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BEFORE THE
ILLINOIS COMMERCE COMMISSION

BENCH SESSION
(PUBLIC UTILITY)

Wednesday, March 5, 2014
Chicago, Illinois

Met, Pursuant to notice, at 10:30 a.m., in the
Audiovisual Conference Room, Eighth Floor, State of
Illinois Building, 160 North LaSalle Street, Chicago,
Illinois.

APPEARANCES:

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

MIDWEST LITIGATION SERVICES, by
Meagan M. Cahill, CSR

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PROCEEDINGS

CHAIRMAN SCOTT: Pursuant to the provisions of the Open Meetings Act, I now convene a regularly scheduled Bench Session of the Illinois Commerce Commission. With me in Springfield is Commissioner Colgan. With us in Chicago are Commissioner McCabe, Commissione del Valle, and Commissioner Maye. I am Commissioner Scott. We have a quorum.

Before moving into the agenda, according to Section 1700.10 of Title 2 of the Administrative Code, this is the time we allow members of th public wishing to address the Commission. Members of the public wishing to address the Commission must notify the Chief Clerk's office at least 24 hours prior to Commission meetings. According to the Chief Clerk's office, we have no requests to speak at today's Bench Session.

Moving on to the Public Utility Agenda, we'll begin with the minutes from our February 5th Bench Session. I understand amendments have been forwarded.

Is there a motion to amend the minutes?

COMMISSIONER del VALLE: Moved.

COMMISSIONER SCOTT: Is there a second?

COMMISSIONER McCABE: Second.

CHAIRMAN SCOTT: Moved by Commissioner del Valle,

1 seconded by Commissioner McCabe.

2 All in favor, say aye.

3 (Ayes heard.)

4 CHAIRMAN SCOTT: Any opposed?

5 (No response.)

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

8 Is there now a motion to approve the minutes
9 as amended?

10 COMMISSIONER McCABE: Moved.

11 CHAIRMAN SCOTT: Moved by Commissioner McCabe.
12 Second?

13 COMMISSIONER MAYE: Second.

14 COMMISSIONER SCOTT: Seconded by Commissioner Maye.

15 All in favor, say aye.

16 (Ayes heard.)

17 CHAIRMAN SCOTT: Any opposed?

18 (No response.)

19 CHAIRMAN SCOTT: The vote is five to nothing, and
20 the minutes from our February 5th Bench Session, as
21 amended, are approved.

22 Turning now to the electric portion of today's
23 agenda. Item E-1 is Mt. Carmel Public Utility's filing
24 in compliance with Docket No. 12-0212 regarding

1 certification requirements applicable to vendors that
2 install electric vehicle charging stations. Staff
3 recommends that we approve Mt. Carmel's tariff by not
4 suspending the filing.

5 Is there any discussion?

6 (No response.)

7 CHAIRMAN SCOTT: Is there a motion to approve the
8 changes by not suspending the filing?

9 COMMISSIONER MAYE: So moved.

10 CHAIRMAN SCOTT: Moved by Commissioner Maye.

11 Second?

12 COMMISSIONER del VALLE:: Second.

13 COMMISSIONER SCOTT: Seconded by Commissioner del
14 Valle. All in favor, say aye.

15 (Ayes heard.)

16 CHAIRMAN SCOTT: Any opposed?

17 (No response.)

18 CHAIRMAN SCOTT: The vote is five to nothing, and
19 the filing is not suspended.

20 We will use the five-to-nothing vote for the
21 remainder of today's public utility agenda, unless
22 otherwise noted.

23 Item E-2 is Docket No. 14-0120. This is
24 ComEd's Petition for Special Permission to file and put

1 into effect, on less than 45 days' notice, revisions to
2 Rider AC-Residential Air Conditioner Loading Cycling
3 Program. Staff recommends entry of an Order granting
4 the special permission.

5 Is there any discussion?

6 (No response.)

