their
16 testimony, Mr. Goldstein failed to list the tester of
17 the meter as one of his witnesses. He tried to then
18 introduce the testimony of the witness -- the meter
19 results through the billing agent for the company.
20 And during cross-examination of Mr. Reardon, who was
21 the billing agent for the gas company, he testified
22 that he never had any experience or any training in

1 meters or meter testing. So Mr. Canal objected to
2 the results of the test going into the record. And
3 since there wasn't an expert available to
4 substantiate the test, I granted his motion to strike
5 the meter results.

6 Now, the other problem just from the
7 testimony of the other witnesses, they tested the
8 meter and they destroyed it right away. So the meter
9 is no longer around. They did it even before
10 Mr. Canal had an opportunity to bring in an
11 independent witness to test the meter.

12 COMMISSIONER ELLIOTT: Is that standard or is
13 there some shelf period that they are supposed to
14 hold the meter when it's under dispute?

15 JUDGE DOLAN: Well, they say it's part of their
16 normal business. Once they test the meter to get the
17 results, that they just take it apart and take
18 whatever parts they can to recycle it.

19 COMMISSIONER O'CONNELL-DIAZ: When was that
20 meter destroyed?

21 JUDGE DOLAN: According to the witnesses that
22 it was basically tested in June and destroyed shortly

1 thereafter.

2 COMMISSIONER O'CONNELL-DIAZ: That's a problem
3 because this case was going on at that point in time.
4 So obviously it was a problem and --

5 JUDGE DOLAN: No, I understand and I agree --

6 COMMISSIONER O'CONNELL-DIAZ: I understand you
7 were having to rule on this and I don't have an
8 objection with that, but I just think that the
9 Commission needs to have that information about this
10 particular meter in the record and normally those are
11 taken and my recollection is that the City of Chicago
12 has the testing facility and inspect it and those
13 results are generally -- usually accepted by the
14 Commission as the meter is working or the meter
15 wasn't working. So if the Company removed the meter
16 at a time when this case was going, it's extremely
17 problematic, in my opinion.

18 JUDGE DOLAN: Under the rules of meter testing,
19 they're supposed to notify the Complainant that he
20 has an opportunity to have an independent person with
21 him during the testing to verify the testing was done
22 in a proper manner. And Mr. Canal was not notified

1 of the testing nor that he was able to bring in an
2 independent witness or an independent tester for the
3 meter.

4 COMMISSIONER ELLIOTT: That's part of our
5 rules?

6 JUDGE DOLAN: That is part of our rules, yes.

7 So I will take your recommendations
8 and I'll reopen the record going further.

9 CHAIRMAN FLORES: I think we're going to have
10 to take a vote on this matter so the record is clear.

11 Is there a motion to reopen the
12 record?

13 COMMISSIONER ELLIOTT: So moved.

14 COMMISSIONER COLGAN: Second.

15 CHAIRMAN FLORES: All in favor say "aye."

16 (Chorus of ayes.)

17 Any opposed?

18 (No response.)

19 Let the record reflect that there is a
20 5-0 vote on the motion to reopen the record.

21 COMMISSIONER O'CONNELL-DIAZ: Judge Dolan I
22 think will take care of that.

1 JUDGE DOLAN: Yes.

2 CHAIRMAN FLORES: Thank you.

3 COMMISSIONER O'CONNELL-DIAZ: Thank you, Judge
4 Dolan.

5 CHAIRMAN FLORES: Item G-6 is Docket 09-0113.
6 This is Nicor Gas Company's reconciliation proceeding
7 for revenues collected under its coal tar rider. The
8 Order finds that the costs were prudent. ALJ Sainsot
9 recommends entering the Order approving Nicor's 2008
10 coal tar reconciliation.

11 Is there any discussion?

12 (No response.)

13 Any objections?

14 (No response.)

15 Hearing none, the Order is entered.

16 Items G-7 and G-8 will be taken
17 together. These are reconciliation proceedings to
18 determine the prudence of revenues collected under
19 Rider VBA by North Shore Gas Company and Peoples Gas
20 Light and Coke Company. ALJ Moran recommends
21 entering the Orders approving the reconciliations.

22 Is there any discussion?

1 (No response.)

2 Any objections?

3 (No response.)

4 Hearing none, the Orders are entered.

5 Item G-9 is docket 09-0216. This is a
6 compliant by Chiquita R. Bayless against Nicor Gas
7 Company. The Complainant failed to appear before the
8 Commission. ALJ Kimbrel recommends entering the
9 Order dismissing the complaint, without prejudice.

10 Is there any discussion?

11 (No response.)

12 Any objections?

13 (No response.)

