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BEFORE THE
ILLINOIS COMMERCE COMMISSION
Regular Open Meeting
(PUBLIC UTILITY)
Tuesday, August 19, 2014
Chicago, Illinois
Met, pursuant to notice, at 10:30 A.M.,
at 160 North La Salle Street, Chicago, Illinois.
PRESENT:
DOUGLAS P. SCOTT, Chairman
JOHN T. COLGAN, Commissioner
ANN MCCABE, Commissioner
SHERINA E. MAYE, Commissioner
MIGUEL del VALLE, Commissioner

SULLIVAN REPORTING COMPANY, by
PATRICIA WESLEY
CSR NO. 084-002170

1 COMMISSIONER COLGAN: All right. Is everything
2 ready in Springfield?

3 COMMISSIONER COLGAN: Yes, we are ready.

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

10 We should also have Commissioner
11 Colgan available on the phone.

12 Are you there, Commissioner?

13 COMMISSIONER COLGAN: Yes, I am here, Chairman.

14 CHAIRMAN SCOTT: Very good.

15 Under the Commission's rules, we'll
16 have to vote to allow Commissioner Colgan to
17 participate by phone. I move to allow Commissioner
18 Colgan's participation by phone. Is there a second?

19 COMMISSIONER MAYE: Second.

20 CHAIRMAN SCOTT: It's been seconded by
21 Commissioner Maye.

22 All in favor, say aye.

1 (Chorus of ayes.)

2 Any opposed?

3 (No response.)

4 The vote is 4 to nothing and
5 Commissioner Colgan may participate in today's
6 meeting 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 Commission meetings.
14 According to the Chief Clerk's office, we have no
15 requests to speak at today's Regular Open Mmeeting.

16 We'll begin with the approval of
17 minutes from our July 30th Bench session.

18 Is there a motion to approve the
19 minutes?

20 COMMISSIONER McCABE: So move.

21 CHAIRMAN SCOTT: Is there a second?

22 COMMISSIONER MAYE: Second.

1 CHAIRMAN SCOTT: Commissioner McCabe moved and
2 seconded by Commissioner Maye.

3 All in favor, say aye.

4 (Chorus of ayes.)

5 Any opposed?

6 (No response.)

7 The vote is 5 to nothing and the
8 minutes from our July 30 Bench Session are approved.

9 Item 2 on today's agenda is Docket
10 No. 13-0501 and 13-0517 (consolidated). This is
11 People of the State of Illinois' complaint to
12 suspend tariff changes submitted by Ameren; to
13 investigate Ameren's Rate MAPP pursuant to Sections
14 9-201, 9-250 and 16-108.5 of the Public Utilities
15 Act; and Ameren's revisions to its formula rate
16 structure and protocols. ALJs Albers and Yoder
17 recommend entry of an Order clarifying the formula
18 rate process.

19 My office has proposed some minor
20 edits to the Commission Conclusion section on Page
21 19 of the PEPO with regard to the second issue,
22 should "formula rate structure" be defined to mean

1 the approved tariff set forth in AIC's tariffs as
2 Rate 21 MAP-P, Tariff Sheet Nos. 16-16.013. These
3 edits do not change the ultimate conclusion but do
4 delete the PEPO's reference to AIC's engaging in an
5 improper collateral attack on a prior Commission
6 decision. Though we strive for consistency in our
7 decisions, parties commonly present the same
8 arguments year after year even if they have
9 previously been rejected because we do not have res
10 "res judicata" adjudicata at the Commission.
11 Although the Commission did not find AIC's arguments
12 to be persuasive, we did not find that they amounted
13 to an improper collateral attack.

14 With that, I'd move for the adoption
15 of the edits.

16 Is there a second?

17 COMMISSIONER McCabe: Second.

18 CHAIRMAN SCOTT: It's been seconded by
19 Commissioner McCabe.

20 Any discussion?

21 (No response.)

22 All in favor, say aye.

1 (Chorus of ayes.)

2 Any opposed?

3 (No response.)

4 The vote is 5 to nothing and the edits
5 are adopted.

6 Is there now a motion to enter the
7 Order as amended?

8 COMMISSIONER MAYE: Move.

9 CHAIRMAN SCOTT: Is there a second?

10 COMMISSIONER McCABE: Second.

11 CHAIRMAN SCOTT: Commissioner Maye moved and
12 seconded by Commissioner McCabe.

13 Any discussion?

14 (No response.)

15 All in favor, say aye.

16 (Chorus of ayes.)

17 Any opposition?

18 (No response.)

