

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

BEFORE THE  
ILLINOIS COMMERCE COMMISSION

BENCH SESSION  
(PUBLIC UTILITY)

Springfield, Illinois  
Wednesday, September 18, 2013

Met, pursuant to notice, at 10:30 a.m., in  
the Audiovisual Conference Room, Second Floor,  
Leland Building, 527 East Capitol Avenue,  
Springfield, Illinois.

PRESENT:

- MR. DOUGLAS P. SCOTT, Chairman  
(Via phone)
- MR. JOHN T. COLGAN, Commissioner
- MS. ANN McCABE, Commissioner
- MR. MIGUEL DEL VALLE, Acting Commissioner  
(Via video)
- MR. SHERINA E. MAYE, Acting Commissioner

MIDWEST LITIGATION SERVICES, by  
Angela C. Turner, Reporter  
CSR #084-004122

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

PROCEEDINGS

COMMISSIONER COLGAN: Pursuant to the provisions of the Open Meetings Act, I now convene a regularly scheduled Bench Session of the Illinois Commerce Commission. With us in Chicago is Acting Commissioner del Valle. With me in Springfield are Commissioner McCabe and Acting Commissioner Maye. I am Commissioner Colgan and we have a quorum.

We should also have Chairman Scott on the phone.

Chairman Scott, are you there?

CHAIRMAN SCOTT: I am here. Good morning.

COMMISSIONER COLGAN: Good morning.

Under the Commission rules, we will have to vote to allow Chairman Scott to participate on the phone.

I move to allow Chairman Scott's participation by phone.

Is there a second?

COMMISSIONER McCABE: Second.

COMMISSIONER COLGAN: It's been moved and seconded.

All in favor of the motion say aye.

(Chorus of ayes.)

1 COMMISSIONER COLGAN: Any opposed?

2 (No response.)

3 COMMISSIONER COLGAN: The vote is four to  
4 zero, and Chairman Scott may participate in today's  
5 meeting by phone.

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

15 (The Transportation portion of the  
16 proceedings was held at this time  
17 and is contained in a separate  
18 transcript.)

19 COMMISSIONER COLGAN: Moving on to the Public  
20 Utility Agenda, Item E-1 is our reconciliation of  
21 Ameren and ComEd's revenues collected under their  
22 power procurement riders with actual costs  
23 associated with power procurement expenditures.

24 Our Commission Staff recommends entry of

1 an Order commencing the reconciliation proceeding.

2 Is there any discussion?

3 (No response.)

4 COMMISSIONER COLGAN: Is there a motion to  
5 enter the Order?

6 COMMISSIONER McCABE: So moved.

7 COMMISSIONER COLGAN: Is there a second?

8 ACTING COMMISSIONER MAYE: Second.

9 COMMISSIONER COLGAN: It's been moved and  
10 seconded.

11 Is there any further discussion?

12 (No response.)

13 COMMISSIONER COLGAN: All in favor say aye.

14 (Chorus of ayes.)

15 COMMISSIONER COLGAN: Any opposed?

16 (No response.)

17 COMMISSIONER COLGAN: The vote is five to  
18 zero, and the Order is entered.

19 We will use this five to zero vote for the  
20 remainder of today's Public Utility Agenda unless  
21 otherwise noted.

22 Item E-2, which is our reconciliation of  
23 revenues collected under ComEd's Rider EDA with  
24 actual costs associated with energy efficiency and

1 demand response programs.

2 Commission Staff recommends entry of an  
3 Order commencing the reconciliation proceeding.

4 Is there any discussion?

5 (No response.)

6 COMMISSIONER COLGAN: Any objections?

7 (No response.)

8 COMMISSIONER COLGAN: Hearing none, the Order  
9 is entered.

10 Item E-3 is our reconciliation of revenues  
11 collected under Ameren's Rider EDR with the actual  
12 costs associated with energy efficiency and demand  
13 response plans and Ameren's Rider GER with the  
14 actual costs associated with natural gas energy  
15 efficiency plans.

