BEFORE THE
ILLINOIS COMMERCE COMMISSION

PUBLIC UTILITY SPECIAL OPEN MEETING

Chicago, Illinois
June 22, 2012

Met, pursuant to notice, at 10:30 a.m.

BEFORE:

MR. DOUGLAS P. SCOTT, Chairman

MS. LULA M. FORD, Commissioner

MS. ERIN M. O'CONNELL-DIAZ, Commissioner

MR. JOHN T. COLGAN, Commissioner
(via videoconference)

MS. ANN McCABE, Commissioner

SULLIVAN REPORTING COMPANY, by
Auhdikiam Carney, CSR
License No. 084-004658

CHAIRMAN SCOTT: Pursuant to the provisions of the Illinois Open Meetings Act, I now convene a Special Open Meeting of the Illinois Commerce Commission. With me in Chicago are Commissioners Ford, O'Connell-Diaz and McCabe. With us in Springfield by videoconference is Commissioner Colgan. I'm Chairman 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 the public 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 our Commission meeting. According to the Chief Clerk, there are no requests to speak at today's Special Open Meeting.

Moving on to our agenda for today, Item 1 is the approval of minutes from our May 22nd Regular Open Meeting. I understand amendments have been forwarded.

Is there a motion to amend the

minutes?

COMMISSIONER FORD: So moved.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER McCABE: Second.

CHAIRMAN SCOTT: It's been moved and seconded.

All in favor say "aye."

(Chorus of ayes.)

Any opposed?

(No response.)

The vote is 5-0 and the amendments to the May 22nd minutes are adopted.

Is there a motion to approve the minutes as amended?

COMMISSIONER McCABE: So moved.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER FORD: Second.

CHAIRMAN SCOTT: It's been moved and seconded.

All in favor say "aye."

(Chorus of ayes.)

Any opposed?

(No response.)

The vote is 5-0 and the May 22nd

minutes as amended are approved.

Item 2 concerns the approval from our May 29th Special Open Meeting. I understand amendments have been forwarded.

Is there a motion to amend the minutes?

COMMISSIONER FORD: So moved.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER McCABE: Second.

CHAIRMAN SCOTT: It's been moved and seconded.

All in favor say "aye."

(Chorus of ayes.)

Any opposed?

(No response.)

The vote is 5-0 and the amendments to the May 29th minutes are adopted.

Is there a motion to approve the minutes as amended?

COMMISSIONER FORD: So moved.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER O'CONNELL-DIAZ: Second.

CHAIRMAN SCOTT: It's been moved and seconded.

All in favor say "aye."

(Chorus of ayes.)

Any opposed?

(No response.)

The vote is 5-0 and the May 29th minutes as amended are approved.

Item 3 is Docket No. 11-0721. This is ComEd's formula rate filing under Section 16-108.5 of the Public Utilities Act. Before us today is an application for rehearing filed by the Company. ALJs Sainsot and Kimbrel recommend denying the Company's application for rehearing. The application for rehearing cites a host of issues on which the Company would like rehearing. So we will tackle the primary issues first and then move on to address the remainder of the petition.

On the issue of methodology for calculating interest on reconciliation adjustments, I would move that we grant the rehearing on that issue.

Is there a second?

COMMISSIONER McCABE: Second.

CHAIRMAN SCOTT: It's been moved and seconded.

Is there any discussion?

COMMISSIONER McCABE: Chairman.

CHAIRMAN SCOTT: Commissioner McCabe.

COMMISSIONER McCABE: On the interest rate issue, while the Commission's decision was within its discretion, we want the record as complete as possible in the gather of further testimony and expertise from all parties in this case. We would benefit from a discussion on the appropriate length of time to calculate such interests.

For example, should the calculation cover one- or two-year debt? Are there independent sources or look up tables to be used in setting the interest rate? And is it appropriate to apply any increase over baseline interest rate? If so, at what rate? And setting the final reconciliation rate of interest.

CHAIRMAN SCOTT: Is there further discussion?

COMMISSIONER O'CONNELL-DIAZ: I would just support -- since Commission McCabe and I worked on the language for this edit, I would support what Commission McCabe has set forth. Additionally I

think the backdrop for this obviously is the legislative structure that we're working under. So I would look forward to further flushing out the issue of interest and giving a clear path to us being in compliance with what the legislation provides with the appropriate rate that should be used. So I look forward to rehearing the parties engaging in this.

