

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

BEFORE THE
ILLINOIS COMMERCE COMMISSION
REGULAR OPEN MEETING
(PUBLIC UTILITY)
Chicago, Illinois
Wednesday, March 27, 2013

Met, pursuant to notice, at 10:30 a.m. in the
Main Conference Room, 160 North LaSalle Street,
Chicago, Illinois.

PRESENT:

- MR. DOUGLAS P. SCOTT, Chairman
 - MR. JOHN T. COLGAN, Commissioner
 - MS. ANN McCABE, Commissioner
 - MR. MIGUEL del VALLE, Acting Commissioner
 - MS. SHERINA E. MAYE, Acting Commissioner
- L.A. COURT REPORTERS by
Kari Wiedenhaupt, Reporter, CSR# 084-004725

1 CHAIRMAN SCOTT: Is everything ready in
2 Springfield?

3 JUDGE WALLACE: Yes.

4 CHAIRMAN SCOTT: Pursuant to the provisions of
5 the Open Meetings Act, I now convene a Regular Open
6 Meeting of the Illinois Commerce Commission. With me
7 in Chicago are Commissioner Colgan, Commissioner
8 McCabe, Acting Commissioner del Valle and Acting
9 Commissioner Maye. We have a quorum.

10 I do want to state at the beginning of
11 the meeting today that Commissioner Maye will be
12 abstaining today on all votes. Before moving into
13 the agenda, according to Section 1700.10 of Title 2
14 of the Administrative Code, this is the time we allow
15 members of the public to address the Commission.
16 Members of the public wishing to address the
17 Commission must notify the Chief Clerk's Office at
18 least 24 hours prior to Commission meetings.
19 According to the Chief Clerk's Office, we have no
20 requests to speak at today's meeting.

21 Moving onto the agenda for today, Item
22 1 is the approval of minutes from our March 6th Bench

1 session. I understand amendments have been
2 forwarded.

3 Is there a motion to amend the
4 minutes?

5 COMMISSIONER MCCABE: So moved.

6 CHAIRMAN SCOTT: Is there a second?

7 COMMISSIONER COLGAN: Second.

8 CHAIRMAN SCOTT: It's been moved and seconded.

9 All in favor, say aye.

10 (Chorus of ayes.)

11 CHAIRMAN SCOTT: Any opposed?

12 (No response.)

13 CHAIRMAN SCOTT: The vote is four to nothing,
14 and the amendments are adopted. Is there now a
15 motion to approve the minutes as amended.

16 COMMISSIONER COLGAN: So moved.

17 CHAIRMAN SCOTT: Is there a second?

18 COMMISSIONER MCCABE: Second.

19 CHAIRMAN SCOTT: It's been moved and seconded.

20 All in favor, say aye.

21 (Chorus of ayes.)

22 CHAIRMAN SCOTT: Any opposed?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

(No response.)

CHAIRMAN SCOTT: The vote is four to nothing, and the March 6th Bench session minutes as amended are approved. We will use this four to nothing vote for the remainder of today's Regular Open Meeting unless otherwise noted.

Item 2 is Docket No. 11-0461. This is Joel Harris' billing complaint against ComEd concerning potential overcharges from an improperly operating meter. ALJ Benn recommends entry of an order denying the complaint.

Commissioner McCabe, I believe you have some revisions on this matter?

COMMISSIONER MCCABE: Yes. My proposed changes address some questions that came up in this case. As Commissioners reviewing an Order, we are not privy to the off-the-record discussions in a docket. We can and do look at the record and base our Orders on it.

In this case, both the Order and the record raised questions. I submitted questions to the parties and their responses raised some more questions. Ultimately, it became clear that the

1 Order in this case should reflect the full procedural
2 history of this case and address the evidence that
3 was eventually put forward.

4 In this case, a ratepayer, Mr. Harris,
5 suspected that his meter was malfunctioning,
6 resulting in inflated bills. After considerable
7 effort on his part, ComEd did come out and test the
8 meter. They determined that the meter was over
9 counting his usage and issued him a check for just
10 under \$600.

11 The ratepayer and ComEd did not agree
12 on the length of time for compensation for the faulty
13 meter. Unbeknownst to the ratepayer, ComEd had
14 already retested his original meter and concluded
15 that the meter had not been malfunctioning and none
16 of the bills had been inflated.

17 They did not disclose this fact. So
18 the ratepayer filed a formal complaint, endured
19 multiple hearings and months of delays and finally
20 learned eight months after the fact that ComEd had
21 actually retested the meter, and that there were no
22 further damages for him to claim.

1 Separately, the Commission is
2 concerned with the focus earlier in this case on
3 whether a ratepayer who has been overbilled due to a
4 faulty meter is limited to only two years of
5 recovery. In cases such as this one, no such limit
6 applies. We also note that ComEd did not follow the
7 Commission's rules requiring a customer to be present
8 when the meter is tested at his residence.

