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BEFORE THE
ILLINOIS COMMERCE COMMISSION

BENCH SESSION
(PUBLIC UTILITY)

Chicago, Illinois
September 9, 2010

Met pursuant to notice, at 10:30 a.m., in the
Main Hearing Room, Eighth Floor, 160 North LaSalle
Street, Chicago, Illinois

PRESENT:

- MR. MANUEL FLORES, Acting Chairman
- MS. ERIN M. O'CONNELL-DIAZ, Commissioner
- MS. LULA M. FORD, Commissioner
- MR. SHERMAN J. ELLIOTT, Commissioner
- MR. JOHN T. COLGAN, Acting Commissioner

SULLIVAN REPORTING COMPANY, by
Tracy L. Overocker, CSR

1 ACTING CHAIRMAN FLORES: Before moving into the
2 agenda, according to Section 1700.10 of the Illinois
3 Administrative Code, this is the time we allow for
4 members of the public to address the Commission.
5 Members of the public wishing to address the
6 Commission must notify the Chief Clerk's Office at
7 least 24 hours prior to the Bench session. According
8 to the Chief Clerk's Office, we have four requests to
9 speak at today's Bench session.

10 We'll start with Duane D. Suits of
11 Apple River, Illinois.

12 Mr. Suits.

13 MR. DUANE D. SUITS: Good morning. Usually I
14 speak loud enough and I don't need one of these, but
15 let me know if this is okay.

16 Thank you for the opportunity to
17 address you today. My name, as you know, is Duane D.
18 Suits. I'm a member of the Apple Canyon Lake
19 Property Owners' Association Board of Directors, but
20 today I wish to address you as a resident and
21 property owner at the Lake as well.

22 As a property owner, I was initially

1 shocked by the proposal originally presented by the
2 utility. I attended one of the open meetings with
3 representatives of the utility last fall and was
4 expecting to hear some justification for such an
5 increase. Instead, what I heard was a proposal which
6 essentially was based on a recovery of costs, some of
7 which were included in a previous rate increase
8 request, which was denied, I believe it was, in 2004;
9 and then recovery of additional capital costs that
10 they had indicated that they had incurred over the
11 past 4 to 5 years.

12 The recovery they were asking for
13 would have recovered those costs in 1 year, not over
14 a 10-year basis, which was more to be expected for
15 capital improvements.

16 My understanding is that Commission --
17 is that the Commission Staff's proposal has
18 substantially -- or substantially reduces the
19 increase in rates but that proposal results in an
20 increase in the 66 percent range for the, quote,
21 average customer at Apple Canyon Lake. This level of
22 increase is difficult to swallow.

1 This difficult economic environment
2 facing all of us, particularly for those like myself
3 who are completely dependent on retirement income or
4 will be in the near future and are deeply concerned
5 about escalating costs for healthcare, taxes and
6 other essentials to be paid from a fixed or even
7 diminishing level of income, it is difficult even if
8 it could be justified. But when the Staff's reduced
9 increase recommendations still includes cost recovery
10 for an elaborate nationwide billing system
11 disproportionally allocated to the consumers at Apple
12 Canyon Lake, it includes recovery of costs paid to
13 consultants, the purpose of which is reportedly vague
14 and undefined, and it still provides the utility with
15 a rate of return which is considered to be in the
16 midrange for comparable utilities, seemingly
17 rewarding it for attaining a very high level of
18 unaccounted for water pumped, all of which make this
19 increase even more difficult to swallow.

20 I am a proponent for rewarding good
21 performance and for providing recovery of justified
22 infrastructure improvements over a reasonable period

1 of time; but I do feel that in these times, we have
2 to say no to requests that do not meet those
3 criteria.

4 Thank you again for the opportunity to
5 address you this morning.

6 ACTING CHAIRMAN FLORES: Thank you, Mr. Suits.

7 COMMISSIONER FORD: Thank you.

8 ACTING CHAIRMAN FLORES: Next, we have Ed Ryan
9 of Apple River, Illinois.

10 Mr. Ryan, would you please also step
11 up to the...

12 MR. ED RYAN: Thank you for hearing me today.
13 I've been a property owner and I'm an ex-Board of
14 Director of Apple Canyon Lake property owners and
15 I've been a property owner for 41 years and over that
16 course of 41 years, I've -- I bought a lot in 1960
17 and I built my first house in 1975. I built another
18 house when I retired in 1998 and all that time, the
19 whole 40 years, they've been collecting available
20 water for availability on vacant lots in the amount
21 of \$60-some a year and there's at least 1,850 vacant
22 lots there that they've collected money on for

1 over -- and that's more than paid for that water
2 system 10 times over and they did put in a new well
3 and pump and spent 300,000, but by my guesstimate --
4 because I can only guesstimate -- that they've
5 collected \$6 million in fees where they didn't have
6 to do anything except say that water was available
7 and they collect that every year. And how can they
8 charge us \$300,000 to replace a well that -- and a
9 pump?