CHAIRMAN SCOTT: Is there further discussion?

(No response.)

The motion is to grant rehearing on the methodology for calculating interest on reconciliation adjustments.

All in favor say "aye."

(Chorus of ayes.)

Any opposed?

(No response.)

The vote is 5-0 and that item will be reheard.

On the definition of pension asset, is there any discussion or a motion?

Commissioner McCabe.

COMMISSIONER McCABE: I move for rehearing on

their treatment of pension asset and pension contributions. This is the first formula rate case under YIMA. There are complex issues, debate over the statutory interpretation, definition of terms, and tight deadlines. We want to make sure we get this right going forward to ensure smart grid development and infrastructure improvements.

COMMISSIONER FORD: I certainly support Commissioner McCabe's language and look forward to the rehearing.

CHAIRMAN SCOTT: Is that in the form of a motion, Commissioner McCabe?

COMMISSIONER McCABE: The first part, yes.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER O'CONNELL-DIAZ: Second.

CHAIRMAN SCOTT: Further discussion on this issue?

(No response.)

The motion is to grant rehearing on the definition of pension asset.

All in favor say "aye."

(Chorus of ayes.)

Any opposed?

(No response.)

The vote is 5-0 and that issue will be reheard.

On the issue of average versus year-end rate base, is there any discussion or a motion?

COMMISSIONER O'CONNELL-DIAZ: I would -- Commissioner Ford.

COMMISSIONER FORD: No. Go on.

COMMISSIONER O'CONNELL-DIAZ: No. Go ahead.

COMMISSIONER FORD: I would certainly -- I read this and reread it and I certainly want to rehear it because I want to see it flushed out like we did for the other issues. I know this is a contentious issue and that's why I move that we rehear the average versus year-end rate base.

CHAIRMAN SCOTT: It's been moved.

Is there a second?

COMMISSIONER O'CONNELL-DIAZ: I would second that.

CHAIRMAN SCOTT: Further discussion?

COMMISSIONER O'CONNELL-DIAZ: Mr. Chairman, thank you.

I would support certainly based upon Commissioner Ford's representation of rehearing this issue. This is the first time out of the box for us to interpret all of this legislation and also our time frames are extremely tight given the deadline features of the legislation. Initially in the first go-around on this issue I had put for the language that was -- didn't make its way to the final version and I continued to believe that my way was the right way.

But I think another look at it will be beneficial for all of us. And, again, with the goal of really fine-tuning and ensuring that we get it right as the Commission and I think rehearing will afford us that. So I appreciate the support from my colleagues with regard to rehearing on this issue.

CHAIRMAN SCOTT: Further discussion?

The motion is to grant rehearing on average versus year-end rate base.

All in favor say "aye."

(Chorus of ayes.)

Any opposed?

(No response.)

The vote is 5-0 and rehearing is granted on that issue.

Are there any other topics on which Commissioners seek rehearing?

(No response.)

Hearing none, I would move to deny the remainder of ComEd's request for rehearing insofar as it was not addressed by our prior votes.

Is there a second?

COMMISSIONER O'CONNELL-DIAZ: Second.

CHAIRMAN SCOTT: It's been moved and seconded.

Is there any discussion?

(No response.)

All in favor say "aye."

(Chorus of ayes.)

Any opposed?

(No response.)

The vote is 5-0 and the remainder of ComEd's application for rehearing is denied.

Item No. 4 is Docket No. 12-0298. This is ComEd's petition for the approval of its AMI Plan under Section 16-108.6 of the Public Utilities Act. We've got a few things to consider here and we'll start with AARP's request for oral argument. I would move to deny AARP's request for oral argument.

Is there a second?

COMMISSIONER FORD: Second.

CHAIRMAN SCOTT: It's been moved and seconded.

Is there any discussion?

(No response.)

All in favor say "aye."

(Chorus of ayes.)

Any opposed?

(No response.)

The vote is 5-0 and AARP's oral argument request is denied.

Next up we will address the Order itself. ALJ Haynes recommends entry of an Order approving ComEd's AMI Plan with modification. There are at least two sets of revisions here. I'll start -- I have some revisions. They're fairly

extensive to the Order, although in the interest of time, they don't change any of the conclusions contained in the Order and I'll walk through these fairly briefly.

First, clarify how ComEd has met the condition for a statement of AMI strategy through tightening up this section of summary ordering of things and narrowing the focus.