9 The final Order in this case sets out
10 all these issues. It still denies the complaint, and
11 I move the Order as amended.

12 CHAIRMAN SCOTT: You are moving the approval of
13 the revisions then, correct?

14 COMMISSIONER MCCABE: Yes.

15 CHAIRMAN SCOTT: And I will second that.

16 Is there any further discussion?

17 (No response.)

18 CHAIRMAN SCOTT: I will just say that I
19 appreciate your revisions. I know that there was a
20 lot of concern about the evidence in the case, and I
21 think you said it very well and also the apparent
22 sort of statutory bar to claims that are more than

1 two years old, which I know the person has to bring
2 it within two years from the time that they discover
3 the problem, but I don't see anything in the Act, as
4 you don't from the revisions, that would call for a
5 bar to that.

6 So I appreciate all the work that you
7 did on this and the revisions and I think while, as
8 you said, it doesn't change the conclusion, I think
9 it makes how we got to that decision a little clearer
10 and sets out some guidelines for the future. So I
11 appreciate all the work that you did on it.

12 Further discussion?

13 (No response.)

14 CHAIRMAN SCOTT: It's been moved and seconded
15 to adopt the revisions. All in favor, say aye.

16 (Chorus of ayes.)

17 CHAIRMAN SCOTT: Any opposed?

18 (No response.)

19 CHAIRMAN SCOTT: The vote is four to nothing,
20 and the revisions are adopted.

21 Is there any further discussion on
22 this matter?

1 (No response.)

2 CHAIRMAN SCOTT: Commissioner McCabe, then do
3 you move to enter the Order as revised?

4 COMMISSIONER MCCABE: Yes.

5 CHAIRMAN SCOTT: Is there a second?

6 COMMISSIONER COLGAN: Second.

7 CHAIRMAN SCOTT: It's been moved and seconded.
8 All in favor, say aye.

9 (Chorus of ayes.)

10 CHAIRMAN SCOTT: Any opposed?

11 (No response.)

12 CHAIRMAN SCOTT: The vote is four to nothing,
13 and the Order as revised is entered.

14 Item 3 is Docket No. 12-0213. This is
15 our rulemaking proceeding for Title 83, Part 468 of
16 the Administrative Code concerning certification
17 requirements for distributed generation installers.
18 ALJ Albers recommends entry of an Order adopting the
19 proposed rule with an effective date of April 25th,
20 2013.

21 Is there any discussion on this
22 matter?

1 (No response.)

2 CHAIRMAN SCOTT: Are there any objections to
3 entering the Order?

4 (No response.)

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

7 Item 4 is Docket No. 12-0499. This is
8 HIKO Energy's application for certification as an
9 alternative retail electric supplier. This matter
10 will be held for disposition at a future Commission
11 meeting.

12 Item 5 is Docket No. 13-0076. This is
13 Lucy Litvinenko's complaint against ComEd. The
14 parties have apparently settled their differences and
15 have brought a Joint Motion to Dismiss, which ALJ
16 Kimbrel recommends we grant.

17 Is there any discussion?

18 (No response.)

19 CHAIRMAN SCOTT: Any objections?

20 (No response.)

21 CHAIRMAN SCOTT: Hearing none, the Joint Motion
22 to Dismiss is granted.

1 Item 6 is Docket No. 13-0077. This is
2 a proceeding for adopting policies concerning the
3 statewide technical reference manual for energy
4 efficiency program evaluation. There are no
5 contested issues in this matter, and ALJ Kimbrel
6 recommends entry of an Order adopting policies
7 consistent with the initial filing.

8 Is there any discussion?

9 (No response.)

10 CHAIRMAN SCOTT: Any objections?

11 (No response.)

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

14 Items 7 and 8 can be taken together.
15 These items are petitions for the confidential and/or
16 proprietary treatment of the petitioners' reports.
17 In each case, ALJ Sainsot recommends entry of an
18 Order granting the requested protective relief.

19 Is there any discussion?

20 (No response.)

21 CHAIRMAN SCOTT: Any objections?

22

1 (No response.)

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

4 Item 9 is Docket No. 11-0696. This is
5 Cbeyond's complaint against AT&T. ALJ Sainsot
6 recommends entry of an Order dismissing this matter
7 with prejudice.

8 Is there any discussion?

9 (No response.)

10 CHAIRMAN SCOTT: Any objections?

11 (No response.)

12 CHAIRMAN SCOTT: Hearing none, the Order is
13 entered, and this matter is dismissed.

14 Items 10 and 11 can be taken together.
15 These items are Joint Petitions for the approval of
16 amendments to interconnection agreements between
17 telecommunications carriers. In each case, the
18 parties have moved to withdraw their application, and
19 ALJ Baker recommends granting withdrawal.

20 Is there any discussion?

21 (No response.)

22 CHAIRMAN SCOTT: Any objections?

1 (No response.)