10 I mean, I don't know what that money
11 was used for, but I'm sure it didn't cost very much
12 more than a million dollars to build the whole system
13 and pipe it all and when you -- and there's 900 homes
14 besides, and they all pay water fees. You can't get
15 the water unless you build on your lot. So I can't
16 understand how they can ask for a substantial
17 increase. The way I look at it, most of the people
18 up there are retired or going to be retired soon and
19 the way things are going -- I mean, I know they were
20 talking about 300 percent increase. I can't
21 understand -- they have one emp- -- well, now they
22 have two because the other guy is probably getting

1 ready to retire up there and they're billing -- how
2 much does it cost to send out 2,700 bills? You don't
3 need an elaborate billing system for that and I just
4 don't see how they can justify asking for a
5 substantial increase and I don't know what the
6 progress has been made, but I know this has been
7 going on for over a year and I'd like to see you take
8 some consideration -- I don't know if you people get
9 their books to look at, but I suggest if you don't,
10 you do.

11 Okay. Thank you.

12 ACTING CHAIRMAN FLORES: Thank you.

13 Next, we have Miss Judy Okazaki of
14 Apple Canyon Lake.

15 Miss Okazaki, please.

16 MS. JUDY OKAZAKI: Good morning. I'm Judy
17 Okazaki and I'm a homeowner at Apple Canyon Lake.
18 Our home at Apple Canyon Lake is a secondary
19 residence for us at this time, but we have plans to
20 make this our retirement home. I previously followed
21 the process as I knew it and submitted my concerns to
22 the ICC Web site and additionally sent a letter to

1 try to make sure that my comments would be heard and
2 considered and I have no idea whether my filing or
3 the Web site -- on the Web site or the letter are
4 part of the record at this time. So I am restating
5 some of that and I have the letter that I could
6 resubmit today, if I can.

7 I'm concerned about the rate increase
8 and the process that allows us the rate increase.
9 The homeowners of Apple Canyon Lake first tried to
10 give their input at a meeting at Apple Canyon and I
11 was taken aback to read the questions and answers
12 after the meeting could not be included in the
13 record. Then the attorneys for the utility company
14 requested the comments be stricken from the record.

15 In response, ACL organized a trip in
16 August from Jo Daviess County into Chicago in order
17 to give public comments at a meeting, but that
18 meeting was canceled. Then another meeting was to
19 have taken place yesterday, September 8th. I put in
20 my request on September 2nd to speak at that meeting
21 and was given a call, after changing my schedule, and
22 told that that meeting would be changed to today and

1 I, once again, had to change my schedule to be here
2 today. So not only has the process been difficult
3 for scheduling meetings for public comment in
4 Springfield and Chicago, but the schedule seems to
5 have changed many times.

6 The second concern I have is the
7 documents -- I found one of the documents filed for
8 this case, an oral argument, Exhibit 1, I believe,
9 that says, ACL has 890 active customers, service for
10 a cost of 5,710 a year. However, ACL has
11 approximately 2,727 lots with vacant homeowners
12 having to pay, as I did, \$66 a year when our house
13 was vacant. So to me, it's important that it be
14 defined in the payments made by vacant lot owners are
15 also concerned.

16 Additionally, we built our home last
17 year and paid a connection fee of \$400. Then my
18 costs for last year were \$81. We closed on our house
19 and moved in in September. We don't -- we're only
20 weekenders. We had no watering or -- for our lawn
21 and, although, we have a washing machine, we take our
22 laundry home where we have no payment for water.

1 Another concern that I have is with
2 regards to the question that I have not received an
3 answer to. A question as to whether each time a
4 utility company purchases the Apple Canyon Lake water
5 controls whether they've had to put any money into
6 capital improvements because, to me, if each time a
7 company sells and makes a profit by not addressing
8 capital improvement needs, then this is a disservice
9 to us as users and in the future, could be a disaster
10 with our aging water system. I have not been able to
11 find an answer to that question, so I hope that
12 that's being considered.

13 I also hope that my testimony can't be
14 eliminated for any reason today that deprives us from
15 having -- or deprives me, as a homeowner, from being
16 heard. I hope my comments will be taken into
17 consideration and I thank you for your time.

18 ACTING CHAIRMAN FLORES: Thank you,
19 Miss Okazaki.

20 Last we have Miss Janet Helgason of
21 Apple River.

22 Miss Helgason.

1 MS. JANET HELGASON: Good morning.

2 THE COMMISSION: Good morning.

3 MS. JANET HELGASON: My name is Janet Helgason
4 and I reside part time at Apple Canyon Lake with my
5 husband. I am retired. He's semiretired. We've
6 been in our residence there for 14 years and I have
7 some points I'd like to make on this increase. ACUC
8 has not adequately justified capital expenditures
9 past, present or future to warrant a rate increase of
10 300 percent totaling in excess of 1.2 million over
11 the next 5 years. I have here a copy of my recent
12 water bill. I pay \$29.58 for the base charge and my
13 water usage. With the proposed rate increase notice,
14 I would be paying \$115.05 for the same service, this
15 is a 389 percent increase.

16 There are no planned capital projects.
17 If this 300 percent rate increase is allowed, that
18 will be -- what will this windfall be used for? If
19 they don't use the funds, are they going to return
20 them?

21 Billing and accounting software
22 upgrades are done to increase the efficiency and

1 should result in a payback, otherwise, why do it?

2 The costs should not be passed to the consumer. This
3 software change has had no benefit to ACL customers.
4 On the contrary, recent bills were delayed or lost.

