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BEFORE THE
ILLINOIS COMMERCE COMMISSION

BENCH SESSION
(PUBLIC UTILITIES)

Springfield, Illinois
Wednesday, April 22, 2015

Met, pursuant to notice, at 10:30 a.m. at
527 East Capitol Avenue, Springfield, Illinois.

- PRESENT:
- MR. BRIEN J. SHEAHAN, Chairman
 - MR. MIGUEL DEL VALLE, Commissioner (by video)
 - MS. SHERINA E. MAYE, Commissioner
 - MS. ANN McCABE, Commissioner
 - MR. JOHN R. ROSALES, Commissioner

MIDWEST LITIGATION SERVICES, by
Angela C. Turner, Reporter
CSR #084-004122

1 PROCEEDINGS

2 CHAIRMAN SHEAHAN: Good morning.

3 Commissioner del Valle, are you ready?

4 COMMISSIONER DEL VALLE: Yes, we are,
5 Mr. Chairman.

6 Good morning to everyone.

7 CHAIRMAN SHEAHAN: Good morning.

8 Pursuant to the Open Meetings Act, I call
9 the April 22, 2015, Bench Session of the Illinois
10 Commerce Commission to order. Commissioners McCabe,
11 Maye, and Rosales are present with me in Springfield.
12 Commissioner del Valle is with us from Chicago. We
13 have a quorum.

14 We have no requests to speak and will
15 therefore move into our regular Transportation
16 agenda.

17 (The Transportation portion of the
18 proceedings was held at this time
19 and is contained in a separate
20 transcript.)

21 CHAIRMAN SHEAHAN: We'll now move into our
22 Public Utility Bench agenda.

23 We have a number of non-sub changes to the
24 minutes of the March 25, 2015, Bench Meeting, as well

1 as the April 1, 2015, Special Open Meeting.

2 Are there any objections to making these
3 changes?

4 (No response.)

5 CHAIRMAN SHEAHAN: Hearing none, the changes
6 are approved.

7 Are there any objections to approving the
8 minutes of those two dates, as amended?

9 (No response.)

10 CHAIRMAN SHEAHAN: Hearing none, the edited
11 minutes are approved.

12 Moving on to the Electric agenda.

13 Item E-1 on our Electric agenda is an Order
14 to initiate a proceeding investigating Ameren
15 Illinois' compliance with energy efficiency standards
16 under the Public Utilities Act.

17 Is there any objection to approving the
18 proposed Order to initiate the proceeding?

19 (No response.)

20 CHAIRMAN SHEAHAN: Hearing none, the Order
21 is approved.

22 Item E-2 is Mt. Carmel Public Utility's
23 filing to modify Rider D concerning Parallel
24 Generation Service.

1 Is there any objection to not suspending the
2 filing in this case?

3 (No response.)

4 CHAIRMAN SHEAHAN: Hearing none, the filing
5 is not suspended.

6 Item E-3 is Ameren Illinois' Joint Petition
7 to Reopen and Amend an Order.

8 Is there any objection to granting the Joint
9 Petition and entering an Amendatory Order?

10 (No response.)

11 CHAIRMAN SHEAHAN: Hearing none, the Joint
12 Petition and Amendatory Order are approved.

13 Item E-4 is an Order on Reopening concerning
14 Ameren Illinois' Energy Efficiency and
15 Demand-Response Plan.

16 I believe Commissioners McCabe and del Valle
17 have some issues to discuss regarding this case.

18 COMMISSIONER McCABE: Yes.

19 I propose some edits prepared jointly with
20 Commissioner del Valle's office that address the
21 application of the Total Resource Cost test, cost
22 recovery of the Smart Devices Plan, and the timeline
23 for Ameren to begin the program.

24 The edits find that the agreed-upon enable

1 CHAIRMAN SHEAHAN: Motion carries.

2 Is there a motion to adopt the proposal, as
3 edited?

4 COMMISSIONER McCABE: So moved.

5 CHAIRMAN SHEAHAN: Is there a second?

6 COMMISSIONER MAYE: Second.

7 CHAIRMAN SHEAHAN: Any discussion?

8 (No response.)

