

1                               BEFORE THE  
2                               ILLINOIS COMMERCE COMMISSION

3                               BENCH SESSION

4                               (PUBLIC UTILITY)

5  
6                               Chicago, Illinois  
7                               Wednesday, June 22nd, 2011

8  
9  
10                    Met, pursuant to notice, at 10:30 a.m. in  
11                    N801, Eighth Floor, 160 North LaSalle Street,  
12                    Chicago, Illinois.

13  
14                    PRESENT:

15                    DOUGLAS P. SCOTT, Chairman

16                    LULA M. FORD, Commissioner

17                    ERIN M. O'CONNELL-DIAZ, Commissioner

18                    SHERMAN J. ELLIOTT, Commissioner

19                    JOHN T. COLGAN, Acting Commissioner

20  
21                    SULLIVAN REPORTING COMPANY, by  
22                    Alisa A. Sawka, CSR, RPR  
                      License No. 084-004588

1     PROCEEDINGS

2             CHAIRMAN SCOTT: Pursuant to the provisions of  
3     the Illinois Open Meetings Act, I now convene a  
4     regularly scheduled Bench Session of the Illinois  
5     Commerce Commission. With us in Springfield are  
6     Commissioner Elliott and Acting Commissioner Colgan,  
7     with me in Chicago is Commissioner Ford. I'm  
8     Chairman Scott. We have a quorum. I believe  
9     Commissioner O'Connell-Diaz is available by phone and  
10    she said "hi" so I know you're there, right,  
11    Commissioner.

12            COMMISSIONER O'CONNELL-DIAZ: Yes, I am. Thank  
13    you very much.

14            CHAIRMAN SCOTT: Very good.

15                    Per the Commission's rules, we'll have  
16    to vote to allow Commissioner O'Connell-Diaz to  
17    participate by phone.

18                    I move to allow Commissioner  
19    O'Connell-Diaz to participate by phone.

20                    Is there a second?

21            COMMISSIONER FORD: Second.

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

1 All in favor say "aye."

2 (Chorus of ayes.)

3 CHAIRMAN SCOTT: Any opposed?

4 (No response.)

5 CHAIRMAN SCOTT: The vote is 4 to nothing and  
6 Commissioner O'Connell-Diaz may participate by phone.

7 Before moving into the agenda  
8 according to Section 1700.10 of Title 2 of the  
9 Administrative Code, this is the time we allow  
10 members of the public to address the Commission.  
11 Members of the public wishing to address the  
12 Commission must notify the Chief Clerk's Office at  
13 least 24 hours prior to the Bench Session. According  
14 to the Chief Clerk's Office, we have no requests to  
15 speak at today's Bench Session.

16 (Whereupon, the Transportation  
17 Agenda is contained in a  
18 separate transcript.)

19 CHAIRMAN SCOTT: Moving on to the Public  
20 Utility Agenda.

21 We will start with approval of minutes  
22 from prior Commission meetings. Up first are minutes

1 from our May 24th Regular Open Meeting. I understand  
2 amendments have been forwarded.

3 Is there a motion to amend the  
4 minutes?

5 ACTING COMMISSIONER COLGAN: So moved.

6 COMMISSIONER FORD: Moved.

7 CHAIRMAN SCOTT: Is there a second?

8 COMMISSIONER FORD: Second.

9 ACTING COMMISSIONER COLGAN: Second.

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

11 All in favor say "aye."

12 (Chorus of ayes.)

13 CHAIRMAN SCOTT: Any opposed?

14 (No response.)

15 CHAIRMAN SCOTT: The vote is 5 to nothing and  
16 the amendments to the May 24th minutes are adopted.

17 Is there now a motion to approve the  
18 minutes as amended?

19 ACTING COMMISSIONER COLGAN: So moved.

20 CHAIRMAN SCOTT: Is there a second?

21 COMMISSIONER ELLIOTT: Second.

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

1 All in favor say "aye."

2 (Chorus of ayes.)