5 Leak detection inspection repairs and
6 new billing systems should have been budgeted and
7 paid for in an average yearly period. Management for
8 maintenance, what kind of management and maintenance
9 personnel shows a report of 50 percent loss and the
10 results for the unaccounted for water? This is water
11 that is reported missing and it's additional costs of
12 delivery. This is poor management. The costs of
13 extending water mains to new homes should be borne by
14 new homeowners, not part of our water bill or
15 considered a capital expense.

16 Furthermore, the Company has been
17 already charging the 1,850 vacant lot owners who do
18 not even utilize water service. The cost incurred by
19 the utilities company in which to apply and litigate
20 for rate increases should not be passed onto ACL
21 customers. We needed to hire and pay for our own
22 lawyer to oppose them.

1 Based on the lack of justification
2 presented here, I would conclude that no rate
3 increase is justified at this time.

4 Thank you for your attention.

5 ACTING CHAIRMAN FLORES: Thank you.

6 In addition, we also received comments
7 from Miss Cynthia Donth-Carton, Apple Canyon.
8 Miss Donth-Carton is unable to attend today's meeting
9 but her written remarks will be included as
10 additional public comments for today's Bench session
11 as allowed under Section 1700.10(d) of the Illinois
12 Administrative Code and I have them. I'll tender
13 them to the court reporter at the conclusion of the
14 session.

15 Very well. Starting with today's
16 Transportation agenda with the Railroad --

17 MS. JUDY OKAZAKI: When I said my comments
18 about submitting that letter, can I submit that?

19 ACTING CHAIRMAN FLORES: You can tender it to
20 me. You can tender it, ma'am. Do you want to
21 approach the -- Brian, could you just get that?

22 The gentleman will take it from you.

1 Thank you.

2 (Whereupon, letters were received
3 by the Commission.)

4 ACTING CHAIRMAN FLORES: We're going to move to
5 the Public Utility agenda. There are three sets of
6 minutes to approve. We will start with the approval
7 of minutes from the August 10th Regular Opening
8 Meeting. I understand that amendments have been
9 forwarded. Is there a motion to amend the minutes.

10 COMMISSIONER FORD: So moved.

11 ACTING CHAIRMAN FLORES: I will second it.
12 It's been moved and seconded.

13 All in favor say "aye."

14 (Chorus of ayes.)

15 Any opposed?

16 (No response.)

17 The vote is 5-0 amending the minutes.

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

20 COMMISSIONER O'CONNELL-DIAZ: So moved.

21 ACTING CHAIRMAN FLORES: I will second it.
22 It's been moved and seconded.

1 All in favor say "aye."

2 (Chorus of ayes.)

3 Any opposed?

4 (No response.)

5 The vote is 5-0 approving the minutes
6 for August 10th as amended.

7 With respect to the minutes from --
8 for the August 12th Joint Policy Committee Meeting, I
9 understand the amendments have been forwarded. Is
10 there a motion amend the minutes?

11 COMMISSIONER COLGAN: So moved.

12 ACTING CHAIRMAN FLORES: I will second it.
13 It's been moved and seconded.

14 All in favor say "aye."

15 Chorus of ayes.

16 Any opposed?

17 (No response.)

18 The vote is 5-0 amending the minutes.

19 Is there a motion to approve the
20 minutes as amended?

21 COMMISSIONER ELLIOTT: So moved.

22 ACTING CHAIRMAN FLORES: I will second it.

1 It's been moved and seconded.

2 All in favor say "aye."

3 (Chorus of ayes.)

4 Any Opposed?

5 No response.

6 The vote is 5-0 approving the minutes
7 for the August 12th Joint Policy Committee Meeting as
8 amended.

9 We also have minutes to approve from
10 the August 18th Bench session. I understand that
11 amendments have been forwarded.

12 I will make a motion to amend the
13 minutes. Is there a second?

14 COMMISSIONER FORD: Second.

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

17 All in favor say "aye."

18 (Chorus of ayes.)

19 Opposed?

20 (No response.)

21 The vote is 5-0 amending the minutes.

22 Is there a motion to approve the

1 minutes as amended?

2 COMMISSIONER FORD: So moved.

3 ACTING CHAIRMAN FLORES: I will second. It's
4 been moved and seconded.

5 All in favor say "aye."

6 Chorus of ayes.

7 Any opposed?

8 (No response.)

9 The vote is 5-0 approving the minutes
10 for the August 18th Bench session as amended.

11 Given that we're talking about
12 minutes, I would just like to cover the approval of
13 the minutes for the August 18th Bench session. There
14 are no amendments, and so I would just like to make a
15 motion to approve those minutes.

16 Is there a second?

17 COMMISSIONER O'CONNELL-DIAZ: Second.

18 ACTING CHAIRMAN FLORES: All in favor say
19 "aye."

20 (Chorus of ayes.)

21 Any opposed?

22 (No response.)