9 CHAIRMAN SHEAHAN: All those in favor, say
10 aye.

11 (Chorus of ayes.)

12 CHAIRMAN SHEAHAN: Opposed, say no.

13 (No response.)

14 CHAIRMAN SHEAHAN: Motion carries.

15 Thank you, Commissioners.

16 Item E-5 is an Order approving ComEd's
17 reconciliation of revenues collected with regard to
18 power procurement.

19 Is there any objection to approving the
20 proposed Order?

21 (No response.)

22 CHAIRMAN SHEAHAN: Without objection, the
23 Order is approved.

24 Items E-6 through 8 are Motions to Dismiss

1 various complaints.

2 Is there any objection to considering these
3 items together and approving the Motions to Dismiss?

4 (No response.)

5 CHAIRMAN SHEAHAN: Hearing none, the Motions
6 to Dismiss are approved.

7 Items E-9 through 11 are applications for
8 Electric Vehicle Charging Station and Distributed
9 Generation Installer Authority.

10 Are there are any objections to considering
11 these items together and approving the proposed
12 Orders?

13 (No response.)

14 CHAIRMAN SHEAHAN: Hearing none, the Orders
15 are approved.

16 Items E-12 through 19 are petitions for the
17 confidential treatment of various reports.

18 Are there any objections to considering
19 these items together and approving the proposed
20 Orders?

21 (No response.)

22 CHAIRMAN SHEAHAN: Hearing none, the Orders
23 are approved.

24 Item E-20 is an Application for Authority to

1 Operate as an Agent, Broker, or Consultant.

2 Is there any objection to entering the Order
3 approving the Application?

4 (No response.)

5 Hearing none, the Order is approved.

6 Items E-21 and 22 are complaints filed by
7 the Citizen's Utility Board regarding Ameren
8 Illinois' and ComEd's 2015 AMI Implementation
9 Progress Reports.

10 Are there any objections to considering
11 these items together?

12 (No response.)

13 CHAIRMAN SHEAHAN: Is there a motion to
14 dismiss the complaints?

15 COMMISSIONER ROSALES: So moved.

16 CHAIRMAN SHEAHAN: Is there a second?

17 COMMISSIONER MAYE: Second.

18 CHAIRMAN SHEAHAN: Is there any discussion?

19 COMMISSIONER DEL VALLE: Yes, Mr. Chairman.

20 The 2011 Energy Infrastructure Modernization
21 Act was implemented partly to provide more regulatory
22 certainty for electric utility as they expend large
23 amounts of capital in modernizing the grid. This
24 included a pared down process accelerating their rate

1 cases while adding reconciliations. It also
2 established this narrow window to review the
3 companies' updates to their infrastructure investment
4 plans.

5 The companies have benefited from the
6 certainty and quick review process as they roll out
7 their programs. However, as has been pointed out by
8 advocates, the ratepayers have been slow to realize
9 the benefits they were promised. These AMI updates
10 before us for consideration represent the blueprints
11 for achieving these benefits promised to the General
12 Assembly and ratepayers.

13 Staff notes that the utilities have met
14 requirements to be in compliance with the law. And I
15 don't believe there was enough time allowed for them
16 to conduct a thorough analysis of the content or
17 substance of the AMI updates.

18 The Commission has the responsibility to
19 take a close look at these expansive programs on
20 behalf of the ratepayers and the General Assembly.
21 As long as parties bring before the Commission
22 reasonable concerns, then the Commission should take
23 the steps required to bring more transparency and
24 clarity into how the utilities are using these

1 dollars that increase everyone's bills.

2 Here, CUB has raised reasonable concerns
3 regarding both ComEd's and Ameren's AMI updates, and
4 the Commission should initiate investigations in
5 response. And because of what I just indicated, I
6 will be voting no on the motion to dismiss.

7 CHAIRMAN SHEAHAN: Thank you, Commissioner.

8 Is there any other discussion?

9 (No response.)

