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BEFORE THE
ILLINOIS COMMERCE COMMISSION
REGULAR OPEN MEETING
(PUBLIC UTILITY)
Thursday, September 10, 2015
Chicago, Illinois

Met, pursuant to notice, at 10:30 A.M.,
at 160 North La Salle Street, Chicago, Illinois.

- PRESENT:
- BRIEN J. SHEAHAN, Chairman
 - ANN MCCABE, Commissioner
 - SHERINA E. MAYE, Commissioner
 - MIGUEL DEL VALLE, Commissioner
 - JOHN R. ROSALES, Commissioner

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

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2 CHAIRMAN SHEAHAN: Good morning. Are we ready to
3 in Springfield?

4 MR. MATRISCH: Yes, Chairman.

5 CHAIRMAN SHEAHAN: Pursuant to the Open Meetings
6 Act, I call the September 10, 2015 Bench Session of
7 the Illinois Commerce Commission to order.

8 Commissioners McCabe, del Valle, Maye
9 and Rosales are present with me in Chicago. We have
10 a quorum.

11 We have no requests to speak and will,
12 therefore, move on to our Public Utility Agenda, we
13 do have edits to the Minutes of our August 12th
14 meeting.

15 Are there any objections to approval
16 of the Minutes of August 12, 2015 as edited?

17 Hearing none, the Minutes as edited
18 are approved.

19 Item E-1 concerns ComEd's Revisions to
20 its Interest Rates to Properly Align with the new
21 Illinois Administrative Code Part 280.

22 Are there any objections to not

1 suspending the filing?

2 (No response.)

3 Hearing none, the filing is not
4 suspended.

5 Item E-2 concerns ComEd's Filing to
6 Revise its Local Government Compliance Adjustment
7 Rider.

8 Are there any objections to not
9 suspending the filing?

10 (No response.)

11 Hearing none, the filing is not
12 suspended.

13 Item E-3 concerns revisions to
14 MidAmerican Energy Company's Filings to Revise its
15 Electric and Gas Tariffs in Accordance with the
16 Illinois Administrative Code Part 280.

17 Are there any objections to not
18 suspending the filing?

19 (No response.)

20 Hearing none, the filings are not
21 suspended.

22 Item E-4 involves an Order initiating

1 a Rulemaking Proceeding to Consider Changes to the
2 Marketing Practices Applicable to Retail Electric
3 Suppliers in Illinois.

4 We have a few substantive edits to the
5 proposed Order concerning a requirement that the
6 Order be drafted within 180 days.

7 I move for the adoption of the edits.
8 Is there a second.

9 COMMISSIONER MAYE: Seconded.

10 CHAIRMAN SHEAHAN: Is there any discussion?

11 (No response.)

12 All those in favor, say aye.

13 (Chorus of ayes.)

14 Opposed, say nay.

15 (No response.)

16 The edits are adopted.

17 I will move the Order as edited.

18 Is there a second?

19 COMMISSIONER MAYE: Seconded.

20 CHAIRMAN SHEAHAN: Is there any discussion?

21 Commissioner del Valle.

22 COMMISSIONER del VALLE: Mr. Chairman, first of

1 all, I would like to thank you for your edits. It
2 shows that we are moving this process along. I have
3 some questions.

4 Do our rules address the content
5 presentation of disclosures on the face of the
6 marketing materials and what they say?

7 MR. CLAUSEN: You said on the face of the
8 marketing materials? Is that your question?

9 COMMISSIONER del VALLE: The rules that are used.

10 MR. CLAUSEN: Right. The rules that we have in
11 place right now, which are Code Part 412, there is
12 one specific section in Code Part 412 that lays out
13 certain disclosures that have to happen regardless
14 of the form of the marketing, whether that's
15 telemarketing, direct mail I think is what you were
16 talking about, or on-line marketing, and it lists a
17 number of items that need to be disclosed. It
18 doesn't go into I think the level of detail that you
19 are saying where exactly they need to be in the
20 piece of the marketing material.