14 Hearing none, the Order is entered.

15 Item G-10 is Docket 09-0283. This is
16 a complaint by Vaudelito Griffin against the Peoples
17 Light Gas and Coke Company regarding a billing
18 dispute. The amount in dispute has been removed as a
19 result of the Complainant's bankruptcy. ALJ Kimbrel
20 recommends entering the Order dismissing the
21 complaint, with prejudice.

22 Is there any discussion?

1 (No response.)

2 Any objections?

3 (No response.)

4 Hearing none, the Order is entered
5 dismissing the complaint, with prejudice.

6 G-11 is Docket 09-0330. This is a
7 complaint by Dowell Holdgraf against Illinois Power
8 Company d/b/a AmerenIP. ALJ Yoder recommends
9 entering the joint motion to dismiss, with prejudice.

10 Is there any discussion?

11 (No response.)

12 Any objections?

13 (No response.)

14 Hearing none, the joint motion to
15 dismiss is entered.

16 That concludes the Natural Gas portion
17 of the agenda.

18 Moving to Telecommunications.

19 Items T-1 and T-2 will be taken together. Illinois
20 Bell Telephone Company has filed a tariff changing
21 the description of Business Category Search ("BCS")
22 to clarify how IBT searches and retrieves listings.

1 The other filing establishes retail Mobility National
2 Retail Service Connection Charge Waiver. Staff
3 recommends that the filings not be investigated or
4 suspended.

5 Is there any discussion?

6 (No response.)

7 Any objections?

8 No response.)

9 Hearing none, the filing will not be
10 investigated or suspended.

11 Items T-3 and T-4 will be taken
12 together. These are filings by Verizon North, Inc.,
13 and Verizon South, Inc., to discontinue its one-bill
14 offering. Staff recommends not suspending the
15 filings.

16 Is there any discussion?

17 (No response.)

18 Any objections?

19 (No response.)

20 Hearing none, the filing will not be
21 suspended.

22 Item T-5 is Docket 07-0534. Sterling

1 Payphones, LLC, applied for a certificate of service
2 authority to provide customer-owned pay telephone
3 service. ALJ Kimbrel recommends entering the Order
4 denying the certificate of authority.

5 ALJ Kimbrel, can you give us a history
6 on the case and then your thoughts on your ruling
7 here.

8 JUDGE KIMBREL: Well, Sterling filed their
9 application on November 1st, 2007. I held a hearing
10 on January 30th, 2008. I asked a few questions of
11 the chief financial officer, Mr. Rapaccioli, I
12 believe, and then I marked the matter heard and
13 taken. But I had to reopen it because the Company
14 did not provide the necessary documents. Then they
15 were given the opportunity to provide these documents
16 and they failed to respond. They were given ample
17 time and just never responded. I marked the matter
18 heard and taken.

19 COMMISSIONER O'CONNELL-DIAZ: Judge Kimbrel,
20 the Applicant was given due notice of hearing dates
21 and did not appear without any communication with
22 your offices as to their inability to appear?

1 JUDGE KIMBREL: Right. I believe I even called
2 them on a couple of occasions as well and the
3 telephone rang busy. There wasn't even a recording
4 device.

5 CHAIRMAN FLORES: Judge Kimbrel, can you just
6 tell us the documents that you're referring to.

7 JUDGE KIMBREL: Sure. If you look at the third
8 full paragraph of my memo, you'll see that they
9 failed to provide the most basic documents, the
10 Article of Incorporation; the Certificate of
11 Authority to transact business in Illinois; evidence
12 of managerial and technical resources and ability to
13 provide services; their officers; income statements;
14 balances; everything.

15 COMMISSIONER FORD: So they didn't give you an
16 income statement?

17 JUDGE KIMBREL: Nothing.

18 CHAIRMAN FLORES: I think their omissions
19 speaks very loudly.

20 Are there any questions for Judge
21 Kimbrel?

22 COMMISSIONER O'CONNELL-DIAZ: This is just kind

1 of a thing I always say -- obviously this has caused
2 our office and -- that's what our businesses do. So
3 to hear these cases -- because this is not a
4 complaint case or anything of that nature. This is
5 someone that is seeking to do business in our state
6 and now they have filed something with the
7 Commission, they have not followed through, they have
8 not done their due diligence, they paid the filing
9 fee and that's it. I just think that it's a misuse
10 of our precious time that our Staff has and our
11 Judges have and I think it would be a good thing to
12 look at how -- the remuneration for the hearing dates
13 that are scheduled when people don't show up
14 repeatedly. This costs the State a lot of money.
15 These people need to take it seriously and there
16 should be -- especially in this instance where it's a
17 business -- there should be a lot of court costs and
18 attorney's fees and all sorts of things that they
19 charge over there. So that might be something that
20 we can look at.