10 CHAIRMAN SHEAHAN: All those in favor of the
11 motion to dismiss the complaints in E-21 and 22, say
12 aye.

13 Aye.

14 COMMISSIONER MAYE: Aye.

15 COMMISSIONER ROSALES: Aye.

16 CHAIRMAN SHEAHAN: Opposed, say no.

17 COMMISSIONER McCABE: No.

18 CHAIRMAN SHEAHAN: And Commissioner del
19 Valle is a no, I believe.

20 COMMISSIONER DEL VALLE: Yes.

21 CHAIRMAN SHEAHAN: So the motion to dismiss
22 passes 3 to 2.

23 Moving on to our Gas agenda.

24 Items G-1 and G-2 are Orders initiating

1 proceedings to investigate Nicor Gas and North Shore/
2 Peoples Gas Companies' complaints with the energy
3 efficiency standard requirements of the Public
4 Utilities Act.

5 Are there any objections to considering
6 these items together and approving the Orders?

7 (No response.)

8 CHAIRMAN SHEAHAN: Hearing none, the Orders
9 are approved.

10 Items 3 and 4 involve changes to Peoples and
11 North Shore Gas' Uncollectible Expense Rider UEA.

12 Are there any objections to considering
13 these items together and approving the Staff's
14 recommendation that the filing not be suspended?

15 (No response.)

16 CHAIRMAN SHEAHAN: Hearing none, the filing
17 is not suspended.

18 Item G-5 is a Petition for Interlocutory
19 Review concerning Nicor Gas Company's reconciliation
20 of revenues collected under a rider associated with
21 the energy efficiency and on-bill financing programs.

22 Is there a motion to deny the Petition for
23 Interlocutory Review?

24 COMMISSIONER MAYE: So moved.

1 CHAIRMAN SHEAHAN: Is there a second?

2 COMMISSIONER ROSALES: Second.

3 CHAIRMAN SHEAHAN: Is there any discussion?

4 (No response.)

5 CHAIRMAN SHEAHAN: It's been moved and
6 seconded.

7 All those in favor of denying the petition,
8 say aye.

9 Aye.

10 COMMISSIONER MAYE: Aye.

11 COMMISSIONER McCABE: Aye.

12 COMMISSIONER ROSALES: Aye.

13 CHAIRMAN SHEAHAN: Opposed, say no.

14 COMMISSIONER DEL VALLE: No.

15 CHAIRMAN SHEAHAN: Motion carries 4 to 1.

16 And the Petition for Interlocutory Review is denied.

17 Item G-6 is a complaint against Peoples Gas
18 Light and Coke Company as to the trespassing and
19 stealing of property in Chicago.

20 Commissioner Rosales, I believe you have a
21 proposed edit in this case.

22 COMMISSIONER ROSALES: I would like to
23 propose an edit to the Commission Analysis and
24 Conclusions section of the Order. The edits can be

1 found on page 10 of the Order. It does not change
2 the result reached in the Order, but rather adds
3 language regarding the on-bill service charges at
4 issue in this case.

5 Because the Order finds Respondent, Peoples
6 Gas, failed to prove Mr. Kreith was liable for the
7 alleged unbilled services charges, this edit
8 instructs Peoples Gas not to collect the alleged
9 charges through its Uncollectible Expense Adjustment
10 rider, Rider UEA.

11 I would also like to note that while the
12 Commission will not tolerate tampering, which the ALJ
13 found existed in this case, there was simply
14 insufficient evidence to show what amounts, if any,
15 Mr. Kreith owed.

16 With that, I move for the adoption of these
17 edits.

18 Thank you, Mr. Chairman.

19 CHAIRMAN SHEAHAN: Is there a second?

20 COMMISSIONER McCABE: Second.

21 CHAIRMAN SHEAHAN: Is there any discussion?

22 (No response.)

23 CHAIRMAN SHEAHAN: All those in favor, say
24 aye.

1 (Chorus of ayes.)

2 CHAIRMAN SHEAHAN: Opposed, say no.

3 (No response.)