19 The ayes have it.

20 COMMISSIONER COLGAN: Aye.

21 CHAIRMAN SCOTT: I'm sorry I jumped the gun.

22 The vote is 5 to nothing and the

1 Order as amended is entered.

2 We will use this 5 to nothing vote for
3 the remainder of today's Regular Open Meeting agenda
4 unless otherwise noted.

5 Item 3 is Docket No. 14-0316.

6 JUDGE WALLACE: Mr. Chairman, this is Judge
7 Wallace.

8 CHAIRMAN SCOTT: Yes, Judge Wallace.

9 JUDGE WALLACE: You seem to be cutting out at
10 least down here. I don't know if there's anything
11 wrong with the equipment up there or down here.

12 CHAIRMAN SCOTT: Okay. I'll move a little closer
13 and see if that helps, so interrupt me again if you
14 are not catching things.

15 JUDGE WALLACE: Okay. Thank you, Mr. Chairman.

16 CHAIRMAN SCOTT: Item 3 is Docket 14-0316. This
17 is ComEd's petition to make housekeeping revisions
18 and a compliance change to its filed rate formula.
19 ALJs Haynes and Teague Kingsley recommend entry of
20 an Interim Order approving the revisions and
21 allowing for a second phase of the proceeding to
22 address (1) the appropriate depreciation rate and

1 (2) when a Section 9-201 proceeding would be
2 necessary.

3 Is there any discussion?

4 (No response.)

5 Any objections?

6 (No response.)

7 Hearing none, the Interim Order is
8 entered.

9 Item 4 is Docket No. 14-0398. This is
10 ComEd's petition for approval of its Rider
11 MSS-Market Settlement Service. ALJ Sainsot
12 recommends entry of an Order approving the
13 applicable tariffs.

14 Is there any discussion?

15 (No response.)

16 Any objections?

17 (No response.)

18 Hearing none, the Order is entered.

19 Item 5 is Docket No. 14-0481. This is
20 Source Power & Gas LLC's application for a
21 certificate of service authority under Section
22 16-115 of the Public Utilities Act. ALJ Von Qualen

1 recommends entry of an Order granting the requested
2 certificate.

3 Is there any discussion?

4 (No response.)

5 Any objections?

6 (No response.)

7 Hearing none, the Order is entered.

8 Item 6 is Docket No. 13-0252. This is
9 FutureGen Industrial Alliance's application for a
10 certificate authorizing the construction and
11 operation of a carbon dioxide pipeline.

12 On July 31, 2014 FutureGen filed a
13 supplemental application requesting authorization to
14 make minor deviations in the pipeline route. ALJ
15 Von Qualen recommends the docket be reopened to
16 allow participation from interested parties.

17 Is there any discussion?

18 (No response.)

19 Any objections?

20 (No response.)

21 Hearing none, the motion to reopen the
22 docket is granted.

1 Item 7 is Docket No. 13-0602. This is
2 Phillips 66 Pipeline's application for issuance of a
3 certificate in good standing as a common carrier by
4 pipeline pursuant to the Illinois Common Carrier by
5 Pipeline law. ALJ Von Qualen recommends entry of an
6 Order granting the requested certificate.

7 Is there any discussion?

8 (No response.)

9 Any objections?

10 (No response.)

11 Hearing none, the Order is entered.

12 Item 8 is Docket No. 13-0650. This is
13 Ron Ciaglia d/b/a American Restaurant Supply's
14 complaint against Nicor as to service in Joliet.
15 ALJ Sainsot recommends entry of an Order dismissing
16 the complaint without prejudice for want of
17 prosecution.

18 Is there any discussions?

19 (No response.)

20 Any objections?

21 (No response.)

22 Hearing none, the Order is entered and

1 the complaint is dismissed.

2 Items 9 and 10 can be taken together.
3 These items are joint petitions for approval of
4 amendments to interconnection and reciprocal
5 compensation agreements. The ALJ in each case
6 recommends entry of an Order approving the proposed
7 amendments.

8 Is there any discussion?

9 (No response.)

10 Any objections?

11 (No response.)

12 Hearing none, the Orders are entered.

13 Item 11 is Docket No. 13-0591. This
14 item concerns our amendment of 83 Ill. Adm. Code
15 730. ALJ Yoder recommends entry of an Order
16 adopting the proposed amendments as approved by
17 JCAR.

18 Is there any discussion?

19 (No response.)

20 Any objections?

21 (No response.)

22 Hearing none, the Order is entered.

1 Item 12 is a Staff report recommending
2 that the Commission initiate a show cause proceeding
3 directing Major Energy to respond to allegations of
4 misrepresentation and deceptive marketing practices
5 under the Public Utilities and Consumer Fraud Act.