3 CHAIRMAN SCOTT: Any opposed?

4 (No response.)

5 CHAIRMAN SCOTT: The vote 5 to nothing and the  
6 May 24th Regular Open Meeting minutes as amended are  
7 approved.

8 Next up are minutes from our June 2nd  
9 Bench Session. I understand amendments have been  
10 forwarded.

11 Is there a motion to amend the  
12 minutes?

13 COMMISSIONER FORD: So moved.

14 CHAIRMAN SCOTT: Is there a second?

15 COMMISSIONER ELLIOTT: Second.

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

17 All in favor say "aye."

18 (Chorus of ayes.)

19 CHAIRMAN SCOTT: Any opposed?

20 (No response.)

21 CHAIRMAN SCOTT: The vote is 5 to nothing and  
22 amendments to the June 2nd minutes are adopted.

1                   Is there now a motion to approve the  
2 minutes as amended?

3           COMMISSIONER ELLIOTT:   So moved.

4           CHAIRMAN SCOTT:   Is there a second?

5           ACTING COMMISSIONER COLGAN:   Second.

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

7                   All in favor say "aye."

8                           (Chorus of ayes.)

9           CHAIRMAN SCOTT:   Any opposed?

10                           (No response.)

11           CHAIRMAN SCOTT:   The vote is 5 to nothing and  
12 the June 2nd Bench Session minutes as amended are  
13 approved.

14                   We'll now turn to the Electric portion  
15 of today's agenda.  Item E-1 concerns initiating an  
16 investigation into ComEd's supply rate design and  
17 into other related matters as called for in Final  
18 Order in Docket No. 10-0467.  Staff recommends that  
19 the Commission enter an Order initiating this  
20 investigation pursuant to Section 9-250 of the Public  
21 Utilities Act.

22                   Is there any discussion?

1 (No response.)

2 CHAIRMAN SCOTT: Is there a motion to enter the  
3 Initiating Order?

4 COMMISSIONER FORD: So moved.

5 COMMISSIONER ELLIOTT: So moved.

6 CHAIRMAN SCOTT: Is there a second?

7 ACTING COMMISSIONER COLGAN: Second.

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

9 In all favor say "aye."

10 (Chorus of ayes.)

11 CHAIRMAN SCOTT: Any opposed?

12 (No response.)

13 CHAIRMAN SCOTT: The vote is 5 to nothing and  
14 the Initiating Order is entered.

15 We will use this 5 to nothing vote for  
16 the remainder of the Public Utility Agenda unless  
17 otherwise noted. Item E-2 concerns a filing by  
18 Mt. Carmel Public Utility Company to revise its  
19 standard rate pertaining to the purchase of  
20 electricity from cogeneration and small power  
21 production facilities consistent with Part 430 of  
22 Title 83 of the Administrative Code. Staff

1 recommends that the Commission allow the Company's  
2 request by not suspending the filing.

3 Is there any discussion?

4 (No response.)

5 CHAIRMAN SCOTT: Any objections?

6 (No response.)

7 CHAIRMAN SCOTT: Hearing none, the filing will  
8 not be suspended.

9 Item E-3 is Docket No. 09-0592. This  
10 item will be held for disposition at a future  
11 Commission proceeding.

12 Items E-4 and E-5 can be taken  
13 together. These items are Petitions by the Illinois  
14 Department of Transportation seeking eminent domain  
15 authority for acquiring easements on property owned  
16 by ComEd in connection with roadway improvements in  
17 Lake County and Winnebago County. In each case, ALJ  
18 Hilliard recommends that the Commission enter an  
19 Order approving the Petition.

20 Is there any discussion?

21 (No response.)

22 CHAIRMAN SCOTT: Any objections?



1 (No response.)