21 So right now the disclosures that are
22 required, just to give you an example, asks for

1 disclosure of the price, the length of terms, any
2 early termination fees, but they don't go into more
3 detail.

4 COMMISSIONER del VALLE: And so they don't
5 require that. For example, I have here something
6 that I received, and there's no mention at all of a
7 variable rate, and at the bottom there is a
8 detachment that calls for requests that you provide
9 the ComEd account number and basically says that you
10 detach this, you send it in and you are switched,
11 but, on the other side, the part that I have
12 highlighted, you only mention a variable rate.

13 So our rules do not require that that
14 be on the face of the mailing at the body of the
15 basic information that's provided in terms of the
16 offer that's being made for electricity?

17 MR. CLAUSEN: Correct. Our rules currently do
18 not go into that level of detail. The only thing
19 that 412.10 says that if it is a separate document
20 each list of items is not to be no longer than two
21 pages and it has to be a 10 point font or larger.
22 That's just one example.

1 In the Staff report that you got from
2 us we want to explore things that are addressed in
3 412 generally, so even things outside of what the
4 NOI comments that were received specifically we want
5 to make -- Staff will propose some changes that
6 probably go more in that area of detail.

7 COMMISSIONER del VALLE: This is my opinion. We
8 have to change that, at least put in a statement
9 that suggest that you read the contract before you
10 send in the detached piece giving your ComEd account
11 number which in essence authorizes them to change
12 your service.

13 You know, they have, in addition to
14 this, another insert that was included with this
15 that says "Frequently asked questions about
16 switching to clean energy;" again, no mention of the
17 variable rate --

18 MR. CLAUSEN: In the frequently asked questions
19 page --

20 COMMISSIONER del VALLE: -- and so that's the
21 kind of marketing practice that I think we have to
22 put a stop to.

1 So do our rules require that price and
2 any other important terms and conditions be
3 disclosed on the face of the marketing mailer? The
4 answer to that question, based on what you said, is
5 no.

6 MR. CLAUSEN: Correct.

7 COMMISSIONER del VALLE: Does the act or rules
8 prohibit the use of language that is confusing or
9 missing on the face of the market mailer, for
10 example, prohibiting use of clean carbon free or
11 sustainable and work around the definition for
12 renewable or green energy? It doesn't address that.

13 Any comments to these specific issues
14 in the NOI?

15 MR. CLAUSEN: On those that you mentioned, I
16 think only the last one that you mentioned is on
17 clean energy. There's a discussion in the NOI that
18 was one of the specific things that we threw out
19 that we wanted to make comment on.

20 But, as you know from our Staff
21 report, what we are recommending here, based on --
22 based on the NOI, as well as on our experience and

1 interaction with the suppliers and the informal
2 complaints that we have received at this Commission,
3 we are actually proposing in the Staff report to
4 make changes to our existing rules that go beyond
5 the issues that were specifically asked and
6 addressed in the NOI, so the draft of the issue that
7 we sent you actually has language to the effect of
8 these issues should be addressed, but including, but
9 not limited, to.

10 So, in addition to what Staff is
11 proposing, we expect other parties will propose
12 additional items in this rulemaking, so the NOI is
13 not limiting the set of issues that we expect in the
14 rulemaking.

15 COMMISSIONER del VALLE: So the issues that I
16 have raised in consideration of these issues would
17 not fall outside the scope of this proposed
18 rulemaking?

19 MR. CLAUSEN: No, they would not fall outside.
20 In fact, Staff itself is proposing things that
21 weren't exactly addressed in the NOI and we are
22 currently drafting -- and what you just described in

1 terms of direct mail, we are currently drafting a
2 draft proposed rule that will actually revamp some
3 of that section that we have right now, and it will
4 be Staff's proposal, and we expect other parties
5 will have their own opinions on what should be done.