16 The Commission Staff recommends an entry  
17 of Order commencing the reconciliation proceeding.

18 Is there any discussion?

19 (No response.)

20 COMMISSIONER COLGAN: Any objections?

21 (No response.)

22 COMMISSIONER COLGAN: Hearing none, the Order  
23 is entered.

24 Item E-4 is EMR Number 13-042. This is

1 ComEd's filing to cancel its Rider CLR Capacity  
2 Based Load Response and System Reliability, because  
3 it is no longer operational.

4 Staff recommends that the filing not be  
5 suspended.

6 Is there any discussion?

7 (No response.)

8 COMMISSIONER COLGAN: Any objections?

9 (No response.)

10 COMMISSIONER COLGAN: Hearing none, the filing  
11 is not suspended.

12 Item E-5 is Docket 11-0593. This is our  
13 investigation into ComEd's compliance with the  
14 energy efficiency standards in Section 8-103 of the  
15 Public Utilities Act. ComEd has filed a request for  
16 oral argument in this case. ALJ Sainsot recommends  
17 denial of ComEd's request.

18 Is there any discussion regarding the  
19 request for oral argument?

20 CHAIRMAN SCOTT: Yes, this is Chairman. If I  
21 might, I would like us to grant the request for oral  
22 argument. I think there are a number of issues here  
23 that have both legal and factual -- that I think  
24 would be furthered by oral argument.

1                   And so I would request that we would hold  
2 the Post-Exceptions Order for today and grant the  
3 Motion for Oral Argument. And I would so move.

4                   COMMISSIONER COLGAN: All right. We have a  
5 motion to grant oral argument.

6                   Is there a second?

7                   ACTING COMMISSIONER MAYE: Second.

8                   COMMISSIONER COLGAN: It's been moved and  
9 seconded.

10                  Is there any further discussion?

11                                 (No response.)

12                  COMMISSIONER COLGAN: All in favor say aye.

13                  COMMISSIONER McCABE: Aye.

14                  COMMISSIONER COLGAN: Any opposed?

15                                 Let's do that vote again.

16                                 All in favor say aye.

17                                 (Chorus of ayes.)

18                  COMMISSIONER COLGAN: Any opposed?

19                                 (No response.)

20                  COMMISSIONER COLGAN: The vote is five to  
21 zero, and oral argument is granted. The parties  
22 will receive a separate notice indicating the time,  
23 location and issues for oral argument.

24                                 And to your second point, Chairman Scott,

1 ALJ Sainsot recommends entry of Post-Exceptions  
2 Order. This item will be held for disposition at a  
3 future Commission session.

4 Item E-6, Docket Number 12-0456. This is  
5 our proceeding initiating to develop and adopt rules  
6 concerning municipal aggregation. This matter will  
7 be held for disposition at a future Commission  
8 session.

9 Item E-7 is Docket Number 13-0387. This  
10 is ComEd's filing for revenue-neutral changes in its  
11 rate design. Because the Commission's investigation  
12 into this matter is not concluded, Staff recommends  
13 that the filing be resuspended to and including the  
14 date of December 26, 2013.

15 Is there any discussion?

16 (No response.)

17 COMMISSIONER COLGAN: Any objections?

18 (No response.)

19 COMMISSIONER COLGAN: Hearing none, the filing  
20 is resuspended.

21 Item E-8 is Docket Number 13-0471. This  
22 is ComEd's petition pursuant to Section 7-101 of the  
23 Public Utilities Act for consent to enter into a  
24 credit agreement to which affiliated interests are



1 parties. ALJ Jorgenson recommends entry of an Order  
2 granting the petition.

3 Is there any discussion?

4 (No response.)

5 COMMISSIONER COLGAN: Any objections?

6 (No response.)

7 COMMISSIONER COLGAN: Hearing none, the Order  
8 is entered.

9 Turning now to Natural Gas, Item G-1 is  
10 the Interstate Gas Supply's Application for  
11 Certificate of Service Authority as an alternative  
12 gas supplier in Illinois. ALJ Jorgenson recommends  
13 entry of an Order granting the requested  
14 certificate.