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

4 Item E-6 is Docket No. 11-0411. This  
5 is a Joint Petition filed by Southeastern Illinois  
6 Electric Cooperative and Ameren Illinois for an  
7 amendment to a service area agreement altering  
8 territorial boundaries. ALJ Tapia recommends that  
9 the Commission enter an Order approving the  
10 amendment.

11 Is there any discussion?

12 (No response.)

13 CHAIRMAN SCOTT: Any objections?

14 (No response.)

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

17 Items E-7 and E-8 can be taken  
18 together. These items are applications by  
19 Constellation New Energy and NextEra Energy Services  
20 Illinois seeking amendments to their previously used  
21 ARES Certificates of Service Authority. In each  
22 case, ALJ Wallace recommends that the Commission

1 enter an Order granting the requested amendment.

2 Is there any discussion?

3 (No response.)

4 CHAIRMAN SCOTT: Any objections?

5 (No response.)

6 CHAIRMAN SCOTT: Hearing none, the Orders are  
7 entered.

8 Item E-9 is Docket No. 11-0419. This  
9 is ConocoPhillips Company's Application for an  
10 Amendment to its ARES Certificate of Service  
11 Authority. ALJ Tapia recommends that the Commission  
12 enter an Order denying the Company's request for an  
13 amendment.

14 Is there any discussion?

15 (No response.)

16 CHAIRMAN SCOTT: Any objections?

17 (No response.)

18 CHAIRMAN SCOTT: Hearing none, the Order is  
19 entered and the Application for an Amendment is  
20 denied.

21 Item E-10 is Docket No. 11-0047. This  
22 is Daniel Robbins' Application for Licensure as an

1 Agent, Broker and Consultant under Section 16-115(c)  
2 of the Public Utilities Act. ALJ Yoder recommends  
3 that the Commission enter an Order denying the  
4 requested Certificate of Service Authority.

5 Is there any discussion?

6 (No response.)

7 CHAIRMAN SCOTT: Any objections?

8 (No response.)

9 CHAIRMAN SCOTT: Hearing none, the Order is  
10 entered and the Application is denied.

11 Items E-11 and E-12 can be taken  
12 together. These items are Donald Mulder and Power  
13 Management's Application for Licensure as an Agent,  
14 Broker and Consultant under 16-115(c) of the Public  
15 Utilities Act. In each case, ALJ Yoder recommends  
16 that the Commission enter an Order granting the  
17 requested Certificate.

18 Is there any discussion?

19 (No response.)

20 CHAIRMAN SCOTT: Any objections?

21 (No response.)

22 CHAIRMAN SCOTT: Hearing none, the Orders are

1 entered and the Certificates are granted.

2 Item E-13 is Docket No. 11-0448. This  
3 is Microsoft's Application for a Certificate of  
4 Service Authority to operate as an alternative retail  
5 electric supplier serving its Illinois data center  
6 facility. ALJ Wallace recommends that the Commission  
7 enter an Order granting the requested Certificate.

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 the Certificate is granted.

14 Item E-14 is Docket No. 11-0453. This  
15 is Santanna Natural Gas's Application for a  
16 Certificate of Service Authority to operate as an  
17 alternative retail electric supplier. The Company  
18 now seeks to withdraw its Application, and ALJ Albers  
19 recommends that the Commission grant the Company's  
20 request and dismiss this matter without prejudice.

21 Is there any discussion?

22 (No response.)

1 CHAIRMAN SCOTT: Any objections?

2 (No response.)

3 CHAIRMAN SCOTT: Hearing none, the Application  
4 is withdrawn and the docket is dismissed.

5 Items E-15 and E-16 can be taken  
6 together. These items concern customer complaints as  
7 to billing and/or charges against ComEd. In each  
8 case the parties have apparently settled their  
9 differences and brought Joint Motions to Dismiss,  
10 which the ALJs recommend we grant.

11 Is there any discussion?

12 (No response.)