7 CHAIRMAN SCOTT: I would just like to say that I am
8 pleased to see this kind of action on the part of ComEd.
9 It's encouraging that the company is continuing to
10 improve upon its programs and that it is doing so
11 proactively and expeditiously. As we have noted many
12 times before, and will likely do many times in the
13 future, this Commission oversees the energy industry,
14 and we are hopeful that utilities can continue to
15 innovate and generate benefits to the ratepayers, as
16 well as to their own operations.

17 Any further discussion?

18 (No response.)

19 CHAIRMAN SCOTT: Any objection to granting the
20 special permission?

21 (No response.)

22 CHAIRMAN SCOTT: Hearing none, the Order is
23 entered, and the special permission is granted.

24 Item A-3, Docket No. 13-0476. This item

1 concerns Ameren's revenue-neutral tariff changes related
2 to rate design. Ameren and the Illinois Industrial
3 Energy Consumers have filed requests for oral argument,
4 which ALJ Von Qualen recommends we deny.

5 Is there any discussion? Commissioner McCabe?

6 COMMISSIONER McCABE: Yes. I'm fine with denying
7 oral argument, but I just wish to express to the parties
8 that we are taking the issues raised with the oral
9 argument request and in the reply briefs, very
10 seriously.

11 COMMISSIONER SCOTT: Any further comments?

12 (No response.)

13 CHAIRMAN SCOTT: Are there any objections to
14 denying oral argument?

15 (No response.)

16 CHAIRMAN SCOTT: Hearing none, the requests for
17 oral argument are denied. Additionally, ALJ Von Qualen
18 recommends entry of an Order approving tariff changes.
19 This matter will be held for disposition at a future
20 Commission proceeding.

21 Item E-4 is Docket No. 11-0593. This is our
22 investigation into ComEd's compliance with the
23 efficiency standard requirement of Section 8-103 of the
24 Public Utilities Act. ALJ Sainsot recommends entry of a

1 Post Exceptions Proposed Order. I have two sets of
2 edits to propose for this Order. The first set concerns
3 the issue of Banking Excess Energy Savings. These edits
4 address the recent amendment to Section 8-103 sub (b) of
5 the Public Utilities Act, which now clearly states that
6 utilities may utilize banked energy savings to meet the
7 obligations set forth in the Act. While the amended
8 provision does not apply until Plan Year 7, we find it
9 to be instructive as to the Legislature's intent to
10 allow a limited amount of banking of energy savings.

11 Until PY7, it is our opinion that the prior
12 Commission precedent, as to banking, should continue to
13 apply, which is as follows: One, the utility may bank
14 only a de minimus amount of excess energy savings; two,
15 the utility may cumulatively bank those savings over
16 multiple plan years; three, the utility may only apply
17 15 percent of their cumulative banked savings to meet
18 the obligations set forth in the Act in any year; and
19 four, the utility may apply those savings outside of
20 three-year plans. We believe that this methodology has
21 worked well to create a balance between allowing
22 successful programs to continue, even when the utilities
23 have hit their savings goals, while not allowing them to
24 utilize too much of their banked savings.

1 Thus, we made a number of edits to reflect
2 this position, which appear under the Procedural Posture
3 of this Case, on pages 1 to 3; Banking of Energy Savings
4 on page 13, under Analysis and Conclusions; Banking of
5 Excess Energy Savings on pages 16 to 21, and under
6 Findings and Ordering Paragraphs on page 31.

7 The second set of edits appears on pages 24 to
8 25 of the PEPO and concerns the use of the in-situ study
9 in determining the energy savings associated with
10 ComEd's refrigerator recycling program. While we agreed
11 with staff and the ALJ that using the calculation
12 derived from the more recent in situ study seems to
13 result in a more accurate evaluation of savings
14 achieved, we believe this sets a very dangerous
15 precedent that the SAG has worked tirelessly to avoid in
16 Illinois.

17 Using numbers and a study that did not exist
18 when ComEd planned and implemented its portfolio of
19 programs may have the unintended consequence of
20 subjecting a program to unattainable, constantly
21 changing standards that it is required to meet in order
22 to be deemed successful. We don't believe it's any
23 party's intent, or for that matter, in the best interest
24 of any stakeholder.