15 Is there any discussion?

16 (No response.)

17 COMMISSIONER COLGAN: Any objections?

18 (No response.)

19 COMMISSIONER COLGAN: Hearing none, the Order  
20 is entered.

21 On to the Telecommunications Agenda. Item  
22 T-1 is Docket Number 13-0419. This is Century  
23 Enterprises' application for an amendment to an  
24 expansion of Certificate of Service authority to

1 operate as a reseller of facilities-based carrier of  
2 communications services in Illinois. ALJ Benn  
3 recommends entry of an Order granting requested  
4 relief.

5 Is there any discussion?

6 (No response.)

7 COMMISSIONER COLGAN: Any objections?

8 (No response.)

9 COMMISSIONER COLGAN: Hearing none, the Order  
10 is entered.

11 Item T-2 is Docket Number 13-0457. This  
12 is Gigabit Squared Chicago's Application for a  
13 Certificate of Local Exchange and Interchange  
14 Authority to operate as a reseller of  
15 telecommunication services in Illinois.

16 ALJ Benn recommends entry of an Order  
17 granting the requested certificate.

18 Is there any discussion?

19 (No response.)

20 COMMISSIONER COLGAN: Any objections?

21 (No response.)

22 COMMISSIONER COLGAN: Hearing none, the Order  
23 is entered.

24 On to Water and Sewer. Item W-1 is Docket

1 Number 13-0155. This is Aqua Illinois' petition for  
2 approval of three asset purchase agreements with  
3 Woodlawn Utilities Corporation, the Woodlawn  
4 Utilities Corporation - Sheridan Grove, and the  
5 Nordic Park Sewerage and Disposal Company. Issuance  
6 of three certificates for public convenience and  
7 necessity to operate water and/or wastewater  
8 services, and issuance of an Order approving rates,  
9 accounting entries and tariff language. ALJ  
10 Jorgenson recommends entry of an Order granting the  
11 petition.

12 Is there any discussion?

13 (No response.)

14 COMMISSIONER COLGAN: Any objections?

15 (No response.)

16 COMMISSIONER COLGAN: Hearing none, the Order  
17 is entered.

18 Item W-2 is Docket Number 13-0388. This  
19 is Aqua Illinois' proposed qualifying infrastructure  
20 plant surcharge rider. Because the Commission's  
21 investigation into this matter is not concluded,  
22 Staff recommends that the filing be resuspended to  
23 and including September 26, 2013.

24 Is there any discussion?

1 (No response.)

2 COMMISSIONER COLGAN: Any objections?

3 (No response.)

4 COMMISSIONER COLGAN: Hearing none, the filing  
5 is resuspended.

6 Petitions for Rehearing. We have two  
7 Petitions for Rehearing today. Item PR-1 is Docket  
8 Number 12-0569. This concerns Nicor's proposed  
9 establishment of Rider 17, purchase of receivables  
10 with consolidated billing. Retail Energy Supply  
11 Association and Interstate Gas Supply of Illinois  
12 have submitted a Petition for Rehearing, which ALJ  
13 Jorgenson recommends we deny.

14 Is there any discussion?

15 (No response.)

16 COMMISSIONER COLGAN: Any objections?

17 (No response.)

18 COMMISSIONER COLGAN: Hearing none, the  
19 request for rehearing is denied.

20 Item PR-2 is Docket Number 12-0598. This  
21 is Ameren Transmission Company of Illinois' petition  
22 for a Certificate of Convenience and Necessity  
23 pursuant to Section 8-406.1 of the Public Utilities  
24 Act. And an Order pursuant to Section 8-503 of the

1 Public Utilities Act to construct, operate and  
2 maintain a new high voltage transmission line and  
3 related facilities in counties across Illinois.

4 Appellant interveners Andrew and Stacy  
5 Robinette have filed an Application for Rehearing,  
6 which ALJ Albers and Yoder recommend that we grant.