6 COMMISSIONER del VALLE: Thank you.

7 CHAIRMAN SHEAHAN: We have a motion that's been
8 seconded to adopt the Order as amended.

9 All those in favor, say aye.

10 (Chorus of ayes.)

11 Opposed, say nay.

12 (No response.)

13 The ayes have it and the Order is
14 approved.

15 Item E-5 involves a complaint filed
16 against ComEd regarding billing in Illinois.

17 Is there any objection to approving
18 the proposed Order dismissing the complaint?

19 (No response.)

20 Hearing none, the Order is approved
21 and the complaint is dismissed.

22 Item E-6 involves the Reconciliation

1 of Revenues Collected under ComEd's Purchase of
2 Receivables with Consolidated Billing Rider.

3 Are there any objections to approving
4 the proposed Order?

5 (No response.)

6 Hearing none, the Order is approved.

7 Items E-7 and 8 involve complaints
8 filed against ComEd regarding billing in Illinois.

9 Are there any objections to
10 considering these items together and approving the
11 proposed Order denying the complaints?

12 (No response.)

13 Hearing none, the Orders denying the
14 complaints are approved.

15 Items E-9 and 10 involve complaints
16 filed against ComEd regarding billing in Illinois.

17 Are there any objections to
18 considering these items together and granting the
19 Joint Motions to Dismiss?

20 (No response.)

21 Hearing none, the Joint Motions to
22 Dismiss are granted and the complaints are

1 dismissed.

2 Item E-11 concerns Ameren Transmission
3 Company of Illinois' Petition pursuant to the Public
4 Utilities Act Authorizing the Use of Eminent Domain
5 Power.

6 Are there any objections approving the
7 proposed Order?

8 (No response.)

9 Hearing none, the Order is approved.

10 Items E-12 thru 15 concern Joint
11 Petitions Seeking Approval of the Release of
12 Commercial Customers Pursuant to the Electric
13 Supplier Act.

14 Are there any objections to
15 considering these items together and approving the
16 proposed Orders?

17 (No response.)

18 Hearing none, the Orders are approved.

19 Items E-16 through 19 involve various
20 Applications for Licensure of Agents, Brokers and
21 Consultants under the Public Utilities Act.

22 Are there any objections to

1 considering these items together and approving the
2 proposed Orders?

3 (No response.)

4 Hearing none, the Orders are approved.

5 Moving on to our Gas Agenda Items G-1
6 through 4 concern the Commencement of Reconciliation
7 Proceedings of Revenues Collected under Gas
8 Adjustment Charges with Actual Costs Prudently
9 Incurred.

10 Are there any objections to
11 considering these items together and approving the
12 proposed Orders?

13 (No response.)

14 Hearing none, the Orders are approved.

15 Item G-5 involves a complaint against
16 Ameren regarding a meter issue.

17 Is there any objection to approving
18 the proposed Order and granting the parties' Joint
19 Motion to Dismiss?

20 (No response.)

21 Hearing none, the motion is granted
22 and the complaint is dismissed.

1 Item G-6 involves a complaint against
2 Nicor as to billing issues in Rockford, Illinois.

3 Is there any objection to approving
4 the proposed Order and granting the parties' Joint
5 Motion to Dismiss?

6 (No response.)

7 Hearing none, the motion is granted.

8 Item G-7 involves an agreed upon
9 stipulation determining Gleeson Asphalt, Inc.'s
10 liability under the Illinois Underground Utility
11 Facilities Damage Prevention Act.

12 Are there any objections to approving
13 the proposed Order?

14 (No response.)

15 Hearing none, the Order is approved.

16 Moving on to our Telecommunications
17 Agenda, Item T-1 is Everycall Communication, Inc.'s
18 Motion to Withdraw its Application for Designation
19 as an Eligible Telecommunications Carrier in
20 Illinois.

21 Is there any objection to granting its
22 Motion to Withdraw?

1 (No response.)

