

1 CHAIRMAN FLORES: Pursuant to the provisions of
2 Illinois Open Meetings Act, I now convene this
3 Special Open Meeting of the Illinois Commerce
4 Commission.

5 With me in Chicago are Commissioners
6 Ford and O'Connell-Diaz. With us in Springfield are
7 Commissioners Elliott and Colgan. I am acting
8 Chairman Flores. We have a quorum.

9 Before moving into the agenda
10 according to Section 1700.10 of the Illinois
11 Administrative Code, this is the time we allow
12 members of the public to address the Commission.
13 Members of the public wishing to address the
14 Commission must notify the Chief Clerk's Office at
15 least 24 hours prior to the meeting of the
16 Commission. According to Chief Clerk's Office, we
17 have no requests to speak for today's session.

18 We have two items to address at
19 today's Special Open Meeting. The first item is
20 Docket Nos. 09-0306 through 09-0311. This is the
21 rate case for the Ameren Illinois Utilities, and
22 today we are addressing parties' request for

1 rehearing.

2 The Commission issued it's Order in
3 this docket on April 29th and came back with a
4 corrected Order on May 6. We received timely filed
5 rehearing requests for Ameren Illinois Utilities, the
6 Illinois Industrial Energy Consumers and CUB and the
7 Attorney General's Office. We have also received a
8 response of the parties from Staff on Friday and a
9 reply from AIU to the response on Monday morning as
10 well as a response from IIEC a few hours ago.

11 Let's start the most limited of the
12 rehearing requests received from parties and that
13 comes from the Attorney General and CUB. The office
14 of the Attorney General and CUB seek rehearing on the
15 Commission's decision regarding its cost of equity
16 analysis. Administrative Law Judge Albers and
17 Yoder rec- -- Judges -- excuse me -- Administrative
18 Law Judges Albers and Yoder recommend denying
19 rehearing on this request.

20 Is there any discussion?

21 (No response.)

22 CHAIRMAN FLORES: Is there a motion to deny the

1 Attorney General's/CUB's request for rehearing?

2 COMMISSIONER O'CONNELL-DIAZ: So moved.

3 CHAIRMAN FLORES: Is there a second?

4 COMMISSIONER FORD: Second.

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

6 All in favor say "aye."

7 (Chorus of ayes.)

8 CHAIRMAN FLORES: Any opposed?

9 (No response.)

10 CHAIRMAN FLORES: The vote is 5-0, and the
11 Attorney General and CUB's request for rehearing is
12 denied.

13 Next let's move to the Illinois
14 Industrial Energy Consumers for rehearing. IIEC has
15 identified one issue surrounding return on equity,
16 four issues surrounding the PURA tax treatment and
17 one issue on the coincident peak allocator for
18 rehearing.

19 Let's start with the return on equity
20 issue on which Administrative Law Judges Albers and
21 Yoder recommend denial of hearing. Is there any
22 discussion on IIEC's rehearing request on return on

1 equity?

2 (No response.)

3 CHAIRMAN FLORES: Is there a motion to deny
4 IIEC's request or on the return on equity issue?

5 COMMISSIONER ELLIOTT: So moved.

6 CHAIRMAN FLORES: Is there a second?

7 I'll second it.

8 It it's been moved and seconded.

9 All in favor say "aye."

10 (Chorus of ayes.)

11 CHAIRMAN FLORES: Any opposed?

12 (No response.)

13 CHAIRMAN FLORES: The vote is 5-0, and that
14 particular request for rehearing is denied.

15 Now let's turn to PURA tax issues.

16 IIEC seeks rehearing alleging four alleged issues
17 with a collection of PURA taxes. Administrative Law
18 Judges Albers and Yoder have no recommendation
19 regarding whether the rates filed by the Ameren
20 Illinois Utilities comply with the Order and
21 recommend denying rehearing on the other three PURA
22 tax issues identified by IIEC.