1 With that, I will move for the adoption of
2 these edits.

3 Is there a second?

4 COMMISSIONER MAYE: Second.

5 COMMISSIONER SCOTT: Seconded by Commissioner Maye.

6 Any discussion on the edits?

7 (No response.)

8 CHAIRMAN SCOTT: All in favor, say aye.

9 (Ayes heard.)

10 CHAIRMAN SCOTT: Any opposed?

11 (No response.)

12 CHAIRMAN SCOTT: The vote is five to nothing, and
13 the edits are approved.

14 Is there now a motion to approve the Order as
15 amended?

16 COMMISSIONER del VALLE: Moved.

17 CHAIRMAN SCOTT: Moved by Commissioner del Valle.

18 Is there a second?

19 COMMISSIONER McCABE: Seconded.

20 CHAIRMAN SCOTT: Seconded by Commissioner McCabe.

21 Any discussion?

22 (No response.)

23 CHAIRMAN SCOTT: All in favor, say aye.

24 (Ayes heard.)

1 CHAIRMAN SCOTT: Any opposed?

2 (No response.)

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

5 Item E-5 is Docket No. 12-0509. This is our
6 reconciliation of revenues collected under Rider EDA
7 with the actual costs associated with energy efficiency
8 and demand response programs for ComEd. ALJ Haynes
9 recommends an entry of an Order approving the
10 reconciliation.

11 Is there any discussion?

12 (No response.)

13 CHAIRMAN SCOTT: Any objections?

14 (No response.)

15 CHAIRMAN SCOTT: Hearing none, the Order the
16 entered.

17 Item E-6 is Docket No. 13-0597. This is
18 Ameren 's petition pursuant to Section 6-102 of the
19 Illinois Public Utilities Act for an Order authorizing
20 an entry of an \$8 million revolving credit agreement,
21 which ALJ Jones recommends we grant.

22 Is there any discussion?

23 (No response.)

24 CHAIRMAN SCOTT: Any objections?

1 (No response.)

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

4 Items E-7 and E-8 can be taken together.
5 These items are petitions for the -- and/or proprietary
6 treatment of each Petitioner's Part 451 annual report
7 for a period of not less than two years. In each case,
8 the ALJ recommends entry of an Order granting the
9 requested relief.

10 Is there any discussion?

11 (No response.)

12 CHAIRMAN SCOTT: Are there any objections?

13 (No response.)

14 CHAIRMAN SCOTT: Hearing none, the Orders are
15 entered.

16 Item E-9 is Docket No. 0662. This is Emuna
17 Energy's Application for Authority to operate as an
18 agent, broker or consultant under Section 16-115C of the
19 Public Utilities Act. ALJ Kimbrel recommends entry of
20 an Order approving the Application.

21 Is there any discussion?

22 (No response.)

23 CHAIRMAN SCOTT: Are there any objections?

24 (No response.)

1 CHAIRMAN SCOTT: Hearing none, the Order is
2 entered.

3 Item E-10 is Docket No. 11-0722. This is
4 North Shore Sanitary District's complaint against ComEd
5 as to Section 10-108 of the Public Utilities Act 220
6 ILCS 5/10-108 and Section 200.170. The parties have
7 apparently settled their differences and have filed a
8 Stipulation and Joint Motion to Dismiss, which ALJ
9 Hilliard recommends we grant.

10 Is there any discussion?

11 (No response.)

12 CHAIRMAN SCOTT: Are there any objections?

13 (No response.)

14 CHAIRMAN SCOTT: Hearing none, the Joint Motion to
15 Dismiss is granted.

16 Item E-11 is Docket No. 13-0348. This is
17 Kevin Thayer's complaint against Ameren as to criminal
18 damage to property in Clinton. The parties have settled
19 their differences and have filed a Joint Motion to
20 Dismiss, which ALJ Von Qualen recommends we grant.