Second, clarifying and expanding the explanation of the authority under which the Commission has the authority to modify the AMI Plan, which includes a discussion of ComEd's motion for a stay and expected request for rehearing regarding the deployment schedule.

Third, clarify and add caveats regarding the additional metrics for vulnerable populations to deal with the challenge ComEd may have to collecting and tracking which customers are vulnerable.

Fourth, assert that consideration of time of use or other dynamic pricing options as part of the education plan will not hinder the development

of the competitive retail market.

Fifth, clarify some language and remove other language regarding the discount rate used in the cost-benefit analysis which should make clear that despite the limitations of the record, the cost-benefit analysis provided by ComEd is cost beneficial as contemplated by the statute.

Sixth, and perhaps most significantly, decline to order ComEd to file a TOU Tariff. Instead we will be asking ComEd to work with the Smart Grid Advisory Counsel and other stakeholders in a wider exploration of increasing dynamic pricing including the role of ARES, RRTP, as well as the proposed Company-offered TOU.

Seven, some minor wording changes to -- to not change the conclusion on the peak time rebate, but just to soften the conclusion.

And lastly, minor changes on the findings in the ordering section to make it clear that the cost-benefit test is met and that the plan must be modified as discussed otherwise in the Order.

So those are the revisions. There's a

lot there, but they've been circulated and reflect feedback from, I think, all of the offices, which I appreciate. And as I mentioned before, these revisions do maintain the existing conclusions from the Proposed Order.

With that, is there any discussion of those revisions?

COMMISSIONER FORD: None from me.

CHAIRMAN SCOTT: Commissioner McCabe.

COMMISSIONER McCABE: I just want to commend the ALJs, Staff, and all the various parties for doing all they did in a limited amount of time.

CHAIRMAN SCOTT: Okay.

COMMISSIONER O'CONNELL-DIAZ: Mr. Chairman, I just wanted to address the -- first of all, it was great because everybody behind the scenes was busy working on this through the weekend and we did have these really, really terribly short time frames. Our assistants were -- it was a hot bed of action yesterday. The Commissioners were likewise engaged and going through the revisions that were being bounced around. I know that Commissioner Colgan has

some other points; but with regard to the Motion for Stay, we're going to take that separately?

CHAIRMAN SCOTT: Yes.

COMMISSIONER O'CONNELL-DIAZ: Okay. Then we'll talk about that then. But I would also like to thank Judge Haynes for giving us a very well-drafted Order. Obviously we did a little fine-tuning because we had more time -- and the parties, this was -- the deadlines on these cases are -- really require a Herculean task, so everyone had to put their shoulder to the wheel and the result is, I think, culminated in a good Order, a fine Order, and a path forward. So I would like to thank everyone for their effort.

CHAIRMAN SCOTT: I second that. I was going to do that at the end as well, so we'll do that again at the conclusion, too.

Is there any discussion on the revisions? If not, I would move the adoption of those revisions.

Is there a second?

COMMISSIONER FORD: Second.

CHAIRMAN SCOTT: It's been moved and seconded.

All in favor say "aye."

(Chorus of ayes.)

Any opposed?

(No response.)

The vote is 5-0 and my revisions are adopted.

Commissioner Colgan, you have some revisions as well, sir?

COMMISSIONER COLGAN: Yes. Thank you, Chairman.

First of all, I would like to thank all of the Commissioner's offices for the valuable input regarding the edits. The edits commend the Commission analysis and conclusion in the section of the Order which discusses whether or not a knock -- a door knock is required at the time of disconnection for nonpayment. The edits are intended to strengthen the position of the Commission's rule regarding a premises visit prior to disconnection and it is an important consumer protection that can prevent a dangerous health and safety condition due to a loss of electricity service. The edits also make

reference to consistent language in the Commission's Orders in the ComEd AMI Pilot Program docket and the recent Ameren metrics docket regarding remote disconnection of service.

Mr. Chairman and Commissioners, with that I move that this edit be adopted and I request your support for the edits.

CHAIRMAN SCOTT: Is there a second to the motion?

COMMISSIONER McCABE: Second.

CHAIRMAN SCOTT: Is there any discussion of Commissioner Colgan's revisions?

COMMISSIONER O'CONNELL-DIAZ: I would like to thank Commissioner Colgan for going through this section and, you know, not changing the outcome; but strengthening the commitment of the Commission with regard to the important safety of our ratepayers with regard to this issue and -- so thanks for his work on this.