7 We have ALJs Albers and Yoder at the table  
8 with us. And I believe that Commissioners have some  
9 questions for them.

10 COMMISSIONER McCABE: If we grant a rehearing,  
11 could the scope be limited to just the portion at  
12 question?

13 JUDGE ALBERS: Yes.

14 ACTING COMMISSIONER MAYE: I think some of the  
15 -- a few of the things that were pointed out in the  
16 Order was that they had not tried to enter their  
17 testimony into evidence, they had not intervened,  
18 they had not filed any briefs up until this point.

19 A major concern for me is that by granting  
20 this rehearing request, as was recommended by you  
21 both, that it would result in a Pandora's box type  
22 of situation. That every other person who had a "I  
23 don't want this in my back yard" type of complaint  
24 would then filed for rehearing. And how that would

1 affect in the long term not only the case but the  
2 requests that come before us.

3 So I just wanted to know your rationale  
4 for recommending that we do grant that request.

5 JUDGE YODER: Just so that we're clear, they  
6 did intervene and filed pre-filed testimony with a  
7 route modification pursuant to the schedule that we  
8 ordered. And I guess you would say --

9 ACTING COMMISSIONER MAYE: A timely?

10 JUDGE YODER: Yes. They did timely intervene  
11 and filed a proposed route modification, which is a  
12 fairly minor route modification compared to others.

13 The route that affected them, if you look  
14 at it as a square, the proposed and adopted route  
15 would kind of come down the left side of the square  
16 and go along the bottom. They proposed taking it  
17 more from the top left to the lower right corner.  
18 That's about a half mile, I think, total of that  
19 segment that was approved. Yes, they never showed  
20 up at the hearing. They did not move their  
21 testimony into evidence.

22 ACTING COMMISSIONER MAYE: Right.

23 JUDGE YODER: They did not file any briefs or  
24 reply briefs or briefs on exceptions. And we

1 discussed that whether, obviously, unfamiliarity  
2 with our process is not an excuse for not getting it  
3 done, but because of the impact that the line would  
4 have and the relatively minor scope of their request  
5 on rehearing, we decided to recommend that the  
6 Commission grant rehearing for that approximately  
7 one half-mile section.

8 ACTING COMMISSIONER MAYE: Do you have any  
9 concern that granting this would open the door for  
10 others to file a request for hearing?

11 JUDGE ALBERS: Well, they'd have had to  
12 intervene to begin with. Couldn't just show up now  
13 for the first time. In this particular instance,  
14 they're one of the few who offered an alternative  
15 route to be considered to begin with. I would  
16 agree, certainly, at this point, to request through  
17 the hearing a new route, that would be too late.

18 ACTING COMMISSIONER MAYE: Okay.

19 JUDGE YODER: This became a Pandora's box at  
20 the start, really, as many people as we had  
21 involved. If they had not intervened and not  
22 proposed an alternate route pursuant to the schedule  
23 that we adopted, I don't think anyone would be  
24 recommending that we would even consider granting

1 rehearing.

2 COMMISSIONER McCABE: If they're proposing to  
3 shift that portion of the line to agricultural land?  
4 Or do we know?

5 JUDGE ALBERS: It's generally a very rural  
6 area to begin with.

7 JUDGE YODER: Looks like there's some  
8 waterways or tree routes.

9 JUDGE ALBERS: The pink line there is what the  
10 Commission approved. And their residence, I  
11 believe, is -- I think it might be this little area  
12 that's right there.

13 Their suggestion -- their initial request  
14 was to have a line cut off here down this yellow  
15 line as opposed to go down the street, along this  
16 right angle. That's the entire nature of their  
17 request right there.