1 Commissioner Elliott, I believe you
2 have some things surrounding the PURA tax that you'd
3 like to have as part of rehearing?

4 COMMISSIONER ELLIOTT: Yes, Mr. Chairman.
5 Thank you. I do have some language that I'd like to
6 move forward with on our own motion. And to that
7 end, I would be more than happy to make a motion to
8 deny IIEC's request for rehearing on the PURA tax and
9 raise my issue at a later time.

10 If that's suitable or would you rather
11 have me provide my motion?

12 CHAIRMAN FLORES: Why don't we just provide the
13 motion now and we'll go forward with -- just to make
14 sure that the procedure is -- I looked at this. I
15 did some legal analysis, but I just believe that it's
16 more appropriate to -- it'd be clearer to go down the
17 path and have you make a motion at this time.

18 COMMISSIONER ELLIOTT: Okay. Well, I would
19 move that we open this issue on the PURA tax on our
20 own motion, specifically with regard to the PURA tax
21 and its recovery. My language indicates that it was
22 the Commission's intent in its Order to exclude PURA

1 from the revenue requirement, treat PURA as a
2 pass-through tax, have the tax recovered through
3 allowing electric charge and separately identify it
4 as a line item on the customer's bill as other
5 pass-through taxes are also identified. To the
6 extent that parties would seek clarification, the
7 Commission would grant rehearing to have parties
8 provide that clarification to the expressed intent of
9 the Commission in its Order.

10 CHAIRMAN FLORES: I just want to be clear on
11 something for the record, that we are granting
12 rehearing and that it's not rehearing on our own
13 motion. However, I want to clarify that what will be
14 up for rehearing is your specific question,
15 Commissioner Elliott, and nothing other than your
16 specific question. So that the scope is going to be
17 limited to the PURA tax and its recovery with intent
18 in its Order to exclude the PURA from the revenue
19 requirement, treat PURA as a pass-through tax, have
20 the tax recovered through a volumetric charge and
21 separately identified it as a line item on the
22 customer's bill as other pass-through taxes are

1 identified.

2 And, again, to the extent that the
3 parties would seek clarification, the Commission
4 would grant rehearing to have parties provide
5 clarification to the expressed intent of the
6 Commission in its Order. So that is the scope upon
7 which we are granting rehearing.

8 So do I hear a motion to --

9 COMMISSIONER ELLIOTT: So moved.

10 CHAIRMAN FLORES: Okay. Is there a second?

11 COMMISSIONER FORD: Second.

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

13 All in favor say "aye."

14 (Chorus of ayes.)

15 CHAIRMAN FLORES: The vote is 5-0 to grant
16 rehearing in accordance to the scope that I just
17 provided.

18 COMMISSIONER ELLIOTT: I'll provide that
19 language to the Judges as well.

20 CHAIRMAN FLORES: Very well. Thank you.

21 COMMISSIONER ELLIOTT: They're taking copious
22 notes over here.

1 COMMISSIONER O'CONNELL-DIAZ: Thank you,
2 Commissioner.

3 Very well.

4 Lastly, IIEC seeks rehearing
5 surrounding the Commission's decision to use a
6 coincident peak allocator for the allocated costs
7 associated with primary lines and substations.
8 Administrative Law Judge Albers and Yoder recommend
9 that the Commission deny rehearing on this issue.

10 Is there any discussion?

11 (No response.)

12 CHAIRMAN FLORES: Is there a motion to deny
13 IIEC's hearing request with respect to the coincident
14 peak allocator issue?

15 COMMISSIONER O'CONNELL-DIAZ: So moved.

16 CHAIRMAN FLORES: Is there a second?

17 COMMISSIONER FORD: Second.

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

19 All in favor say "aye."

20 (Chorus of ayes.)

21 CHAIRMAN FLORES: Any opposed?

22 (No response.)