4 CHAIRMAN SHEAHAN: Motion passes 5 to 0.

5 Is there a motion to pass the Order, as
6 edited?

7 COMMISSIONER MAYE: So moved.

8 CHAIRMAN SHEAHAN: Is there a second?

9 COMMISSIONER McCABE: Second.

10 CHAIRMAN SHEAHAN: Any discussion?

11 (No response.)

12 CHAIRMAN SHEAHAN: All those in favor, say
13 aye.

14 (Chorus of ayes.)

15 CHAIRMAN SHEAHAN: Opposed, say no.

16 (No response.)

17 CHAIRMAN SHEAHAN: The Order, as edited, is
18 adopted.

19 Item G-7 is a petition by Liberty Midstates
20 to amend and approve an Affiliate Services Agreement
21 with Liberty Utilities Service Corporation.

22 Is there any objection to approving the
23 proposed Order?

24 (No response.)

1 CHAIRMAN SHEAHAN: Hearing none, the Order
2 is approved.

3 Item G-8 is an Order authorizing Second
4 Notice in the amendment of the Administrative Code
5 Part 590.

6 Is there any objection to approving the
7 Order authorizing the Second Notice?

8 (No response.)

9 CHAIRMAN SHEAHAN: Hearing none, the Order
10 is approved.

11 Items G-9 and 10 are applications for
12 Certificates of Service Authority under the Public
13 Utilities Act.

14 Are there any objections to considering
15 these items together and approving the proposed
16 Orders?

17 (No response.)

18 CHAIRMAN SHEAHAN: Hearing none, the Orders
19 are approved.

20 Moving on to our Telecommunication agenda.

21 Item T-1 is an Order regarding the
22 withdrawal of an Application for Certificate of Local
23 and Interexchange Authority.

24 Is there any objection to approving the

1 proposed Order?

2 (No response.)

3 CHAIRMAN SHEAHAN: Hearing none, the Order
4 is approved.

5 Item T-2 is SelectTel, Inc.'s Application for
6 a Certificate of Wireless Authority to operate as a
7 reseller of communication services.

8 Is there an objection to approving the
9 proposed Order?

10 (No response.)

11 CHAIRMAN SHEAHAN: Hearing none, the Order
12 is approved.

13 Items T-3 through 13 are petitions for
14 confidential treatment of various reports.

15 Are there any objections to considering
16 these items together and entering the proposed
17 Orders?

18 (No response.)

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

21 Items T-14 through T-21, are Joint Petitions
22 for interconnection agreements or amendments to
23 interconnection agreements.

24 Are there any objections to considering

1 these items together and entering the proposed
2 Orders?

3 (No response.)

4 CHAIRMAN SHEAHAN: Hearing none, the Orders
5 are entered.

6 Item T-22 is an Order providing direction as
7 to the Administration of the Interim Illinois
8 Universal Service Fund.

9 Is there any objection to approving the
10 proposed Order?

11 (No response.)

12 CHAIRMAN SHEAHAN: Hearing none, the Order
13 is approved.

14 Item T-23 is an Order approving DuPage
15 County's Emergency Telephone System Board's Petition
16 for a 9-1-1 Emergency Telephone Number System.

17 Is there any objection to approving the
18 proposed Order?

19 (No response.)

20 CHAIRMAN SHEAHAN: Hearing none, the Order
21 is approved.

22 Moving on to our Water and Sewer agenda.

23 Item W-1 is Illinois-American Water
24 Company's Application for Certificate of Public

1 Convenience and Necessity to provide water and
2 sanitary service to certain areas in DuPage County.

3 Is there any objection to approving the
4 proposed Order?

5 (No response.)

6 CHAIRMAN SHEAHAN: Hearing none, the Order
7 is approved.

8 On our Miscellaneous agenda, we have
9 Comcast's Application for Authorization to Provide
10 Cable Service pursuant to the Cable and Video
11 Competition Law of 2007.

12 Is there any objection to entering the Order
13 approving the application?

14 (No response.)

15 CHAIRMAN SHEAHAN: Hearing none, the Order
16 is approved.

17 We have two items of other business today.
18 The first concerns the ICC's comments and response to
19 FERC's January 22, 2015, Order in Docket
20 ER10-1791-003.