2 CHAIRMAN SCOTT: Hearing none, the petitions
3 are withdrawn.

4 Items 12 through 14 can be taken
5 together. These items are also Joint Petitions for
6 the approval of amendments to interconnection
7 agreements between telecommunications carriers. In
8 each case, the ALJ recommends entry of an Order
9 approving the amendment.

10 Is there any discussion?

11 (No response.)

12 CHAIRMAN SCOTT: Any objections?

13 (No response.)

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

16 Item 15 is Docket No. 13-0151. This
17 is AT&T's Petition for the confidential and/or
18 proprietary treatment of its annual report. ALJ
19 Albers recommends entry of an Order granting the
20 requested protective treatment.

21 Is there any discussion?

22

1 (No response.)

2 CHAIRMAN SCOTT: Any objections?

3 (No response.)

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

6 Item 16 is Docket No. 10-0366. This
7 is our management audit of Illinois-American Water
8 Company. This item will be held for disposition at a
9 future Commission meeting.

10 Item 17 is a FERC matter which
11 concerns pending litigation. So we will go into
12 closed session to address it. Is there a motion to
13 go into closed session?

14 COMMISSIONER COLGAN: So moved.

15 CHAIRMAN SCOTT: Is there a second?

16 COMMISSIONER MCCABE: Second.

17 CHAIRMAN SCOTT: It's been moved and seconded.
18 All in favor, say aye.

19 (Chorus of ayes.)

20 CHAIRMAN SCOTT: Any opposed?

21 (No response.)

22 CHAIRMAN SCOTT: The vote four to nothing, and

1 the Commission will now go into closed session.

2 Please let me know when the room is
3 ready in Springfield.

4 JUDGE WALLACE: Okay. Yeah. We are ready.

5 CHAIRMAN SCOTT: Thanks.

6 MR. HANSON: This is -- do you want me to start
7 speaking? This is --

8 CHAIRMAN SCOTT: Hang on just a second. We are
9 waiting for our room to clear here.

10 MR. HANSON: Okay. Sorry.

11 (Whereupon, the meeting went
12 into closed session.)

13

14

15

16

17

18

19

20

21

22

1 CHAIRMAN SCOTT: In closed session the
2 Commission discussed making a filing in FERC Docket
3 No. ER13-535-001. Is there a motion to make the
4 filing with FERC?

5 COMMISSIONER MCCABE: So moved.

6 CHAIRMAN SCOTT: Is there a second?

7 COMMISSIONER COLGAN: Second.

8 CHAIRMAN SCOTT: It's been moved and seconded.

9 All in favor, say aye.

10 (Chorus of ayes.)

11 CHAIRMAN SCOTT: Any opposed?

12 (No response.)

13 CHAIRMAN SCOTT: The vote is four to nothing,
14 and the filing will be made with FERC. Before we
15 adjourn today, I have one thing I need to bring to
16 everybody's attention. He is hiding in the back.
17 Brian Granahan, this is his last day at the
18 Commission. It's very sad for me and I think for the
19 other Commissioners, but a good day for Brian. He is
20 moving on to a -- it seems like a great opportunity
21 in the private sector. I know he is going to do very
22 well. Brian has been with the Commission for three

1 years. He has been working for me for the last two.
2 He's not only a really good guy, but a really good
3 public servant, and he has done a great job for me
4 and for the Commissioners and for the people in the
5 state. And I just want to wish you luck, Brian, and
6 we are going to lose not only the biggest Iowa fan I
7 think we have in the office, but one of the only
8 people that actually admits to liking Nicholas Cage.

9 So we are losing out from the
10 Commission standpoint, but Brian, we wish you all the
11 best, and good luck to you.

12 MR. GRANAHAN: Do I have a chance for rebuttal?

13 CHAIRMAN SCOTT: No. Absolutely not.

14 Judge Wallace, are there any further
15 matters to come before the Commission today?

16 COMMISSIONER COLGAN: Well, I'd say -- I would
17 just like to say thank you as well to Brian. It's
18 been a pleasure most of the time to work with you,
19 and, you know, I think you have made a significant
20 contribution and, you know, you have been -- you have
21 a good sense of humor and a lot of wit and
22 intelligence and substance that you have brought to

1 our process. And I am sure that we are going to miss
2 you, but I do wish you the very best luck, and stay
3 in touch.

4 CHAIRMAN SCOTT: Go ahead.

5 COMMISSIONER MCCABE: I second those
6 sentiments, and we know you aren't going far.

7 CHAIRMAN SCOTT: And not only do you not get a
8 chance to rebut, but now we know why you don't come
9 into the room during most of the Commission meetings.

10 Judge Wallace, anything further to
11 come before the Commission?

12 JUDGE WALLACE: Not today. I wish you luck on
13 finding an Iowa Hawkeye fan to replace Brian, though.

14 CHAIRMAN SCOTT: Thanks, Judge. Hearing
15 nothing else to come before the Commission, this
16 meeting stands adjourned. Thanks everyone. Good
17 luck, Brian.

18 (END OF PROCEEDINGS.)

19

20

21

22