1 CHAIRMAN FLORES: The vote is 5-0, and the
2 request for rehearing on this issue is denied.

3 Now let's move to the rehearing
4 request of the Ameren Illinois Utilities. There are
5 six topics on which the Ameren Illinois Utilities
6 seek rehearing.

7 The first one concerns accumulated
8 depreciation reserve; the second, return on equity;
9 third, pension and benefits expense; fourth, cash
10 working capital; fifth, Ameren CILCO's cost of debt;
11 and last, number six, incentive compensation. And
12 within each of those topics Ameren has identified
13 individual issues on which it is specifically seeking
14 rehearing.

15 Let's address these one by one
16 starting with the accumulated depreciation reserve.
17 There's basically three categories of issues within
18 this first topic. First, the propriety of making an
19 adjustment for accumulated reserve for depreciation;
20 second, whether the adjustment was made properly in
21 the Order; and third, a set of technical corrections
22 suggested by the Ameren Illinois Utilities.

1 I know that there's been -- the
2 assistants had been working and there's been some
3 communications. So I'd like to first have
4 Commissioner Ford open it up with a discussion
5 session.

6 COMMISSIONER FORD: Thank you.

7 I propose we grant rehearing on the
8 entire issue of accumulated depreciation.
9 Specifically, I want answers to whether this
10 Commission legally discharged its obligations in the
11 Order, application of Administrative Code Part 287.40
12 and Section 9-211 of the Public Utilities Act. Was
13 the Order's interpretation of the law correct? What
14 options are available to the Commission to clarify or
15 change the applicable rule? Additionally, if an
16 adjustment to depreciation reserve for imbedded plan
17 is appropriate, then what is the proper methodology
18 for making adjustment?

19 CHAIRMAN FLORES: Okay. I know that there were
20 other factors that were being addressed by -- or
21 considered by the other Commissioners.

22 Commissioner Elliott.

1 COMMISSIONER ELLIOTT: Yeah, thank you,
2 Mr. Chairman.

3 I have some questions regarding the
4 alleged technical errors and whether those are, in
5 fact, a request for rehearing. So to the end that
6 there is any question on that, I would be interested
7 in having rehearing on those alleged technical
8 corrections, particularly the four concerning the
9 accumulated depreciation and three associated with
10 the accumulated deferred income taxes as they were
11 enumerated in Ameren's request for rehearing. So,
12 just to be clear, I want to make sure that those are
13 captured in any request for rehearing.

14 Additionally, I did have sort of a
15 technical question with regard to the accumulated
16 reserve for depreciation and the accumulated deferred
17 income taxes, and that is, is an adjustment to
18 accumulated deferred income taxes, ADIT, appropriate
19 when the reserve for accumulated depreciation is
20 adjusted? And if so, what is the appropriate
21 calculation of the adjustment to ADIT as of the end
22 of the pro forma period?

1 So I would move that we consider those
2 two specific issues as well.

3 CHAIRMAN FLORES: Very well.

4 And, Commissioner Colgan, I know that
5 you also had some concerns or there was some issues
6 that were under consideration by your office as well,
7 sir.

8 COMMISSIONER COLGAN: Yes, sir. Thank you,
9 Mr. Chairman.

10 You know in the Company's proposal
11 they allege that we've decided in our final Order to
12 adjust the reserve for accumulated depreciation to
13 reflect post-year depreciation on imbedded plan due
14 to their making a pro forma adjustment to the plan.
15 And they claim that the Commission significantly
16 understated their actual net plan and service as of
17 the end of February 2010. And they believe that they
18 have information that can add to the evidence and
19 would clarify this issue.

20 So on the -- in the rehearing I would
21 like to hear arguments in that regard, considering
22 that the motion also includes that we just open this

1 issue up entirely in the event that that were to gain
2 our approval here today.

3 I would also like to make sure that we
4 hear some of those arguments in the event that we may
5 at the final hearing on this stick with the Order's
6 original proposal.