13 CHAIRMAN SCOTT: Any objections?

14 (No response.)

15 CHAIRMAN SCOTT: Hearing none, these matters  
16 are dismissed.

17 Turning now to Natural Gas.

18 Item G-1 is Docket No. 07-0576. This  
19 is North Shore Gas's reconciliation case over  
20 revenues collected under gas adjustment charges in  
21 2007. ALJ Baker recommends that the Commission enter  
22 an Order approving the reconciliation.

1                   Is there any discussion?

2                                   (No response.)

3           CHAIRMAN SCOTT: Any objections?

4                                   (No response.)

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

7                   Items G-2 and G-3 can be taken  
8 together. These items are Francis Otto's complaint  
9 as to billing and/or charges against Nicor and Zhenya  
10 Wang's complaint as to billing and/or charges against  
11 North Shore Gas. In each case the parties have  
12 apparently settled their differences and brought a  
13 Joint Motion to Dismiss which the ALJs recommend that  
14 we grant.

15                   Is there any discussion?

16                                   (No response.)

17           CHAIRMAN SCOTT: Any objections?

18                                   (No response.)

19           CHAIRMAN SCOTT: Hearing none, the Joint  
20 Motions to Dismiss are granted.

21                   Item G-4 is Docket No. 10-0651. This  
22 is John Henry Stevens' complaint as to billing and/or

1 charges against Ameren. ALJ Tapia recommends that  
2 the Commission enter an Order dismissing the  
3 complaint with prejudice.

4 Is there any discussion?

5 (No response.)

6 CHAIRMAN SCOTT: Any objections?

7 (No response.)

8 CHAIRMAN SCOTT: Hearing none, the matter is  
9 dismissed.

10 Item G-5 is Docket No. 11-0252. This  
11 is Nicor's Application for a Waiver permitting the  
12 installation and use of a nonmetallic composite  
13 reinforced thermoplastic pipe manufactured by Smart  
14 Pipe for the rehabilitation of steel interstate gas  
15 distribution pipeline segments near Ottawa.

16 ALJ Kimbrel recommends that the Commission enter an  
17 Interim Order granting the Application for a waiver.

18 Is there any discussion?

19 (No response.)

20 CHAIRMAN SCOTT: Any objections?

21 (No response.)

22 CHAIRMAN SCOTT: Hearing none, the Order is

1 entered and the Waiver is granted.

2 Moving now to Telecommunications.

3 Item T-1 is Docket No. 11-0345. This  
4 is DOCOMO USA's Wireless's Application for a  
5 Certificate of Wireless Authority to operate as a  
6 reseller of telecommunications services in Illinois.  
7 ALJ Riley recommends that the Commission enter an  
8 Order granting the Certificate.

9 Is there any discussion?

10 (No response.)

11 CHAIRMAN SCOTT: Any objections?

12 (No response.)

13 CHAIRMAN SCOTT: Hearing none, the Order is  
14 entered and the Certificate is granted.

15 Item T-2 is Docket No. 11-0364. This  
16 is Access Long Distance's Application for a  
17 Certificate of Interexchange Authority to operate as  
18 a Reseller of Telecommunications Services throughout  
19 Illinois. ALJ Teague recommends that the Commission  
20 enter an Order granting the requested Certificate.

21 Is there any discussion?

22 (No response.)



1 CHAIRMAN SCOTT: Any objections?

2 (No response.)

3 CHAIRMAN SCOTT: Hearing none, the Order is  
4 entered and the Certificate is granted.

5 Item T-3 is Docket No. 11-0320. This  
6 item is a Joint Petition by Illinois Bell Telephone  
7 Company and First Communications of Ohio seeking  
8 approval of an Interconnection Agreement dated  
9 March 28th, 2011. ALJ Baker recommends that the  
10 Commission enter an Order approving the Agreement.

11 Is there any discussion?

12 (No response.)