21 Is there any discussion?

22 (No response.)

23 CHAIRMAN SCOTT: Are there any objections?

24 (No response.)

1 CHAIRMAN SCOTT: Hearing none, the Joint Motion to
2 Dismiss is granted.

3 Item E-12 is Docket No. 13-0349. This is
4 Gilbert Candelario's complaint against ComEd as to
5 billing and/or charges in Chicago. ALJ Teague-Kingsley
6 recommends entry of an Order denying the complaint.

7 Is there any discussion?

8 (No response.)

9 CHAIRMAN SCOTT: Are there any objections?

10 (No response.)

11 CHAIRMAN SCOTT: Hearing none, the Order is
12 entered, and the complaint is denied.

13 Item E-13 is Docket No. 13-0415. This is
14 Marcela Guerrero Hawaii Beauty Salon's complaint against
15 ComEd as to billing and/or charges in Aurora. The
16 parties have apparently settled their differences and
17 have filed a Stipulation and Joint Motion to Dismiss,
18 which ALJ Benn recommends we grant.

19 Is there any discussion?

20 (No response.)

21 CHAIRMAN SCOTT: Are there any objections?

22 (No response.)

23 CHAIRMAN SCOTT: Hearing none, the Joint Motion to
24 Dismiss is granted.

1 Turning now to natural gas, Items G-1 and G-2
2 can be taken together. These are our reconciliation of
3 revenues collected under gas and adjustment charges with
4 actual costs prudently incurred for North Shore Gas and
5 The Peoples Gas Light and Coke Company. In both cases,
6 ALJ Benn recommends entry of an Order approving the
7 reconciliation.

8 Is there any discussion?

9 (No response.)

10 CHAIRMAN SCOTT: Are there any objections?

11 (No response.)

12 CHAIRMAN SCOTT: Hearing none, the Orders are
13 entered.

14 On to telecommunications. I have T-1, which
15 is Docket No. 13-0505. This is South American Telecom's
16 Application for a Certificate of Authority to operate as
17 a telecommunications carrier in the State of Illinois.
18 ALJ Benn recommends entry of an Order granting the
19 certificate.

20 Is there any discussion?

21 (No response.)

22 CHAIRMAN SCOTT: Any objections?

23 (No response.)

24 CHAIRMAN SCOTT: Hearing none, the Order is

1 entered.

2 Item T-2 is Docket No. 14-0065. This is
3 InLine's Application for a Certificate of local exchange
4 and interexchange authority to operate as a reseller
5 and/or facilities-based carrier of telecommunications in
6 the State of Illinois. ALJ Riley recommends entry of an
7 Order granting the certificate of service authority.

8 Is there any 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-3 and T-4 can be taken together.
15 These items are Petitions for Withdrawal of a
16 certificate of service authority in the State of
17 Illinois, which the ALJ, in both cases, recommends we
18 grant.

19 Is there any discussion?

20 (No response.)

21 CHAIRMAN SCOTT: Are there any objections?

22 (No response.)

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

1 Items T-5 and T-6 can be taken together.
2 These items are Applications for state-issued
3 authorization to provide cable service, pursuant to
4 Section 401 of the Cable and Video Competition Law of
5 2007. In both cases, ALJ Riley recommends issuing the
6 authorization.

7 Is there any discussion?

8 (No response.)

9 CHAIRMAN SCOTT: Are there any objections?

10 (No response.)

11 CHAIRMAN SCOTT: Hearing none, the authorizations
12 to provide service are issued.

13 Items T-7 through T-10 can be taken together.
14 These items are petitions for the confidential and/or
15 proprietary treatment of each petitioner's annual or
16 interconnection report for a period of not less than two
17 years. In each case, the ALJ recommends entry of an
18 Order granting the requested relief.

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.

1 Item T-11 is Docket No. 13-0590. This is our
2 motion to repeal 83 Ill. Adm. Code Section 720.
3 ALJ Albers recommends entry of a Second Notice Order
4 authorizing the submission of the proposed repeal to
5 JCAR.