7 I'd be glad to answer any questions
8 people might have.

9 CHAIRMAN FLORES: Very well.

10 Commissioner O'Connell-Diaz.

11 COMMISSIONER O'CONNELL-DIAZ: I support
12 Commissioner Ford's proposal as well as -- I think
13 that Commissioner Colgan's is kind of captured by
14 Commissioner Ford's proposal. And I also support the
15 proposals as set forth by Commissioner Elliott.

16 CHAIRMAN FLORES: Very well.

17 Commissioner Ford, Commissioner
18 Elliott and Commissioner Colgan have established the
19 scope by which we are requesting the parties to
20 analyze and to provide further positions and
21 arguments to address this issue.

22 And so with that, is there a motion to

1 grant rehearing for Ameren on the issue of
2 accumulated reserve for depreciation within the
3 context of the scope that was just provided by
4 Commissioner Ford, Commissioner Elliott and
5 Commissioner Colgan?

6 COMMISSIONER FORD: So moved.

7 CHAIRMAN FLORES: Is there a second?

8 COMMISSIONER O'CONNELL-DIAZ: Second.

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

10 All in favor say "aye."

11 (Chorus of ayes.)

12 CHAIRMAN FLORES: Any opposed?

13 (No response.)

14 CHAIRMAN FLORES: The vote is 5-0, and the
15 request for rehearing on accumulated reserve of
16 depreciation as just expressed is granted.

17 Now let's turn to the return on
18 equity. Administrative Law Judges Albers and Yoder
19 recommend that the Commission deny rehearing on the
20 issue.

21 Is there any discussion on AIU's
22 hearing request on return on equity issues?

1 COMMISSIONER FORD: Chairman, I believe this
2 Commission has recently been inconsistent in our
3 interpretations regarding return on equity, including
4 the current Ameren Utility's rate case.
5 Specifically, what evidence supports using a constant
6 growth versus nonconstant growth DCF model and
7 whether use of forecasted interest rates is
8 appropriate in the CAPM. Therefore, I propose
9 granting rehearing on the return of equity.

10 CHAIRMAN FLORES: Very well.

11 Any other discussion?

12 Again, I would just like to refer
13 everyone to the fact that Administrative Law Judges
14 Albers and Yoder recommend that we deny rehearing on
15 this issue based on their opinion and conclusion that
16 this matter has been fully litigated, that the
17 parties had an opportunity to make their positions
18 clear and that the Commission's Order was done so in
19 a clear fashion.

20 So I'm going to make a motion to deny
21 rehearing on Ameren's request on this matter on
22 return on equity.

1 Is there a second?

2 COMMISSIONER ELLIOTT: Second.

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

4 All in favor say "aye."

5 (Chorus of ayes.)

6 CHAIRMAN FLORES: Any opposed?

7 (Chorus of nays.)

8 CHAIRMAN FLORES: The vote is 3-2, and the

9 rehearing is denied on the return on equity at issue.

10 Just for the record, so the record is

11 clear, we can just take roll call on this matter.

12 And this on the motion to deny rehearing on Ameren's

13 request regarding the return on equity issue.

14 Commissioner Ford?

15 COMMISSIONER FORD: Nay.

16 CHAIRMAN FLORES: Commissioner O'Connell-Diaz?

17 COMMISSIONER O'CONNELL-DIAZ: Nay.

18 CHAIRMAN FLORES: Commercial Elliott?

19 COMMISSIONER ELLIOTT: Aye.

20 CHAIRMAN FLORES: Commissioner Colgan?

21 COMMISSIONER COLGAN: Aye.

22 CHAIRMAN FLORES: And Manual Flores votes aye.

1 So the vote is 3-2. Rehearing is
2 denied on the return on equity issue.

3 Next let's turn to the pension
4 benefits request for rehearing. Administrative Law
5 Judges Albers and Yoder recommend denial of rehearing
6 on this issue as well.