6 We will take two actions here. One is
7 to act on Staff's recommendation and then if that is
8 approved then also a motion for an Initiating Order
9 consistent with the Staff report.

10 Is there any discussion on these
11 items? Commissioner del Valle.

12 COMMISSIONER del VALLE: Thank you, Mr. Chairman.

13 This is not the first time that this
14 issue comes up, the issue of how customers receive
15 their information and questions about variable
16 rates.

17 I think it's important for the
18 Commission, for our staff, in addition to this
19 proceeding and others, that we understand what we're
20 dealing with, if you look at our website and look at
21 Plug In Illinois, to see what we can do to better
22 explain to people what we have done and what the

1 process is for selecting an electric supplier and
2 how variable rates work.

3 I looked at our website and I had to
4 click like seven times before I could get to
5 something that told me something about variable
6 rates, and I found it in our glossary, and it was at
7 the very end, and it was, in my opinion, an
8 inadequate explanation of variable rates, so I think
9 that in order to protect consumers the Commission is
10 going to have to do a better job of disseminating
11 information and making information available to
12 folks.

13 While we are a competitive state and
14 we want to continue to encourage that, of course, I
15 think it's important that people understand that
16 there is a possibility, as was the case during
17 this winter, that their rates could increase
18 dramatically, and it's a decision that they make, of
19 course, but they should know what they're getting
20 into when they sign up for variable rates. I don't
21 think we provide much information on that in our own
22 website and through our own information

1 dissemination.

2 CHAIRMAN SCOTT: Thank you, Commissioner.

3 Commissioner McCabe.

4 COMMISSIONER McCABE: I just want to know if
5 there are any updates that Peter can provide us.

6 MR. CLAUSEN: Okay. This is Torsen Clausen.

7 Just a little bit of background on
8 this particular issue, as Commissioner del Valle
9 just mentioned, this particular investigation that
10 was started here is against one particular supplier,
11 but there's obviously broader issues that are
12 definitely in need of some attention.

13 Just to give you an idea, I think
14 it was back in May staff had given notice to
15 stakeholders that we were going to have a discussion
16 on a set of issues, and one of them was the proper
17 notice when it comes to variable rates, and whether
18 there's additional things that we should be doing,
19 whether it's through the Commission or through the
20 additional consumer education.

21 So we actually sent out a list of
22 questions that we definitely want to get feedback

1 on, and then after that CUB also filed a petition to
2 look into an investigation how suppliers currently
3 are marketing variable rates to residential
4 customers.

5 So we are actually trying to combine
6 these things right now and hopefully have something
7 for your consideration as a broader set of issues
8 that is not particularly tied to one particular
9 supplier like the item you have in front of you
10 right now, which is really more about our concerns
11 with how this supplier has marketed to residential
12 customers of which the variable rate is one, but
13 there are certainly other issues.

14 And just in closing, I just want to
15 say that even when we find from our experience with
16 residential customers that even if there is a clear
17 definition or a clear spelling out of how the
18 variable rates may change from time to time, there's
19 still some marketing issues sometimes what these
20 sales agents or where the material tells customers
21 at the point of signing up might not align exactly
22 with what's actually spelled out in the contract or

1 other cases where customers just -- you know, they
2 don't consult their contract more than the point of
3 signing up, and when the rate changes, they become
4 surprised.

5 So there is certainly some things you
6 want to look at in terms of should there be
7 additional notice requirements for residential
8 customers that are on variable rates. Like I say,
9 hopefully there will be a broader investigation in
10 front of you soon.

11 COMMISSIONER del VALLE: And I thank you for
12 that.

13 CHAIRMAN SCOTT: Commissioner.

14 COMMISSIONER del VALLE: I think that you
15 mentioned the contracts, the agreements, and I have
16 one in front of me here, from another company that
17 we have talked about in the past. But even though
18 we say the plain language is written, I look at this
19 language on pricing with these agreements and I
20 could see where the average person would not
21 understand when we're talking and mentioning supply,
22 and electricity, and PJM interconnection. They will

1 say what's PJM?

2 So I think, even though I don't have
3 the answers, it's a real challenge here, but I think
4 we have to continue to try to find ways of
5 explaining things in plain language so that people
6 better understand what they're signing, because I'm
7 talking about an agreement that people sign, and
8 this was signed at the door. These are at-the-door
9 activities.

10 I really appreciate all the work that
11 you gentlemen and others have done on this, and I'm
12 sure we are going to see some improvements, but I
13 agree that in looking at scripts and other things
14 that are used, there's all kinds of things that we
15 want to see happen, but it's really up to that
16 person at the door and what they say, and we can't
17 control that, but there has to be a way and it has
18 to be clear to the customers that what is being said
19 at the door is inaccurate and deceptive, then they
20 should be able to take action.