6 Is there any discussion?

7 (No response.)

8 CHAIRMAN SCOTT: Are there any objections?

9 (No response.)

10 CHAIRMAN SCOTT: Hearing none, the Second Notice
11 Order is entered.

12 Item T-12 is Docket No. 12-0550. This is
13 SprintCom, Inc. and WirelessCo. L.P.'s Petition for
14 Arbitration, pursuant to Section 252 sub (b) of the
15 Telecommunications Act of 1996 to establish an
16 interconnection agreement with AT&T. Sprint and AT&T
17 filed a Joint Motion to Reopen the docket and modify the
18 arbitration decision. ALJs Haynes and Jorgenson
19 recommend entry of an Order on reopening vacating
20 portions of the arbitration decision.

21 While we will vote in favor of granting the
22 motion to reopen the docket to vacate the portion of the
23 decision for issue 43, I would encourage the parties in
24 the future to make a concerted effort to attempt to

1 resolve such issues earlier in the litigation process.
2 Had the issue been resolved previous to this time, it
3 would never appeared in the arbitration decision at all
4 and would have saved a significant amount of resources
5 for the Commission and for others.

6 Additional discussion on this?

7 COMMISSIONER MAYE: Yes, Chairman Scott.

8 COMMISSIONER SCOTT: Commissioner Maye.

9 COMMISSIONER MAYE: Thank you. I'm going to
10 support the ALJs' recommendation for the proposed Order
11 to reopen the docket and vacate the specified portions
12 of the decision; however, I do concur with staff's
13 response to the joint motion that appealing an issue the
14 Commission has litigated and decided and then settling
15 the issue through the appeals process is not the most
16 efficient way of doing things. That being said, in this
17 limited circumstance, I will support the Order on
18 Reopening in order to preserve the Commission's
19 resources.

20 COMMISSIONER SCOTT: Commissioner Colgan?

21 COMMISSIONER COLGAN: Yes, I agree with you,
22 Mr. Chairman, and Commissioner Maye's comments, and I,
23 too, will be voting today to grant the motion to reopen
24 the docket to vacate the portion of the arbitration's

1 decision regarding the now-settled issue 43. However, I
2 want to make clear that my vote is in no way suggesting
3 a precedent for modifying issues already decided by the
4 Commission. And the parties should not interfere --
5 should not infer that it is acceptable to litigate an
6 issue before the Commission, appeal the Commission's
7 decision on that issue, and then settle that issue
8 during the Appellate process. I realize that settling
9 this issue will preserve scarce Commission resources,
10 going forward.

11 I, on the other hand, am concerned about the
12 Commission resources that have already been expended
13 that perhaps should -- could have been avoided. This
14 arbitration spanned eight months, several rounds of
15 testimony, three days of evidentiary hearings, motion
16 practice and extensive briefing. It now appears that at
17 least some of this could have been avoided. Arbitration
18 is a process that resolves disputes that cannot be
19 resolved through voluntary negotiation. I encourage the
20 parties to work more effectively together to avoid
21 settling disputes so late in the litigation process that
22 the Commission resources are needlessly expended.

23 That's my comment. Thank you.

24 COMMISSIONER SCOTT: Further discussion?

1 (No response.)

2 CHAIRMAN SCOTT: Are there any objections?

3 (No response.)

4 CHAIRMAN SCOTT: Hearing none, the Order on
5 Reopening is entered.

6 Items T-12 and T-14 can be taken together.
7 These items are Joint Petitions for approval of an
8 interconnection agreement, or second amendment to an
9 agreement, pursuant to 47 U.S.C. Section 252. In both
10 cases, ALJ Benn recommends entry of an Order approving
11 the amendment.

12 Is there any discussion?

13 (No response.)

14 CHAIRMAN SCOTT: Any objections?

15 (No response.)