21 Because these items concern pending
22 litigation, we will need to move into closed session.

23 Is there a motion to move into closed
24 session?

1 COMMISSIONER MAYE: So moved.

2 CHAIRMAN SHEAHAN: Is there a second?

3 COMMISSIONER McCABE: Second.

4 CHAIRMAN SHEAHAN: All in favor, say aye.

5 (Chorus of ayes.)

6 CHAIRMAN SHEAHAN: Motion to move into

7 closed session passes 5 to 0.

8 And we'll clear the rooms of everyone but

9 Staff.

10 (Pages 20 - 26 of the proceedings

11 are contained in a separate closed

12 transcript.)

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CONTINUATION OF PROCEEDINGS

COMMISSIONER DEL VALLE: We're ready.

CHAIRMAN SHEAHAN: Thank you, sir.

The final item on our agenda today is an Administrative issue, appointment of a new Executive Director.

I'd like to entertain a motion concerning the appointment of the Executive Director.

COMMISSIONER ROSALES: Mr. Chairman, I move to authorize you, as Chairman, to execute on behalf of the Commission a contract made pursuant to the Public Utilities Act to hire Cholly Smith as the Executive Director of the Illinois Commerce Commission with a salary and benefits reasonable and customary to this position.

CHAIRMAN SHEAHAN: Is there a second?

COMMISSIONER MAYE: Second.

CHAIRMAN SHEAHAN: Is there any discussion?

COMMISSIONER DEL VALLE: Yes.

Mr. Chairman, I will be abstaining from voting on this matter such in 2-105 of the Public Utilities Act requires that the Commission act jointly to hire an Executive Director. In summarizing the bill that enacted this law, Senator

1 Netsch and Representative Levin clearly stated that
2 the purpose of the law was to establish that the
3 Executive Director is to be selected by all -- and I
4 underline "all" -- of the Commissioners.

5 I made clear to my colleagues after the
6 resignation of our previous Executive Director that
7 it is my belief that, at the very least, the statute
8 requires that we establish a process which engages
9 all -- and I underline "all" -- the Commissioners in
10 the selection and hiring of the next Executive
11 Director.

12 No such process was established here. And
13 for that reason, I will be abstaining from this vote.

14 CHAIRMAN SHEAHAN: Thank you, Commissioner.

15 I would just note that the Staff did opine
16 on the meaning of the phrase "acting jointly in the
17 PUA," and three staff attorneys came to the
18 conclusion that the phrase does not require a
19 unanimous action on behalf of the Commission. I have
20 also looked at it, as have other Commissioners who
21 were lawyers, and came to the same conclusion.

22 In terms of the process, all the
23 Commissioners had an opportunity to meet Mr. Smith
24 and ask him any questions. He's been available for

1 the last week for additional phone or e-mail
2 conversations or in-person conversations. And I
3 believe that no Commissioners have availed themselves
4 of the further contact. But four of the five
5 Commissioners did take advantage of the opportunity
6 to meet him and ask him questions and provide
7 feedback.

8 So with that note, is there any --

9 COMMISSIONER DEL VALLE: Mr. Chairman, I
10 must respond.

11 Yes, we were offered a meet and greet. I
12 don't think that's a meaningful process. We should
13 have conducted an interview. I understand how this
14 business works and I understand that you're not going
15 to expect and you're not going to get unanimous votes
16 on it. But at the very least -- I repeat -- this
17 should have been a process. I heard this gentleman's
18 name for the first time about a week and a half ago.
19 I have yet to see a resume. It was not forwarded to
20 me. I have yet to see a job description for this
21 position. One was not forwarded to me.

22 And so while I understand that you have the
23 authority, as Chairman, to select, along with the
24 Governor's office, the next Executive Director; and I

1 understand that unanimous vote is not required based
2 on the legal opinion. The fact is that there's been
3 a violation here of the spirit of the law. And as a
4 Commissioner, I did not appreciate that. And I
5 wanted to go on record as stating such.