CHAIRMAN SCOTT: Further discussion?

(No response.)

It's been moved and seconded on

Commissioner Colgan's revisions.

All in favor say "aye."

(Chorus of ayes.)

Any opposed?

(No response.)

The vote is 5-0 and Commissioner Colgan's revisions are adopted.

Is there any further discussion on this matter?

COMMISSIONER COLGAN: I would just like to echo a big thank you to ALJ Haynes. I think she's done a remarkable job here. And considering the voluminous record of evidence that was presented in this case and boiling it down to what we had and what she presented to us, I thought it was a very well-done job.

CHAIRMAN SCOTT: Further discussion on the matter?

(No response.)

Is there a motion to enter the Order as revised?

COMMISSIONER FORD: So moved.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER O'CONNELL-DIAZ: Second.

CHAIRMAN SCOTT: It's been moved and seconded.

All in favor say "aye."

(Chorus of ayes.)

Any opposed?

(No response.)

The vote is 5-0 and the ComEd AMI Plan Order as revised is entered.

And as Commissioner O'Connell-Diaz pointed out, we have a Motion to Stay which was filed by ComEd asking us to stay the Order while they seek rehearing on the issue of their deployment schedule.

Is there any discussion on this motion?

COMMISSIONER FORD: Chairman, I certainly -- not being a lawyer -- had evaluated that it's just premature in my opinion because it certainly did not have any prevailing merits and it did not show irreparable harm from the petitioner. So I am just surprised that they put this Order in without showing us the kind of harm that it would do to us or to the

parties or what result it would have and it's certainly premature.

CHAIRMAN SCOTT: Further discussion?

COMMISSIONER O'CONNELL-DIAZ: I would echo Commissioner Ford's analysis. Commissioner Ford sat next to me and I think she knows more about the law at this point than I do because she's got it down with regard to a Motion to Stay.

A Motion to Stay in my mind, you know, I'm a process person and I was kept looking for the magic buzz words in this motion and I did not find them. So it was deficient from that standard which is something that one learns, I think, the first year in law school. I'm not too sure, you know, the irreparable harm so -- and it's also premature because we normally would be having rehearing if the parties are aggrieved in the Order that we just entered, then we would have rehearing. So at that point in time when the Commission is done with its due diligence at that point, that's when I would suggest we he would be seeing a Motion for Stay.

So it's premature, it's deficient, and

it's also deficient from the standard of what's contained in what was filed. It does not give us the type of ammunition we would need to grant -- a Motion for Stay is a very serious business. And in Order to do that, the Commission would need to have credible information, credible numbers -- and this is about numbers -- to show that irreparable harm and that is just not present in the motion as it currently stands.

So I think that we have entered a good Order and maybe we won't have any petitions for rehearing and we won't have a Motion for Stay, but that certainly is down the road. And this is just not in the sequence that we would normally see, so I was surprised to see that in this motion.

CHAIRMAN SCOTT: I think the point you made is very good about not having the particulars that you would really need to have to make that kind of decision. And one of the revisions that you brought up while we were doing the revisions, the language is in there now that talks about the kinds of information that would be needed either on rehearing

or rehearing with a Motion for Stay, which could obviously be filed in the future as well. So I think that that's a very good point.

Is there a motion to deny ComEd's Motion for Stay?

COMMISSIONER COLGAN: So moved.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER O'CONNELL-DIAZ: Second.

CHAIRMAN SCOTT: It's been moved and seconded.

Is there further discussion?

(No response.)

All in favor say "aye."

(Chorus of ayes.)

Any opposed?

(No response.)

The vote is 5-0 and ComEd's Motion for Stay is denied.

And just briefly, Judge Haynes, others have said it; but I wanted to add my thanks to you and to all of the parties and all of the offices for their work on this, but especially to you, Judge, because this is a tremendous undertaking for you to

have to do in a very short time frame. And I know we didn't help matters a lot with our oral argument scheduling and the timing on that, but it's a testament to you and the Staff and the parties that practice before the Comission that this was able to get done in only 60 days. So, again, thank you very much and we really appreciate that.

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

JUDGE WALLACE: No. That's all, Mr. Chairman.

CHAIRMAN SCOTT: Hearing none, this meeting stands adjourned and we'll be back with our next Bench Session on Wednesday, June 27th.

Thanks, everybody.

(And those were all the proceedings had.)