13 CHAIRMAN SCOTT: Any objections?

14 (No response.)

15 CHAIRMAN SCOTT: Hearing none, the Order is  
16 entered and the Interconnection Agreement is  
17 approved.

18 Item T-4 is Docket No. 11-0370. This  
19 is Conexion Wireless's Application for designation as  
20 an Eligible Telecommunications Carrier pursuant to  
21 Section 214(e) of the Telecommunications Act of 1996.  
22 The Company now wishes to withdraw its Application,

1 and ALJ Riley recommends that the Commission grant  
2 the Company's Motion to Withdraw.

3 Is there any discussion?

4 (No response.)

5 CHAIRMAN SCOTT: Any objections?

6 (No response.)

7 CHAIRMAN SCOTT: Hearing none, the motion is  
8 granted and the Application is withdrawn.

9 Moving on to Water and Sewer.

10 Item W-1 is Docket No. 06-0655. This  
11 item is a Petition by Aqua Illinois pursuant to  
12 Section 8-406 of the Public Utilities Act seeking  
13 authorization to extend its water and sewer systems  
14 and service into an expanded area. ALJ Jones  
15 recommends entry of an Order granting the necessary  
16 Certificates for the Company's requested service  
17 expansion.

18 Is there any discussion?

19 (No response.)

20 CHAIRMAN SCOTT: Any objections?

21 (No response.)

22 CHAIRMAN SCOTT: Hearing none, the Order is

1 entered.

2 Item W-2 is Docket No. 11-0369. This  
3 item is a different petition by Aqua Illinois under  
4 8-406 of the Public Utilities Act. This is seeking  
5 Temporary and Permanent Certificates authorizing the  
6 company to construct, operate and maintain a water  
7 distribution system and wastewater collection system  
8 in Will County. ALJ Kimbrel recommends that the  
9 Commissioner enter an Interim Order granting the  
10 Company a Temporary Certificate.

11 Is there any discussion?

12 (No response.)

13 CHAIRMAN SCOTT: Any objections?

14 (No response.)

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

17 Lastly we have a few items of other  
18 business for today. First up is our report to the  
19 Illinois General Assembly Concerning Spending Limits  
20 on Energy Efficiency and Demand Response Measures as  
21 required under Section 8-103 of the Public Utilities  
22 Act.

1                   Is there any discussion?

2                   Just quickly as a matter of  
3 discussion, I'm going to support the report's  
4 conclusion that it isn't an undue constraint. But in  
5 terms of some of the rationale to say that the -- in  
6 future it may be a constraint due to federal lighting  
7 standards that everybody knew or were aware of at the  
8 time that this was being done, to me, just seems like  
9 a little bit of a thin stretch of the meaning of an  
10 undue restraint since people knew about it when it  
11 was -- when they were actually contemplating the law  
12 that was in effect.

13                   But the conclusion I think for the  
14 Report that we're supposed to send to the General  
15 Assembly is the correct one. And so I'll support  
16 sending the Report on.

17                   Is there any other discussion?

18   (No response.)

19                   CHAIRMAN SCOTT: Is there a motion to have the  
20 Report sent to the General Assembly?

21                   ACTING COMMISSIONER COLGAN: So moved.

22                   CHAIRMAN SCOTT: Is there a second?

1 COMMISSIONER FORD: Second.

2 COMMISSIONER ELLIOTT: Second.

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

4 All in favor say "aye."

5 (Chorus of ayes.)

6 CHAIRMAN SCOTT: Any opposed?

7 (No response.)

8 CHAIRMAN SCOTT: The vote is 5 to nothing and  
9 this Report will be prepared for distribution to the  
10 General Assembly.

11 Next up is our Report to the General  
12 Assembly concerning spending limits on Renewable  
13 Energy Resource Procurement as required under Section  
14 1-75 of the IPA Act.

15 Is there any discussion?

16 I know there were -- there was an  
17 issue about some amendments to this? Is that  
18 something that's going to be offered or...?