1 None. The vote is 5-0 to approve the
2 minutes without amendments and that is for the
3 Transportation agenda and it's -- so moving on to the
4 Electric agenda, Item E-1 concerns initiating
5 reconciliation proceedings --

6 JUDGE WALLACE: Mr. Chairman?

7 ACTING CHAIRMAN FLORES: Yes, sir.

8 JUDGE WALLACE: That would be for the Public
9 Utility. You may have said Transportation.

10 COMMISSIONER ELLIOTT: No, that was
11 Transportation.

12 ACTING CHAIRMAN FLORES: No, that was
13 Transportation. Well, I apologize. What had
14 happened was I had skipped over that section in the
15 Railroad -- Transportation Section. But because I
16 had already started talking about minutes in terms of
17 agenda minutes, I thought that I would just include
18 that session so that it would be included in the
19 record. Is that okay, Judge?

20 JUDGE WALLACE: Yes.

21 ACTING CHAIRMAN FLORES: Moving on to the
22 actual agenda itself for matters pending before us.

1 Item E-1 concerns initiating reconciliation
2 proceedings over revenues collected by ComEd under
3 its Rider EDA for energy efficiency and demand
4 response programs.

5 Staff recommends entering an Order
6 initiating the reconciliation proceedings.

7 Is there a motion to enter an Order
8 initiating the reconciliation proceedings?

9 COMMISSIONER O'CONNELL-DIAZ: So moved.

10 ACTING CHAIRMAN FLORES: I will second. It's
11 been moved and seconded. All in favor say "aye."

12 (Chorus of ayes.)

13 Any opposed?

14 (No response.)

15 The vote is 5-0 and the initiating
16 Order is entered. We will use this 5-0 vote for the
17 remainder of the public utilities agenda unless
18 otherwise noted.

19 Item E-2 is Docket No. 09-0331. This
20 is Rhonda Schilling's complaint as to billing and
21 charges against ComEd.

22 The parties have apparently resolved

1 the matter and have brought a Joint Motion to Dismiss
2 which Administrative Law Judge Sainsot recommends
3 that we enter.

4 Is there any discussion?

5 (No response.)

6 Any objections?

7 (No response.)

8 Hearing none, the Joint Motion to
9 Dismiss is granted.

10 Item E-3 is Docket No. 10-0031. This
11 concerns Donald Kannenberg's complaint as to billing
12 and charges against ComEd.

13 Administrative Law Judge Haynes
14 recommends entry of an Order denying Mr. Kannenberg's
15 complaint based on satisfactory responses from the
16 Utility.

17 Is there any discussion?

18 (No response.)

19 Any objections?

20 (No response.)

21 Hearing none, the Order is entered and
22 the complaint is denied.

1 Item E-4 is Docket No. 10-0108. This
2 item concerns a rulemaking surrounding proposed
3 amendments to Title 83, Part 451 of the Illinois
4 Administrative Code, which addresses the
5 certification of alternative retail electric
6 suppliers which have now been approved by the Joint
7 Committee on Administrative Rules.

8 Judge Wallace recommends that we enter
9 an Order adopting the amendments to Part 451.

10 Is there any discussion?

11 (No response.)

12 Any objections?

13 (No response.)

14 Hearing none, the Order is entered and
15 the amendments are adopted.

16 Items E-5 and E-6 can be taken
17 together. These items constitute petitions by
18 Constellation NewEnergy and Glacial Energy of
19 Illinois for proprietary treatment of certain
20 reports.

21 In each case, Administrative Law Judge
22 Jones recommends entering an Order granting the

1 requested relief.

2 Is there any discussion?

3 (No response.)

4 Any objections?

5 (No response.)

6 Hearing none, the petitions are
7 granted.

8 Item E-7 is Docket No. 10-0233. This
9 concerns Isaac and Lucinda McMillian's complaint as
10 to billing and charges against ComEd.

11 Administrative Law Judge Riley
12 recommends entry of an Order denying Mr. and
13 Mrs. McMillian's complaint based on the billing
14 information introduced in the case.

15 Is there any discussion?

16 (No response.)

17 Any objections?

18 (No response.)

19 Hearing none, the Order is entered and
20 the complaint is denied.

21 Item E-8 is Docket No. 10-0310. This
22 is Flex Energy Management's application for licensure

1 as an Agent, Broker and Consultant under Section
2 16-115C of the Public Utilities Act.

3 Administrative Law Judge Yoder
4 recommends entry of an Order denying the requested
5 certificate of service authority.

6 Is there any discussion?

7 (No response.)

8 Any objections?

9 (No response.)

10 Hearing none, the Order is entered and
11 the requested certificate of service authority is
12 denied.

13 Item E-9 is Docket No. 10-0341. This
14 is Strategic Advisors I's application for licensure
15 as an Agent, Broker and Consultant under Section
16 16-115 C of the Public Utilities Act.

17 Administrative Law Judge Yoder
18 recommends entry of an Order denying the requested
19 certificate of service authority.

20 Is there any discussion?

21 (No response.)

22 Any objections?

1 (No response.)

2 Hearing none, the Order is entered and
3 the requested certificate of service authority is
4 denied.

5 Items E-10 and E-11 can be taken
6 together. These are applications by HealthTrust
7 Purchasing Group and EnerCom for licensure as an
8 Agent, Broker and Consultant under Section 16-115 C
9 of the Public Utilities Act.

10 In each case, Administrative Law Judge
11 Yoder recommends entry of an Order granting the
12 requested certificate of service authority.