7 Is there any discussion on AIU's
8 rehearing request on pension benefits issues?

9 Commissioner Ford.

10 COMMISSIONER FORD: Chairman, I am deeply
11 concerned that the Order deviates from overwhelming
12 Commission precedence, which consistently allows
13 known and measurable updated data in support of pro
14 forma adjustments for pension and benefits expense.
15 I propose we grant rehearing of the pension and
16 benefits expense.

17 CHAIRMAN FLORES: Very well.

18 Is there any further discussion?

19 COMMISSIONER O'CONNELL-DIAZ: I would support
20 Commissioner Ford's recommendation. I agree with the
21 presentation and, in fact, first go around had some
22 language out there that I think comports with how the

1 Commission has treated this. And I think it's
2 extremely important given that it is the pension
3 benefits and that we really do need to get it right.
4 So I think a second look at it will accomplish that
5 goal so that we can have the appropriate finding at
6 the end of our rehearing.

7 CHAIRMAN FLORES: Very well.

8 Any further discussion?

9 (No response.)

10 CHAIRMAN FLORES: I will make a motion to grant
11 rehearing on Ameren's request regarding pension
12 benefits.

13 Is there a second?

14 COMMISSIONER FORD: Second.

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

16 All if in favor say "aye."

17 (Chorus of ayes.)

18 CHAIRMAN FLORES: Any opposed?

19 (No response.)

20 CHAIRMAN FLORES: The vote is 5-0, and
21 rehearing is granted on the pension benefits issue.

22 Next, let's turn to cash for working

1 capital.

2 Commissioner Elliott, I believe you
3 may have something to propose for rehearing on this
4 matter?

5 COMMISSIONER ELLIOTT: Yes, Mr. Chairman.
6 Thank you.

7 In the AIU request for rehearing they
8 argued that \$3.9 million in capital costs should be
9 netted against 9.4 million in late fee revenues. I
10 would be interested and move that we open rehearing
11 to determine the appropriate methodology to determine
12 the accuracy of the 3.9 million number and an
13 analysis regarding whether the 3.9 million should be
14 netted against the 9.4 million to offset the revenue
15 of the capital costs.

16 So I would grant the rehearing on that
17 limited basis and I would make that motion.

18 CHAIRMAN FLORES: Very well.

19 Now, Ameren's -- just to clarify here,
20 Ameren's request to -- for rehearing is not
21 necessarily focused on that issue. So what I'm going
22 to -- again, as we did earlier before, we want to

1 clarify that the scope be narrowed and focused only
2 on whether AIU, as it argues at \$3.9 million in
3 capital cost should be netted against the \$9.4
4 million of late fee revenue. And, hence, they have
5 to -- we need to look at the appropriate methodology
6 to determine the accuracy of the 3.9 million and an
7 analysis regarding whether the 3.9 million should be
8 netted against the 9.4 mill to offset the revenues
9 with a capital cost.

10 Is there a consensus there among the
11 Commissioners to narrow the scope and focus for -- on
12 this issue?

13 COMMISSIONER FORD: I can support that.

14 CHAIRMAN FLORES: Then what I'd like to do is
15 make a motion to grant rehearing on Ameren's request
16 on cash working capital but narrowed to the scope
17 that I just referenced.

18 Is there a second to the motion that I
19 just made?

20 COMMISSIONER ELLIOTT: Second.

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

22 All in favor say "aye."

1 (Chorus of ayes.)

2 CHAIRMAN FLORES: Any opposed?

3 (No response.)

4 CHAIRMAN FLORES: The vote is 5-0, and the
5 rehearing is granted on the cash working capital
6 issue again but only to the extent that we deal with
7 the scope that I have already outlined in --
8 previously.

9 Next, we have the AmerenCILCO cost of
10 debt issue. Administrative Law Judges Albers and
11 Yoder recommend denial of rehearing on this issue.

12 Is there any discussion on this
13 rehearing request?

14 (No response.)