6 COMMISSIONER MAYE: Mr. Chairman, may I make
7 a comment?

8 CHAIRMAN SHEAHAN: Yes.

9 COMMISSIONER MAYE: Commissioner del Valle,
10 just in response to your violation, I do take that
11 word very seriously as an attorney. So I do need to
12 speak on record and also state that I conducted
13 thorough research, in addition to our advisory staff,
14 in addition to the Chairman who is also a lawyer, in
15 addition to several other outside sources. And there
16 is no requirement by the PUA that we must have a
17 unanimous vote. So I just want to make clear that
18 there was no violation. I think that word is a very
19 serious word, particularly for lawyers who must not
20 be in violation of any laws to maintain their
21 license.

22 COMMISSIONER DEL VALLE: When I say
23 "violation", I am saying a violation of spirit of the
24 law that says all Commissioners shall be involved.

1 And I understand the lawyers have their
2 opinion. I understand that. But if we are to
3 operate as a Commission and work as a small group, as
4 the small group we are, I think the courtesy -- at
5 least a courtesy should have been given to us to
6 conduct thorough interviews with the Executive
7 Director.

8 One of the complaints that we had prior to
9 hiring this individual, which will happen today, is
10 that the Executive Director needed to be more
11 responsive to individual Commissioners. And yet
12 here, we proceed to replace an Executive Director
13 with an individual that we have not had a chance to
14 thoroughly vet. And that is not professional, to say
15 the least. And I object strongly.

16 CHAIRMAN SHEAHAN: Thank you, Commissioner.

17 Obviously, you know, we -- I respectfully
18 disagree with the legal opinion and the
19 characterization.

20 Is there any further discussion?

21 (No response.)

22 CHAIRMAN SHEAHAN: Why don't we -- so
23 Commissioner McCabe, did you have --

24 COMMISSIONER McCABE: No. Just checking on

1 Mr. Matrisch.

2 MR. MATRISCH: It's been brought to my
3 attention that the Commission did not vote on the
4 previous administrative matter with respect to the
5 FERC comments.

6 CHAIRMAN SHEAHAN: Oh, okay. Thank you.

7 MR. MATRISCH: I just want to make sure
8 that's --

9 CHAIRMAN SHEAHAN: I appreciate it. I
10 jumped the gun.

11 Yeah, why don't we go ahead and have the
12 vote on this. And then we'll move back to that item.

13 So before us is the motion that Commissioner
14 Rosales proposed. It was seconded. We have had some
15 discussion.

16 All those in favor, say aye.

17 Aye.

18 COMMISSIONER MAYE: Aye.

19 COMMISSIONER McCABE: Aye.

20 COMMISSIONER ROSALES: Aye.

21 CHAIRMAN SHEAHAN: Opposed, say no.

22 (No response.)

23 CHAIRMAN SHEAHAN: And are there any
24 abstentions?

1 COMMISSIONER DEL VALLE: Abstention.

2 CHAIRMAN SHEAHAN: So the motion passes 4 to
3 0, with 1 abstention.

4 We'll move back to the FERC docket.

5 Is there a motion to adopt the comments that
6 have been proposed?

7 COMMISSIONER McCABE: So moved.

8 CHAIRMAN SHEAHAN: Is there a second?

9 COMMISSIONER MAYE: Second.

10 CHAIRMAN SHEAHAN: Any discussion?

11 (No response.)

12 CHAIRMAN SHEAHAN: All those in favor of
13 adopting the proposed comments on FERC Docket
14 ER10-1791-003, say aye.

15 (Chorus of ayes.)

16 CHAIRMAN SHEAHAN: Opposed, say no.

17 (No response.)

18 CHAIRMAN SHEAHAN: Motion carries.

19 Chief Kimbrel, is there any other business
20 to come before the Commission today?

21 JUDGE KIMBREL: No, Mr. Chairman. That's
22 all.

23 CHAIRMAN SHEAHAN: Okay. Thank you.

24 With that, we stand adjourned. Thank you.

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CERTIFICATE OF REPORTER

I, Angela C. Turner, a Certified Shorthand Reporter within and for the State of Illinois, do hereby certify that the meeting aforementioned was held on the time and in the place previously described.

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

Angela C. Turner
IL CSR #084-004122