21 JUDGE WALLACE: Commissioner O'Connell-Diaz, in
22 addition to that, there is no filing fees.

1 COMMISSIONER O'CONNELL-DIAZ: There isn't. So
2 this has cost, I'm sure, thousands of dollars of the
3 State's money in something that someone filed and
4 gave the bare minimum of attention to.

5 CHAIRMAN FLORES: Any other discussion?

6 (No response.)

7 Any objections to the Order?

8 (No response.)

9 Hearing none, the Order is entered.

10 Item T-6 is Docket 09-0917. Lightyear
11 Network Solutions, LLC, has applied for a Certificate
12 of Authority to provide commercial radio services
13 within the State of Illinois. ALJ Riley recommends
14 entering the Order granting the certificate.

15 Is there any discussion?

16 (No response.)

17 Any objections?

18 (No response.)

19 Hearing none, the Order is entered.

20 Item T-7 is 09-0619. Comity
21 Communications, LLC has applied for a Certificate of
22 Local and Interexchange Authority to operate as a

1 reseller-and facilities-based carrier of
2 telecommunications services in the State of Illinois.
3 ALJ Tapia recommends entering the Order granting the
4 certificate.

5 Is there any discussion?

6 (No response.)

7 Any any objections?

8 (No response.)

9 Hearing none, the Order is entered.

10 Item T-8 is Docket 10-0039. The City
11 of Marseilles petitions to modify its 9-1-1 emergency
12 telephone number system. ALJ Tapia recommends
13 entering the Order granting the petition.

14 Is there any discussion?

15 (No response.)

16 Any any objections?

17 (No response.)

18 Hearing none, the Order is entered.

19 T-9 is Docket 09-0384. These are
20 rules amending Part 735 of the Illinois
21 Administrative Code regarding "Procedures Governing
22 the Establishment of Credit, Billing, Deposits,

1 Termination of Service and Issuance of Telephone
2 Directories for Local Exchange Telecommunications
3 Carriers."

4 The purpose of the proposed amendment
5 is to deal with the postmark requirements for bills
6 and discontinuance notices. The Joint Committee on
7 Administrative Rules has filed no objection to the
8 amendment. ALJ Dolan recommends entering the Order
9 adopting the amendment.

10 Is there any discussion?

11 (No response.)

12 Any objections?

13 (No response.)

14 Hearing none, the Order is entered.

15 Item T-10 through T-12 will be taken
16 together. These are petitions for emergency relief
17 to protect from disclosure Petitioner's 2009 Annual
18 Reports for not less than five years. ALJ Hilliard
19 recommends entering the Order granting the petitions,
20 but for two years.

21 Is there any discussion?

22 (No response.)

1 Any objections?

2 (No response.)

3 Hearing none, the Order is entered
4 granting the Petition for a period of two years.

5 Item T-13 through T-21 will be taken
6 together. These are interconnection agreements or
7 amendments to interconnection agreements. The ALJs
8 recommend entering the Order approving the agreements
9 or amendments to the agreements.

10 Is there any discussion?

11 (No response.)

12 Any objections?

13 (No response.)

14 Hearing none, the Orders are entered.

15 That concludes the Telecommunications
16 portion of the agenda.

17 Moving on to Water and Wastewater.

18 Item W-4 is withdrawn.

19 Item W-1 is Whispering Hills Water
20 Company proposed general increase in water rates.
21 Staff recommends entering the Suspension Order.

22 Is there any objection?

1 (No response.)

2 Any objections?

3 (No response.)

4 Hearing none, the Suspension Order is
5 entered.

6 Item W-2 is Docket 09-0144. Aqua
7 Illinois, Inc., seeks approval of its reconciliation
8 of its purchased water surcharge. Staff recommends
9 certain revisions to Aqua's calculations, which Aqua
10 accepts. ALJ Kimbrel recommends entering the Order
11 approving the reconciliation.

12 Is there any discussion?

13 (No response.)

14 Any objections?

15 (No response.)

16 Hearing none, the Order is entered.

17 Item W-3 is Docket 09-0145. Aqua
18 Illinois, Inc., seeks approval of its reconciliations
19 of its Qualifying Infrastructure Plant ("QIP")
20 Surcharge Reconciliation for the 2008 reconciliation
21 year, for its Kankakee and Vermilion Water rate
22 areas. Staff recommends certain revisions to Aqua's

1 calculations, which Aqua accepts. ALJ Kimbrel
2 recommends entering the Order approving the
3 reconciliation.

4 Is there any discussion?

5 (No response.)

6 Any objections?

7 (No response.)