15 CHAIRMAN FLORES: Hearing none, is there a
16 motion to deny rehearing on Ameren's request on
17 AmerenCILCO's cost of debt?

18 COMMISSIONER ELLIOTT: So moved.

19 CHAIRMAN FLORES: I'll second it.

20 It's been moved and seconded.

21 All in favor say "aye."

22 (Chorus of ayes.)

1 CHAIRMAN FLORES: Any opposed?

2 (No response.)

3 CHAIRMAN FLORES: The vote is 5-0, and
4 rehearing is denied on AmerenCILCO's cost of debt.

5 And lastly we have the incentive
6 compensation. Administrative Law Judge Albers and
7 Yoder recommend denial of rehearing on incentive
8 compensation issues.

9 Is there any discussion on this
10 rehearing request?

11 (No response.)

12 CHAIRMAN FLORES: Hearing none, is there a
13 motion to deny rehearing on Ameren's request with
14 respect to incentive compensation? Anyone?

15 COMMISSIONER ELLIOTT: So moved.

16 CHAIRMAN FLORES: I'll second it.

17 It's been moved and seconded.

18 All in favor say "aye."

19 (Chorus of ayes.)

20 CHAIRMAN FLORES: Any opposed?

21 (No response.)

22 CHAIRMAN FLORES: The vote is 5-0, and

1 rehearing is denied on the Ameren's incentive
2 compensation request for rehearing.

3 Judge Wallace, your Honor, have we
4 addressed all outstanding rehearing issues?

5 JUDGE WALLACE: I think so, yes.

6 CHAIRMAN FLORES: Very well. Very well. Thank
7 you, Judge.

8 We have one remaining item on today's
9 agenda and it's a FERC item for which I will need to
10 go -- we will need to go into closed session.

11 Is there a motion to go into closed
12 session?

13 COMMISSIONER ELLIOTT: So moved.

14 CHAIRMAN FLORES: Is there a second?

15 COMMISSIONER FORD: Second.

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

17 All in favor say "aye."

18 (Chorus of ayes.)

19 CHAIRMAN FLORES: Any opposed?

20 (No response.)

21 CHAIRMAN FLORES: The vote is 5-0, and we will
22 now go into closed session. Please let me know when

1 the room is clear in Springfield.

2 (Whereupon, the following
3 proceedings were had in closed
4 session.)

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1 (Whereupon, the following
2 proceedings were had in open
3 session.)

4 COMMISSIONER ELLIOTT: I will move then that we
5 allow Staff to file the comments at FERC.

6 CHAIRMAN FLORES: Very well.

7 Is there a --

8 COMMISSIONER COLGAN: Second.

9 CHAIRMAN FLORES: It's been moved and -- hold
10 on.

11 I just want to, real quick, recap. In
12 closed session the Commission discussed FERC Docket
13 No. ERO5-1410. This matter concerns ICC's request
14 for rehearing of FERC's May 20, 2010 Order regarding
15 PJM's incremental auction and redesign for capacity
16 procurement.

17 Is there a motion to allow for
18 rehearing to be requested with the FERC?

19 Commissioner Elliott?

20 COMMISSIONER ELLIOTT: So moved.

21 CHAIRMAN FLORES: Is there a second?

22 COMMISSIONER COLGAN: Second.

1 CHAIRMAN FLORES: It's been moved and seconded.
2 All in favor say "aye."
3 (Chorus of ayes.)
4 CHAIRMAN FLORES: Any opposed?
5 (No response.)
6 CHAIRMAN FLORES: The vote is 5-0. Rehearing
7 will be requested from the FERC.
8 Judge Wallace, are there any other
9 items for the Special Open Meeting today?
10 JUDGE WALLACE: No, that's it.
11 CHAIRMAN FLORES: Thank you, sir.
12 Hearing none, this meeting is
13 adjourned.
14 (Whereupon, the meeting was
15 adjourned.)
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