13 Is there any discussion?

14 (No response.)

15 Any objections?

16 (No response.)

17 Hearing none, the Order is entered and
18 the requested certificates of service authority are
19 granted.

20 Item E-12 is Docket No. 10-0424. This
21 concerns ComEd's petition for a protective Order over
22 in its rate case and was filed pursuant to Section

1 200.430 of the Administrative Code.

2 Administrative Law Judges Dolan and
3 Sainsot recommend entry of an Order dismissing this
4 document with prejudice, as there is now a motion for
5 a protective Order pending in ComEd's rate case.

6 Is there any discussion?

7 (No response.)

8 Any objections?

9 (No response.)

10 Hearing none, the Order is entered and
11 the docket is dismissed.

12 Items E-13 and E-14 can be taken
13 together. These are applications by Xencom Green
14 Energy and EMEX Power for licensure as an Agent,
15 Broker and Consultant under Section 16-115 C of the
16 Public Utilities Act.

17 In each case, Administrative Yoder
18 recommends entry of an Order granting the requested
19 certificate of service authority.

20 Is there any discussion?

21 (No response.)

22 Any objections?

1 (No response.)

2 Hearing none, the Order is granted and
3 the requested certificates of service authority are
4 granted.

5 Items E-15 and E-16 can be taken
6 together. These items concern complaints as to
7 billing and charges brought by Reppie Walker and Myra
8 Okner against ComEd.

9 In each case, the parties have
10 apparently resolved the matter and have brought a
11 Joint Motion to Dismiss which the Administrative Law
12 Judges recommend that we enter.

13 Are there -- is there any discussion?

14 (No response.)

15 Any objections?

16 (No response.)

17 Hearing none, the Joint Motions to
18 Dismiss are granted.

19 Turning to Gas. Item G-1 is Docket
20 No. 10-0160. This concerns Just Energy's Petition
21 for Emergency Relief to protect portions of its
22 report of continued compliance as an alternative gas

1 supplier.

2 Administrative Law Judge Jones
3 recommends entry of an Order granting the requested
4 relief.

5 Is there any discussion?

6 (No response.)

7 Any objections?

8 (No response.)

9 Hearing none, the Order is entered and
10 the request for proprietary treatment is granted.

11 Item G-2 is Docket No. 10-0232. This
12 item concerns Atmos Energy Corporation's application
13 for Commission approval of a plan to -- a plan for
14 the issuance of 106,568 shares of common stock
15 pursuant to its non-employee director plan, with the
16 amount not to exceed \$4 million.

17 Judge Wallace recommends entry of an
18 Order approving the application.

19 Is there any discussion?

20 (No response.)

21 Any objections?

22 (No response.)

1 Hearing none, the Order is entered and
2 the application is approved.

3 Item G-3 is Docket No. 10-0352. This
4 concerns a complaint by Gina Kazecki and Zdzislaw
5 Zaremba against Just Energy Corporation. The
6 complaint alleges that they were improperly billed
7 for gas service by the Company. The parties have now
8 apparently settled their differences and brought a
9 Joint Motion to Dismiss, which Judge Kimbrel
10 recommends that we grant.

11 Is there any discussion?

12 (No response.)

13 Any objections?

14 (No response.)

15 Hearing none, the Joint Motion to
16 Dismiss is granted.

17 Item G-4 is Docket No. 10-0469. This
18 concerns Progressive Energy Group's Petition to
19 De-Certify as an Alternative Gas Supplier.

20 Administrative Law Judge Teague
21 recommends entry of an Order granting the requested
22 relief.

1 Is there any discussion?

2 (No response.)

3 Any objections?

4 (No response.)

5 Hearing none, the Order is entered and
6 the de-certification is granted.

7 Item G-5 is Docket No. 10-0501. This
8 item is Integrys Energy Service's Petition for
9 Proprietary Treatment for certain portions of its
10 financial reports.

11 Administrative Law Judge Teague
12 recommends entry of an Order granting the requested
13 relief.

14 Is there any discussion?

15 (No response.)

16 Any objections?

17 (No response.)

18 Hearing none, the Order is entered and
19 the proprietary treatment is granted.

20 Moving now to telecommunications.

21 Items T-1 through T-5 will be taken together. These
22 items concern applications for Certificates of

1 Authority to operate as a reseller and/or carrier
2 under Section 13-401 through Section 13-405 of the
3 Public Utilities Act.

4 In each case, the Administrative Law
5 Judge recommends entry of an Order granting the
6 certificate.

7 Is there any discussion?

8 (No response.)

9 Any objections?

10 (No response.)

11 Hearing none, the Orders are entered
12 and the certificates are granted.

13 Items T-6 -- excuse me. Item T-6 is
14 Docket No. 10-0433. This item concerns a complaint
15 by Affinity Title Services against Cbeyond
16 Communications regarding the quality of service
17 provided.

18 In this case, the parties have
19 apparently resolved their differences and have
20 brought a Joint Motion to Dismiss, which
21 Administrative Law Judge Gilbert recommends that we
22 grant.

1 Is there any discussion?

2 (No response.)

3 Any objections?

4 (No response.)