2 Hearing none, the Motion to Withdraw
3 is granted and the Order is approved.

4 Item T-2 involves a complaint against
5 AT&T as to billing issues in Chicago, Illinois.

6 Is there any objection to granting the
7 parties' Joint Motion to Dismiss?

8 (No response.)

9 Hearing none, the motion is granted
10 and the complaint is dismissed.

11 Item T-3 concerns BCDC Connect's
12 Application for a Certificate of Local and
13 Interexchange Authority to Operate as a Reseller and
14 Facilities-Based Carrier of Telecommunications
15 Services throughout Illinois.

16 Are there any objections to approving
17 the proposed Order?

18 (No response.)

19 Hearing none, the Order is approved.

20 Item T-4 concerns LSSI Data
21 Corporation's Application to Cancel its Certificate
22 of Service Authority.

1 Are there any objections to approving
2 the proposed Order?

3 (No response.)

4 Hearing none, the Order is approved.

5 Item T-5 concerns Metro
6 Communication's Petition for Confidential Treatment
7 of its Annual Report.

8 Is there any objection to approving
9 the proposed Order?

10 (No response.)

11 Hearing none, the Order is approved.

12 Items T-6 through 8 involve various
13 Petitions for Modifications to the 9-1-1 Emergency
14 Telephone Number Systems throughout Illinois.

15 Are there any objections to
16 considering these items together and entering the
17 proposed Orders?

18 (No response.)

19 Hearing none, the Orders are entered.

20 Moving on to our Water and Sewage,
21 Item W-1 concern Aqua and Illinois American-Water
22 Company's Joint Petition to Initiate a

1 Rulemaking for Approval of Amendments to Illinois
2 Administrative Code regarding Qualifying
3 Infrastructure Plant Surcharge.

4 We have substantive edits to the
5 proposed Order. The substantive edits include
6 consideration of Accumulated Deferred Income Tax
7 Liabilities and Accumulated Depreciation as factors
8 to determine the QIP Surcharge under the Illinois
9 Administrative Code.

10 I move for the adoption of these
11 edits.

12 Is there a second?

13 COMMISSIONER MAYE: Seconded.

14 CHAIRMAN SHEAHAN: Is there any discussion?

15 (No response.)

16 COMMISSIONER McCABE: I support the Chairman's
17 edits on ADIT, which will make this rule consistent
18 with the gas QIP's treatment of ADIT,
19 generally-accepted accounting principles, state law
20 and prior Commission decisions.

21 The Public Utilities Act requires that
22 a utility's investment in plant on which it earns a

1 return must be properly valued. The fact that the
2 existing Water QIP Rule requires the inclusion of
3 accumulated depreciation and associated ADIT within
4 the excess earnings test underscores the importance
5 of those amounts in properly valuing a utility's QIP
6 investment.

7 CHAIRMAN SHEAHAN: Thank you.

8 Commissioner del Valle.

9 COMMISSIONER del VALLE: Thank you. I support
10 the edits and I think greatly improves the new
11 Order, but I just want the record to show that I
12 share the concerns with the residents that these
13 changes would have the effect of Aqua's increasing
14 its rates more than it needs to file a rate case
15 before the Commission that would require an
16 examination of Aqua's cost structure. Also I'm
17 hoping this would be addressed during the process.

18 CHAIRMAN SHEAHAN: Thank you, Commissioner.

19 Any other discussion regarding the
20 edits?

21 (No response.)

22 All those in favor of adopting the

1 edits, say aye.

2 (Chorus of ayes.)

3 Opposed, say nay.

4 (No response.)

5 The edits are adopted.

6 I do move that we adopt the motion as
7 edited.

8 Is there a second?

9 COMMISSIONER McCABE: Seconded.

10 CHAIRMAN SHEAHAN: Is there any discussion?

11 (No response.)

12 I would just echo the Commissioner's
13 concern and note that this is a first step in the
14 process. The next step will involve receiving
15 comments from parties that are interested, and we
16 encourage that and look forward to those comments as
17 we develop this rule.