16 CHAIRMAN SCOTT: Hearing none, the Orders are
17 entered.

18 We have two miscellaneous items on the agenda
19 today. Item M-1 is our motion to initiate a proceeding
20 to consider approval of Version 3, the Illinois
21 Statewide Technical Reference Manual for Energy
22 Efficiency, dated February 24th, 2014. Staff recommends
23 entry of an Order initiating the proceeding.

24 Is there any discussion?

1 (No response.)

2 CHAIRMAN SCOTT: Is there any objection?

3 (No response.)

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

6 Item M-2 is Docket No. 11-0711. This is our
7 motion regarding development and adoption of rules
8 concerning rate case expense. The Utility Stakeholders
9 have filed a joint proposal, requesting that the
10 Commission order additional workshops prior to issuing
11 the First Notice Order, which ALJ Sainsot recommends we
12 deny.

13 For purposes of discussion, I'd like to
14 acknowledge that the Commission agrees with staff and
15 the AG/CUB that this proposal would serve no purpose
16 other than to further delay this proceeding and
17 ultimately the Utility's accountability to the general
18 public as it concerns their rate case expenses. The
19 parties have held extensive workshops over the last
20 three years and had plenty of opportunities in which to
21 propose edits to the Rule. This joint proposal presents
22 no evidence to justify the need for additional workshops
23 and, in truth, seems to be nothing more than just a
24 delay.

1 Are there any objections to denying the
2 request for further discussion?

3 (No response.)

4 CHAIRMAN SCOTT: Any objections?

5 (No response.)

6 CHAIRMAN SCOTT: Hearing none, the request is
7 denied.

8 We have one item of other business on today's
9 agenda. This item concerns pending litigation, so we'll
10 need to go into closed session to address it.

11 Is there a motion to go into closed session?

12 COMMISSIONER del VALLE: Moved.

13 CHAIRMAN SCOTT: Moved by Commissioner del Valle.

14 Is there a second?

15 COMMISSIONER McCABE: Seconded.

16 COMMISSIONER SCOTT: Seconded by Commissioner
17 McCable.

18 All in a favor, say aye.

19 (Ayes heard.)

20 CHAIRMAN SCOTT: Any opposed?

21 (No response.)

22 CHAIRMAN SCOTT: The vote is five to nothing, and
23 the Commission will now go into closed session. Please
24 let me know when the room is ready in Springfield.

1 (WHEREUPON, pages 23-33 of the
2 proceeding are contained in a
3 separate closed transcript.)

4 CONTINUATION OF PROCEEDING

5 COMMISSIONER SCOTT: In the closed session, Randy
6 Rismiller of Commission staff briefed us on FERC Docket
7 No. ER14-503-001 concerning the ICC's comments on PJM's
8 filing responding to FERC's deficiency notice regarding
9 PJM's proposal to revise the Reliability Pricing Model
10 design to add a Capacity Import Limit.

11 Is there a motion to file the comments with
12 FERC?

13 COMMISSIONER COLGAN: So moved.

14 CHAIRMAN SCOTT: Moved by Commissioner Colgan.

15 Second.

16 COMMISSIONER McCABE: Seconded.

17 COMMISSIONER SCOTT: Seconded by Commissioner
18 McCabe.

19 All in a favor, say aye.

20 (Ayes heard.)

21 CHAIRMAN SCOTT: Any opposed?

22 (No response.)

23 CHAIRMAN SCOTT: The vote is five to nothing, and
24 the filing will be made with FERC.

1 Judge Wallace, are there any other matters to
2 come before the Commission today?

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

4 CHAIRMAN SCOTT: Thank you, sir.

5 Thank you to our guests for being here.

6 Having nothing else to come before the
7 Commission, this meeting stands adjourned. Thanks,
8 everyone.

9 END OF PUBLIC UTILITY AGENDA

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CERTIFICATE OF REPORTER

I, Meagan M. Cahill, a Certified Shorthand Reporter within and for the State of Illinois do hereby certify that the Bench Session aforementioned was held on the time and in the place previously described.

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

MEAGAN M. CAHILL, CSR
IL CSR # 084-004754