5 Hearing none, the Joint Motion to
6 Dismiss is granted.

7 Items T-7 through T-12 will be taken
8 together. These items each involve joint petitions
9 surrounding the resale and interconnection agreements
10 under 47 U.S.C. Section 252.

11 In each docket, the Administrative Law
12 Judge recommends entering an Order approving a new
13 agreement or amending an existing agreement.

14 Is there any discussion?

15 (No response.)

16 Any objections?

17 (No response.)

18 Hearing none, the Orders are entered.

19 Items T-13 though T-16 can also be
20 taken together. Each case involves proceedings
21 initiated by the Commission concerning the revocation
22 of Certificates of Service Authority for failure to

1 maintain corporate status.

2 In each docket, Administrative Law
3 Judge Teague recommends entry of an Order revoking
4 the respondent's Certificate of Service Authority.

5 Is there any discussion?

6 (No response.)

7 Any objections?

8 (No response.)

9 Hearing none, the Orders are entered
10 and the certificates are revoked.

11 Item T-17 is Docket No. 10-0247. This
12 concerns a petition by Associated Network Partners
13 for proprietary treatment for certain portions of its
14 annual report.

15 Administrative Law Judge Jones
16 recommends entry of an Order granting the requested
17 relief.

18 Is there any discussion?

19 (No response.)

20 Any objections?

21 (No response.)

22 Hearing none, the Order is entered and

1 the request for proprietary treatment is granted.

2 We now move to the Water and Sewer
3 portion of today's agenda.

4 Item W-1 is Docket Nos. 09-0548 and
5 09-0549, which is the Apple Canyon and Lake Wildwood
6 rate case.

7 After Judge Kimbrel submitted his
8 proposed Order, the parties submitted briefs on
9 exception and reply briefs on exception in this case,
10 and some of the changes to the rate base section were
11 made in the Order that is before us today. The
12 Commission also held Oral Argument on this matter on
13 September 2nd.

14 Is there any discussion of this case?

15 (No response.)

16 Is there a motion to enter the Order
17 presented by Judge Kimbrel in this case?

18 COMMISSIONER ELLIOTT: So moved.

19 ACTING CHAIRMAN FLORES: I will second it.

20 It's been moved and seconded.

21 All in favor say "aye."

22 (Chorus of ayes.)

1 Any opposed?

2 (No response.)

3 The vote is 5-0 and the Order is
4 entered.

5 We have a couple of other matters to
6 address today. The first concerns a report on
7 telecommunications markets in Illinois prepared by
8 Staff pursuant to Section 13-407 of the Public
9 Utilities Act.

10 Staff, could you please approach and
11 brief us on this matter.

12 JUDGE WALLACE: Mr. Chairman, are we coming
13 back to M-1?

14 ACTING CHAIRMAN FLORES: I'm sorry. Could you
15 please speak up, sir.

16 JUDGE WALLACE: It probably would help if I
17 turned the microphone on.

18 Mr. Chairman, are we going back to
19 M-1?

20 ACTING CHAIRMAN FLORES: Yes. Miscellaneous.

21 MR. ZOLNIEREK: Good evening. This is Jim
22 Zolnierenek from staff of the Telecommunications

1 Division. The Report to the General Assembly that's
2 on the agenda is a report pursuant to Section 13-407
3 of the Public Utilities Act. Each year the
4 Commissioners enter a report complete with the
5 information to the General Assembly. The Report
6 before you this year contains a few surprises. It's
7 much -- the patterns we see in this Report are much
8 the same as we've seen in previous years. In
9 particular, to highlight a few of the changes, a
10 decline in the number of reported POTS lines have
11 occurred this year, as they have in the past. These
12 patterns are likely due to losses to the wireless
13 industry and to nonreporting carriers, for example,
14 Nomadic VoIP, Voice over Internet Protocol services,
15 and 911 information, we've been able to fill some of
16 the gaps for this -- for these numbers that we don't
17 get directly from carriers, but not completely and so
18 the numbers in the Report are going, to some extent,
19 understate the amount of competition in Illinois.
20 For example, for the 911 information, we received
21 about 400,000 lines or about 8 percent of residential
22 lines that were not reported because the carriers

1 providing those lines were either not -- either
2 didn't report or likely -- more likely were not
3 required to report, for example, they were using
4 technologies that fall largely outside the scope of
5 the Commission's authority.

6 Similar to previous years, we've seen
7 the share -- the CLEC's share of the market increase
8 of the reported market. ILEC lines, incumbent local
9 exchange carrier, have decreased and CLEC lines have
10 increased marginally. CLECs show overall -- of the
11 overall market was between 23 to 28 percent, again,
12 that's an understatement because it doesn't count
13 losses where consumers had, for example, went
14 completely wireless.

15 The CLEC's res share is even harder.
16 We're getting the reported share between 25 and 33
17 percent, again, that's understated for the same
18 reasons.

19 The CLEC's share in the market. When
20 we look at CLECs and how they're providing services,
21 similar to what they did in the past, it's continued
22 with the patterns we've seen before where CLECs are

1 continuing to increasingly provide services over
2 their own facilities rather than using other
3 platforms such as unbundled network element or
4 resale. The CLEC's share -- of the CLEC market
5 that's been reported to us -- was approximately 60
6 percent of those lines were provided to the CLEC's
7 own facilities and those are primarily like cable
8 platforms and other similar facilities based on
9 carriers.