8 Hearing none, the Order is entered.

9 Item W-4 is withdrawn.

10 Item W-5 is docket 09-0251. This
11 matter is on Bench for discussion purposes at the
12 recommendation of ALJ Yoder.

13 Judge Yoder, would you please brief us
14 on this matter.

15 JUDGE YODER: Yes, Chairman. The Commission is
16 aware that an oral argument was granted in this
17 proceeding at the last hearing at the Commission.
18 Oral arguments were scheduled for February 23rd,
19 2010, therefore, I believe that was the same day that
20 the reply beliefs on exceptions were due. Therefore,
21 after receiving those I finalized the Order and the
22 Order before the Commission is my final

1 recommendation on this issue for the Commission's
2 consideration on this docket. I indicated
3 Illinois-American has filed a proposed "QIP" Rider, a
4 Qualified Infrastructure Plan Rider.
5 Illinois-American has that rider in various districts
6 throughout the state and they have filed this
7 proceeding to add that QIP Surcharge in, I believe,
8 six of their districts.

9 The Staff of the Illinois Commerce
10 Commission has reviewed the matter and had no
11 objection. They had some technical changes to the
12 riders, which Illinois-American accepted. The City
13 of Champaign and the Illinois Attorney General also
14 participated in this docket and filed testimony.
15 They had various reasons for objecting to the
16 Surcharge Rider, among those being the general
17 argument against riders and their being put in place.

18 They argued that the Illinois-American
19 has not shown that the rates would be charged would
20 be reasonable. A couple of other arguments, as an
21 alternative to the City and AG's request that the
22 Commission deny the surcharge riders. They also --

1 their alternative was to have the Commission delay
2 the implementation of the surcharge riders until
3 January 1st of 2011.

4 There is a pending Illinois-American
5 water case, Docket 09-0319, using a 2009 future test
6 year and the City of Champaign and the Attorney
7 General made various arguments regarding the risk of
8 (inaudible) that pending rate cases using the QIP
9 Surcharge in place at the same time. I placed the
10 matter on the agenda for discussion just so that the
11 Commission would be able to review my recommendations
12 on a final order prior to the oral argument on
13 February 23rd.

14 CHAIRMAN FLORES: Any discussion by the
15 Commission?

16 (No response.)

17 Very well. The -- in terms of us
18 being on track for the oral arguments, will you have
19 all the materials submitted to us, Judge Yoder?

20 JUDGE YODER: I'm sorry? What do you mean?

21 CHAIRMAN FLORES: Are we going to have all the
22 filings that remain? Do we have all the filings

1 already at this point?

2 JUDGE YODER: Yes, all filings have been made
3 by the parties. The Commission oral arguments were
4 scheduled for February 23rd. The deadline for
5 Commission action is March 20th. So there should be
6 sufficient time after the oral argument for the
7 Commission to make a final decision on this matter.

8 CHAIRMAN FLORES: Okay. Very well, Judge.
9 Thank you, Judge Yoder, for your briefing on this
10 matter.

11 Item W-6 is Docket 09-0552. This is a
12 complaint by Kelly McFarland & Dean A. Feller against
13 Aqua Illinois, Inc., regarding a billing dispute.
14 The parties have settled and filed a stipulation to
15 dismiss. ALJ Hilliard recommends dismissing this
16 docket, with prejudice.

17 Is there any discussion?

18 (No response.)

19 Any objections?

20 (No response.)

21 Hearing none, this docket is
22 dismissed, with prejudice.

1 We have one FCC item on the agenda.
2 We must go into closed session to discuss this item.

3 Is there a motion to go into closed
4 session?

5 COMMISSIONER ELLIOTT: So moved.

6 CHAIRMAN FLORES: Is there a second?

7 COMMISSIONER FORD: Second.

8 CHAIRMAN FLORES: All in favor say "aye."

9 (Chorus of ayes.)

10 The vote is 5-0. The Commission will
11 now go into closed session.

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1 CHAIRMAN FLORES: We've now returned to the
2 open session. In closed session the Commission
3 discussed filing comments with the FCC in Docket
4 EB-09-MD-009 regarding the NextG Networks Illinois,
5 Inc., versus RCN Telecom services of Illinois, LLC.

6 Is there a motion to file comments
7 with the FCC regarding this case.

8 COMMISSIONER ELLIOTT: So moved.

9 CHAIRMAN FLORES: Is there a second?

10 COMMISSIONER O'CONNELL-DIAZ: Second.

11 CHAIRMAN FLORES: It's been moved and seconded.

12 All in favor say "aye."

13 (Chorus of ayes.)

14 Any opposed?

15 (No response.)

16 The vote is 5-0. The comments will be
17 filed with the FCC.

18 Judge Wallace.

19 JUDGE WALLACE: Yes.

20 CHAIRMAN FLORES: Are there any other matters
21 that come before this Commission?

22 JUDGE WALLACE: Nothing further, Mr. Chairman.