18 COMMISSIONER MAYE: Commissioner, may I address a
19 couple of those.

20 I also share your concern. I think
21 the ADITs were drafted in a way so that there would
22 not be, you know, that rate shock, but the rates

1 hopefully won't rapidly increase in such a manner
2 that they're shocking to the residents but allow the
3 utilities to make the necessary infrastructure
4 repairs needed to make our residents safe.

5 So I think we are trying to strike a
6 balance here. I agree that this is the very first
7 step and will probably be a long method in making
8 this all come together.

9 CHAIRMAN SHEAHAN: Thank you, Commissioner.

10 Any other comments?

11 (No response.)

12 Commissioner McCabe.

13 COMMISSIONER McCABE: As mentioned, the rule will
14 go to the Secretary of State for publication in the
15 Register for comments. Amending these rules will
16 enable greater investment in water and sewer
17 infrastructure, which should lead to benefits such
18 as reduced main breaks and water leaks.

19 I am interested in comments on the
20 possibility for repeated QIP-related customer bill
21 increases and would seek input on questions such as
22 whether the 2.5 percent annual average increase

1 remains reasonable if more than four or five years
2 go by without a rate case and whether the Commission
3 should require participating companies to submit to
4 a periodic review of rates or cap the allowed
5 increase in rates under the proposed rule.

6 CHAIRMAN SHEAHAN: Thank you, Commissioner. I
7 also echo those questions.

8 Any further discussion?

9 (No response.)

10 All those in favor of adopting the
11 Order as edited, say aye.

12 (Chorus of ayes.)

13 The ayes have it.

14 Opposed, say nay.

15 (No response.)

16 The ayes have it and the Order as
17 edited is adopted.

18 Moving on to Item W-2, this concerns
19 Aqua Illinois' Petition Requesting the Use of
20 Eminent Domain pursuant to the Public Utilities Act.

21 Is there any objection to approving
22 the proposed Order?

1 (No response.)

2 Hearing none, the Order is approved.

3 Item W-3 concerns a complaint filed
4 against Utility Services of Illinois regarding bills
5 for availability service.

6 Is there any objection to approving
7 the proposed Order?

8 (No response.)

9 Hearing none, the Order is approved.

10 On our Miscellaneous Agenda, we have
11 one item concerning Illinois Extension Pipeline
12 Company's Petition to Protect Certain Confidential
13 and Proprietary Information.

14 Is there any objection to approving
15 the proposed Order?

16 (No response.)

17 Hearing none, the Order is approved.

18 We have a second item on our
19 Miscellaneous Agenda. Item M-2 concerns BP
20 Pipeline's Motion to Withdraw its Petition seeking a
21 Certificate Authorizing Operation as a Common
22 Carrier by Pipeline.

1 Is there any objection to approving
2 the proposed Order?

3 (No response.)

4 Hearing none, the Order is approved.

5 Moving on to our Petitions for
6 Rehearing, Item PR-1 concerns a petition filed by
7 CUB and the Environmental Defense fund requesting
8 the initiation of a proceeding to approve a tariff
9 implementing a Community Solar Pilot Program.

10 Is there a motion to deny the
11 Application for Rehearing?

12 COMMISSIONER ROSALES: So moved.

13 CHAIRMAN SHEAHAN: Is there a second?

14 COMMISSIONER McCABE: Seconded.

15 CHAIRMAN SHEAHAN: Is there any discussion?

16 (No response.)

17 All those in favor of denying the
18 application, say aye.

19 COMMISSIONER McCABE: Aye.

20 CHAIRMAN SHEAHAN: Aye.

21 COMMISSIONER MAYE: Aye.

22 COMMISSIONER ROSALES: Aye.

1 CHAIRMAN SHEAHAN: Opposed, say nay.

2 COMMISSIONER del VALLE: Nay.

3 CHAIRMAN SHEAHAN: The vote is 4 to one and the
4 Application for Rehearing is denied.

5 Item PR-2 concerns a complaint filed
6 against Ameren Illinois regarding billing in
7 East St. Louis.

8 Is there any objection to denying the
9 application Request for Rehearing?

10 (No response.)