10 Mobile subscribership continues to
11 increase, that's no surprise, we've seen that every
12 year for several years.

13 So in general, this Report really
14 contains very few surprises. The patterns we see are
15 similar to what we've seen in the past and probably
16 expect to see continuing going forward. This is --
17 it's worthy to note this is the last Report that we
18 prepare pursuant to 13-407 as it existed prior to the
19 recent changes in the Telecommunications Act.

20 Going forward, the nature of the
21 Commission's job pursuant to 13-407 changes just a
22 bit. We have some increase certainly in terms of who

1 we can collect information from and, in particular,
2 it appears that we now have explicit authority to
3 collect certain information from voice over Internet
4 service providers, that was an area of uncertainty
5 before and those are fixed voice over Internet
6 service providers and not necessarily nomadic.

7 In addition, the broadband collection
8 duties that the Commission previously had now are no
9 longer exclusive with the Commission. We're going to
10 work -- the Commission is going to work jointly with
11 some other agencies, DECO and the Partnership For a
12 Connected Illinois, to further their efforts to
13 collect more granular broadband information, they
14 will collect very detailed information on often --
15 in particular, if you have a Web site which you've
16 listed in the Report, you can actually see lists of
17 providers by address. If consumers type in their
18 address, they can determine, at least, some of the
19 providers providing service in their area and we
20 intend to work with those agencies and Partnership
21 for a Connected Illinois to improve that data and
22 make it more available for consumers overall.

1 With that, that concludes my remarks
2 and with your approval, the Office of Governmental
3 Affairs will finalize the Report and submit that --
4 submit it to the General Assembly.

5 ACTING CHAIRMAN FLORES: Any questions for
6 Mr. Zolnierek?

7 COMMISSIONER ELLIOTT: Just one question. You
8 mentioned that the ability for a consumer to type in
9 their address on the DECO Web site?

10 MR. ZOLNIEREK: No, it's in the Partnership for
11 a Connected Illinois Web site and I've got addresses
12 listed in the Report.

13 COMMISSIONER ELLIOTT: Is that a functionality
14 you're going to add to our own Web site?

15 MR. ZOLNIEREK: Potentially a link to that Web
16 site?

17 COMMISSIONER ELLIOTT: It seems like a
18 convenient location for consumers to get information
19 on available providers for telecommunications
20 services.

21 MR. ZOLNIEREK: Absolutely. I think -- we'll
22 work with IT to get that information on our Web site

1 so consumers can easily find it.

2 COMMISSIONER ELLIOTT: Great. Thank you.

3 MR. ZOLNIEREK: Thank you.

4 ACTING CHAIRMAN FLORES: Any other comments?

5 (No response.)

6 Very well. Thank you for the Report.

7 I'd like to make a motion to send this report on to

8 the General Assembly and have it posted on the

9 Commission's Web site.

10 Is there a second?

11 COMMISSIONER ELLIOTT: Second.

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

14 All in favor say "aye."

15 (Chorus of ayes.)

16 Any opposed?

17 (No response.)

18 The vote is 5-0 and the Report will be

19 sent to the General Assembly and posted to the

20 Commission's Web site.

21 Mr. Zolnierек, thank you so much for

22 your work and also thank you to the other staff as

1 well for their work on this issue.

2 Item M-1 concerns proposed rules to
3 Title T -- excuse me, Title 2, Illinois
4 Administrative Code Part 1700. The amendment adds
5 standards by the -- for the use by the Chairman of
6 the Illinois Commerce Commission in determining
7 whether to grant a request by a member of the public
8 to speak at a Commission meeting.

9 Is there a motion -- I'd like to make
10 a motion to approve the minutes -- excuse me, to
11 approve the amendments to these rules.

12 Is there a second?

13 COMMISSIONER FORD: Second.

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

16 All in favor say "aye."

17 (Chorus of ayes.)

18 Any opposed?

19 (No response.)

20 The vote is 5-0 and the amendments to
21 Part 1700 are approved.

22 The -- our last item today is a FERC

1 matter, so we're going to have to go into closed
2 session.

3 Is there a motion to go into closed
4 session?

5 COMMISSIONER FORD: Aye.

6 ACTING CHAIRMAN FLORES: I second it. It's
7 been moved and seconded.

8 All in favor say "aye."

9 (Chorus of ayes.)

10 Any opposed?

11 (No response.)

12 The vote is 5-0 to go into closed
13 session.

14 Springfield, please let me know when
15 we are ready to go into closed session.

16 JUDGE WALLACE: We're ready.

17 (Whereupon, at this point

18 Pages 43-52 are contained in

19 a separate closed transcript.)

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1 CONTINUATION OF PROCEEDINGS

2 ACTING CHAIRMAN FLORES: In closed session, the
3 Commission discussed filing comments to FERC
4 regarding the Midwest ISO's July 15th transmission
5 cost allocation filing.

6 Is there a motion to file the comments
7 with the FERC.

8 COMMISSIONER ELLIOTT: So moved.

9 ACTING CHAIRMAN FLORES: I will second it.
10 It's been moved and seconded.

11 All in favor say "aye."

12 (Chorus of ayes.)