19 COMMISSIONER ELLIOTT: To the extent there's  
20 support.

21 CHAIRMAN SCOTT: Okay. Is anybody going to  
22 make a motion to do that or...?

1           COMMISSIONER ELLIOTT: Well, I would make a  
2 motion. I would put forth some edits, but -- and if  
3 I can get a second, we'll see where it goes.

4           COMMISSIONER O'CONNELL-DIAZ: From what I'm  
5 understanding I -- Commissioner Elliott, you're  
6 talking about the late preferenced edits that your  
7 office and my office worked on?

8           COMMISSIONER ELLIOTT: Yes, that's correct.

9           COMMISSIONER O'CONNELL-DIAZ: Yeah, I don't  
10 think we have the support for it. I think we gave it  
11 a good shot.

12          COMMISSIONER ELLIOTT: Yeah.

13          CHAIRMAN SCOTT: Okay.

14          COMMISSIONER O'CONNELL-DIAZ: I think that --  
15 yeah, I don't think we have the support for it.  
16 However, I think all of those that were around when  
17 Illinois only -- when preferenced legislation came  
18 through and the harm that it caused our ratepayers  
19 was apparent as we went through the procurement  
20 cycles for that effort. It is discussed in the  
21 Report that Staff has given us. I think we were  
22 attempting to make sure that the legislature has a

1 clear picture as to how it really did harm the  
2 ratepayers of our state to the tune of significant  
3 dollars.

4 So the good thing is we don't -- we  
5 are not having that late preference anymore, but I  
6 think we wanted to make sure that history didn't  
7 repeat itself. But I think we don't have the support  
8 for it. So we gave it the good college try.

9 CHAIRMAN SCOTT: Okay. I just wanted to make  
10 sure I wasn't foreclosing something that was coming  
11 up.

12 So then is there a motion to send the  
13 Report on to the General Assembly?

14 ACTING COMMISSIONER COLGAN: So moved.

15 CHAIRMAN SCOTT: Is there a second?

16 COMMISSIONER FORD: Second.

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

18 In all favor say "aye."

19 (Chorus of ayes.)

20 CHAIRMAN SCOTT: Any opposed.

21 (No response.)

22 CHAIRMAN SCOTT: The vote to 5 to nothing and

1 this Report will be sent over to the General Assembly  
2 as well.

3 We have two additional items of other  
4 business on today's agenda. Each concerns pending  
5 litigation, so we'll go into closed session to  
6 discuss those matters.

7 I move to go into closed session.

8 Is there a second?

9 COMMISSIONER FORD: Second.

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

11 All in favor a say "aye."

12 (Chorus of ayes.)

13 CHAIRMAN SCOTT: Any opposed?

14 (No response.)

15 CHAIRMAN SCOTT: The vote is 5 to nothing to go  
16 into closed session.

17 (Whereupon at this point Pages  
18 25-55 of the proceeding are  
19 contained in a separate closed  
20 transcript.)

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CONTINUATION OF PROCEEDINGS

CHAIRMAN SCOTT: During closed session the Commission discussed filing Comments in FERC Docket No. ER11-3728-000.

Is there a motion to file the Comments with FERC?

COMMISSIONER FORD: So moved.

COMMISSIONER ELLIOTT: So moved.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER O'CONNELL-DIAZ: Second.

CHAIRMAN SCOTT: It's been moved and seconded.

In all favor say "aye."

(Chorus of ayes.)

CHAIRMAN SCOTT: Any opposed?

(No response.)

CHAIRMAN SCOTT: The vote is 5 to nothing and Comments will be filed with FERC.

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

JUDGE WALLACE: No, that's all, sir.

CHAIRMAN SCOTT: Thank you very much, sir.

Hearing none, this meeting stands

1 adjourned. Thanks, everyone.

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MEETING ADJOURNED

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