11 Hearing none, the application Request
12 for Rehearing is denied.

13 We have one further item on our agenda
14 regarding the approval of a "Capacity Benchmark
15 Report of the Procurement Administrator." This is
16 from the September 2015 Solicitation of Bids to Sell
17 Zonal Resource Credits to Ameren Illinois Company.

18 Is there a motion to approve the
19 report?

20 COMMISSIONER MAYE: So moved.

21 CHAIRMAN SHEAHAN: Is there a second?

22 COMMISSIONER ROSALES: Seconded.

1 CHAIRMAN SHEAHAN: Is there any discussion?

2 (No response.)

3 All those in favor of approving the
4 report, say aye.

5 (Chorus of ayes.)

6 Opposed, say nay.

7 (No response.)

8 The ayes have it and the report is
9 approved.

10 Judge Kimbrel, do we have any other
11 matters to come before the Commission this morning?

12 JUDGE KIMBREL: Nothing further, Mr. Chairman.

13 CHAIRMAN SHEAHAN: Commissioner del Valle, I
14 believe you have a comment to make.

15 COMMISSIONER del VALLE: Yes. Thank you,
16 Mr. Chairman.

17 In today's highly-interconnected
18 world, telephones provide a lifeline to emergency
19 help and a viable link to government services,
20 community resources, friends and families, and
21 employment, not everyone can forward the cost of a
22 home telephone service. Many Illinois households

1 still do not have telephone service in their homes.

2 Last year over a half-a-million
3 Illinois residents relied on Lifeline Assistance for
4 their telephone services, but that number only
5 represents about half of those who are eligible in
6 Illinois. Consumers should not be without local
7 phone service because they cannot afford it.

8 The Federal Lifeline Assistance
9 Program offers discounts to eligible low-income
10 consumers across America to help to make telephone
11 service accessible to all. It is imperative to
12 ensure that all Illinoisans and citizens have access
13 to affordable basic local telephone service, finding
14 a job, connecting to their families or getting help
15 in an emergency

16 The Lifeline Program, which was
17 started in 1985 by the Reagan Administration and
18 later expanded to Prepaid Wireless Service Providers
19 by the Bush Administration in 2005, has undergone a
20 transformation in recent years to include program
21 efficiency and combat waste, fraud and abuse.

22 The Telecommunications Commission

1 recent updated its rules governing Lifeline Program
2 eligibility and non-duplication of support and is
3 currently engaged in further reforms to enhance
4 them. The ICC has also taken steps in its ongoing
5 role authorizing Lifeline providers.

6 The week of September 14th through the
7 20th has been declared Lifeline Awareness Week by
8 the Telecommunications Commission and the National
9 Association of Regulatory Utility Commissioners and
10 the National Association of State Utility Consumer
11 Advocates. Such activities are not limited to the
12 national level but local governments, as well.

13 As examples, Georgia's Governor,
14 Nathan Deal, and Michigan's Governor, Rick Snyder,
15 have recognized its importance with a proclamation
16 declaring next week Lifeline Awareness Week, and
17 Georgia's Public Service Commission is promoting
18 public education in their state.

19 I call upon industry leaders and
20 consumer advocates to educate residents about state
21 and federal programs for telephone connectivity
22 during National Lifeline Awareness Week and further

1 initiate and promote outreach events during this
2 special week.

3 Thank you, Mr. Chairman.

4 CHAIRMAN SHEAHAN: Thank you, Commissioner.

5 Are there any other comments or other
6 business to be brought before the Commission this
7 morning?

8 (No response.)

9 Seeing none, we stand adjourned.

10 Thank you.

11 (Whereupon, the above matter
12 was adjourned.)

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