13 Any opposed?

14 (No response.)

15 The vote is 5-0. The comments will be
16 filed with FERC.

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

19 JUDGE WALLACE: No. I would like to go back.
20 Did you receive Transportation minutes at a late
21 date? Because there's no Transportation minutes on
22 the Transportation agenda.

1 ACTING CHAIRMAN FLORES: No, I think, please
2 forgive me. I mean, this might be my error, but I'm
3 looking at -- I'm following the -- just the regular
4 agenda here in terms of the approval of the minutes
5 for the Transportation agenda. So there was no --
6 that's what I'm looking at. I'm looking at my actual
7 agenda that was printed and there are minutes of the
8 August 18th, 2010 Bench session.

9 JUDGE WALLACE: For the Transportation -- okay.
10 That's fine. I was looking at the agenda I have down
11 here and there weren't any minutes on that. So...

12 ACTING CHAIRMAN FLORES: I mean, we were not --
13 there were no amendments to it, but we still have to
14 approve the minutes.

15 JUDGE WALLACE: Right, and I'm just saying that
16 on the agenda we have down here there were no minutes
17 at all listed.

18 COMMISSIONER O'CONNELL-DIAZ: Is that a revised
19 agenda?

20 JUDGE WALLACE: I'm at a loss. I don't know.
21 I was just -- I just caught that and that's what I
22 was asking. So if you have minutes for

1 Transportation, you've approved them and that's all
2 there is today.

3 ACTING CHAIRMAN FLORES: That's why I think
4 there was a little confusion early on but I would
5 rather error on the side of approving minutes on the
6 one agenda that I have. So -- but thank you, Judge,
7 and regret any confusion.

8 Hearing none -- that there are no
9 matters then, the meeting is adjourned. Thank you,
10 everybody.

11 (Meeting adjourned.)

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To Whom It May Concern:

I am writing regarding the rate increase that has been proposed for Apple Canyon Lake and to request that you block it. My address is 7A85 Apache, Apple River, IL 61001.

The letter we received from the water company Apple Canyon Utility Company - Utilities Inc. Stated, "Assuming an average consumption of 2,000 gallons the monthly charge for monthly water service will increase from \$14.83 to \$48.04."

This extreme rate increase is unjustifiable, unaffordable and outrageous. If each utility and taxing body was able to add increases in incremental amounts as high as this most home and property owners would not be able afford to be in the area.

Further the company already charges vacant property owners who do not even utilize water services. ACL consists of 2,727 lots, less than 850 have homes on them.

Another reason cited for the increase was a New Accounting and Customer Care & Billing System. Just as in our home budgets, if funds are not available to purchase desired improvements than we can't do it anyway and hope to get the money later.

One of the expenses they cited was adding a dedicated main installed to Fair Oaks, a street that didn't already have a line, to accommodate new construction at the end of the street and at the same time adding service to 4 vacant lots. There are a great number of streets that don't already have a line, so according to this means of charging, if a number of new homes were to be built on streets with no existing lines we would have to absorb the cost of each new line when it goes in and service to all of the vacant lots on those streets. That alone could make the fees unaffordable.

Please, stop this rate increase! You may make my complaint public. Additionally, please follow-up with me by phone.

Sincerely,
Judy Okazaki
7A85 Apache Drive
Apple River, IL 61001
847-732-3823

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION
Public Participation Request Form

DATE: Sept. 8, 2010

I request an opportunity to address the Illinois Commerce Commission during the public comment period of the Illinois Commerce Commission meeting scheduled for Thursday Sept 9, 2010

(Required information is marked with an asterisk [**].)

NAME: * CYNTHIA DOUTH-CARTON

ADDRESS: * 14A157 CANYON CLUB DR APPLE RIVER IL 60001

SUMMARY OF THE PRESENTATION: * would like to go on record

*see second page

GROUP REPRESENTED BY PERSON MAKING REQUEST (If none, state "None."):

* Apple Canyon Lake Property Owners Assoc

TELEPHONE NUMBER: 815 492 2238

E-MAIL ADDRESS: bookkeeper @applecanyonlake.org

The request must be submitted to the Chief Clerk of the Commission at least 24 hours prior to the Commission meeting, at the following address:

Illinois Commerce Commission
Chief Clerk's Office
527 E. Capitol Avenue
Springfield, IL 62701
Fax: (217) 524-0673
PublicRequest@icc.illinois.gov

The Chief Clerk's Office will notify you as to whether your request has been granted or denied.

As a business and community ACLPOA understands that companies are working on shoestring budgets. We must be fiscally responsible to our property owners. We are respectfully asking that you require Apple Canyon Utilities to be fiscally responsible to their customers as well.

It is hard for us to imagine that your Commission would go to the Legislature and request a 275 percent increase in your budget. Yet that is precisely what Apple Canyon Utilities is proposing in its current rate case.

The water rates for this association are already high. In addition to the homes receiving water, and a monthly bill, there are ___ owners of lots with no homes and no water lines paying monthly fees. These people have been doing so since 1969. Utilities Inc has been receiving payments for water and infrastructure they have not provided. A fiscally responsible business would be investing these payments toward capital improvements they had included in a long range plan.