21 COMMISSIONER COLGAN: Mr. Chairman, I have a
22 couple of comments.

1 CHAIRMAN SCOTT: Sure. Go ahead, Commissioner
2 Colgan.

3 COMMISSIONER COLGAN: Yes. I totally agree with
4 everything Commissioner del Valle has said in his
5 comments, that it's so important for us to make sure
6 that we're doing what we can to explain the complex
7 issues to consumers so that they can make educated
8 and informed decisions about what they want to do
9 with their electricity.

10 At the same time, it's absolutely
11 important for all the ARES and AGS to understand
12 that the expectation of the Commission is that they
13 follow the letter as well as the intent of the law
14 and that they not be doing anything that could be
15 viewed as a deceptive or fraudulent practice at the
16 door.

17 So I'm in favor of going into this
18 investigation and I am in favor of taking a close
19 look at others who maybe also have some similar
20 sorts of issues about this. So when they get
21 certificated, these alternative suppliers get
22 certificated -- excuse me -- by this Commission,

1 that is only the beginning and from there they need
2 to move in to do the work that is being done and do
3 the best they can to follow the letter and the
4 intent of the law. That's my comment.

5 CHAIRMAN SCOTT: I appreciate that, Commissioner,
6 and the comments of Commissioner del Valle. I agree
7 with everything that's been said. I appreciate the
8 work that Peter, and Torsen, and you, and the others
9 who work in this area are doing.

10 This is one of the allegations, at
11 least staff reported, that is troubling and, as
12 pointed out, something that we continue to see,
13 which Commissioner del Valle has brought up.

14 We can review scripts and we can know
15 what people are told to say at the door, but we
16 still haven't figured out a really good way to
17 police what actually happens at the door, and
18 we hear anecdotically, as well as in investigations,
19 way too many stories of people, if not just making
20 stuff up on the fly, trying to convince people to
21 sign up for their service, then it's worse as a
22 coordinated effort to actually mislead and deceive

1 people.

2 So I applaud the work that's done
3 here, and I appreciate all of that, and I think that
4 while we are looking at this particular company and
5 this particular investigation, I think it goes back
6 and points out to a larger problem that we have been
7 having and, you know, the fact that for most of the
8 companies they're not using their own employees to
9 do this, they're hiring, you know, out through a
10 third party, and that's even further removed from
11 their actual company's operations, and so the
12 control gets less and less as they do that.

13 There's a lot of issues that need to
14 be explored, but I also agree with the idea we need
15 to do whatever we can to make sure, because just in
16 looking at the contract now, I have been a lawyer
17 for a lot of years, but, you know, looking at that,
18 they're incredibly complicated terms, especially in
19 a case like this when you are talking about
20 somebody's customer whose first language isn't
21 English and a contract or third-party verification.

22 It's a very additionally disturbing

1 allegation here, so I appreciate you taking the
2 further steps on this particular company and also on
3 the larger issues as well. Thank you.

4 With that, is there a motion to adopt
5 Staff's recommendation?

6 COMMISSIONER McCABE: So move.

7 CHAIRMAN SCOTT: Is there a second?

8 COMMISSIONER MAYE: Second.

9 CHAIRMAN SCOTT: It's been moved by Commissioner
10 McCabe and seconded by Commissioner Maye.

11 All in favor, say aye.

12 (Chorus of ayes.)

13 Any opposed?

14 (No response.)

15 The vote is 5 to nothing and Staff's
16 recommendation is adopted.

17 At this time I would like to make a
18 motion to direct OGC to prepare an Initiating Order
19 consistent with the Staff report.

20 Is there a second?

21 COMMISSIONER MAYE: Second.

22 CHAIRMAN SCOTT: It's been seconded by

1 Commissioner Maye.

2 Any discussion?

3 (No response.)

4 All in favor, say aye.

5 (Chorus of ayes.)

6 Any opposed?

7 (No response.)

8 The vote is 5 to nothing and OGC is
9 directed to prepare an Initiating Order consistent
10 with Staff's recommendation.

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

13 JUDGE WALLACE: No, that's all, Mr. Chairman.

14 CHAIRMAN SCOTT: All right. Thank you very much.

15 Hearing nothing else to come before
16 the Commission, the meeting stands adjourned, except
17 for we want to wish Commissioner Maye a happy
18 birthday. Happy birthday, Commissioner.

19 COMMISSIONER MAYE: Thank you.

20 (Whereupon, the above matter
21 was adjourned.)

22