18 ACTING COMMISSIONER MAYE: So that it's not in  
19 their back yard?

20 JUDGE YODER: It might not be in their front  
21 yard, but it might be in the back yard.

22 COMMISSIONER McCABE: As to the Chairman and  
23 Commissioner del Valle who can't see this, it looks  
24 like the proposed line would go through forest as



1 well as --

2 JUDGE YODER: It looks like farm fields and  
3 some timber ground.

4 JUDGE ALBERS: Yeah. Timber right here.  
5 Agricultural land.

6 JUDGE YODER: The longer beams are probably  
7 waterways for drainage along through the farm,  
8 right?

9 COMMISSIONER COLGAN: So do they own all of  
10 this land or do they just own their little spot  
11 here?

12 JUDGE ALBERS: There would be about four or  
13 five landowners. I don't know how it breaks out as  
14 far as the actual property lines here. But there  
15 would be about four or five of the landowners here  
16 to notify. And they claim on their application for  
17 rehearing that no one objects. I don't know that  
18 for sure. I would want to hear that on the record.

19 JUDGE YODER: Obviously, it appeared -- not  
20 knowing where the property lines are -- but it  
21 appears that most of those property owners were  
22 involved from the start. Would have been safe  
23 notice. Obviously, the bigger piece of timber one  
24 cuts through is involved on the southern -- I think

1 that's the southern edge.

2 JUDGE ALBERS: Yeah.

3 JUDGE YODER: So they would have gotten notice  
4 and probably notice again when the residents  
5 proposed their modification to the route.

6 JUDGE ALBERS: And granting rehearing, there's  
7 no -- we still end up on rehearing, if it's granted,  
8 approving the originally approved route. Just  
9 confirming that. So there is no indication you're  
10 going to be giving them what they want at hearing.  
11 Just to consider on the merits is all we're asking.

12 COMMISSIONER COLGAN: Chairman Scott, did you  
13 have questions?

14 CHAIRMAN SCOTT: I had a couple briefly.  
15 Thank you, your Honor. Thank you, Chairman Colgan.

16 They were represented during this  
17 proceeding, weren't they?

18 JUDGE YODER: Yes, they had an attorney of  
19 record.

20 CHAIRMAN SCOTT: So it's not like a situation  
21 where we just have the landowners themselves.  
22 Because I take what you were saying about the end of  
23 this process not necessarily knowing. But they were  
24 represented in this case?

1 JUDGE YODER: Correct.

2 CHAIRMAN SCOTT: And is there anything in the  
3 testimony that they filed that would talk about the  
4 lowest cost or comparing that, the other, or is it  
5 more just, you know, we don't want them to have our  
6 property, so shift it a little bit off?

7 COMMISSIONER COLGAN: Mr. Chairman, are you  
8 still there?

9 CHAIRMAN SCOTT: I am still here.

10 My question to you is: What would the  
11 rehearing accomplish? Testimony talked about lowest  
12 cost of this versus the other line or any of the  
13 other criteria that you gentlemen looked at? The  
14 environmental, historical, all of those different  
15 things? I mean, is there any of those criteria at  
16 all in their testimony?

17 JUDGE ALBERS: They reference an impact on  
18 property value, limitations on their land usage,  
19 safety concerns. And but again, those would be  
20 points to evaluate on hearing if it were granted.

21 JUDGE YODER: They did not address cost  
22 difference between their proposal and the adopted  
23 route or historic artifacts or any of the other  
24 issues under 9 or 11 that we had in the Order.

1           CHAIRMAN SCOTT:  And those issues that they  
2   just mentioned that they did reference about impact  
3   on property values, etc., obviously, I am guessing  
4   would have -- would also have impact on where ever  
5   the property owners are now that this line would be  
6   shifted to?

7           JUDGE YODER:  Correct.  The question which was  
8   bandied about is whether it has more of an impact on  
9   the residential property versus agricultural  
10  defense.  But otherwise, the safety concerns of  
11  driving -- although if you're driving on a road  
12  under a transmission line, maybe it's a greater  
13  concern than out in the middle of a field.  
14  Otherwise, you're correct, Chairman.

15          CHAIRMAN SCOTT:  Okay.  Thank you, gentlemen.

16          ACTING COMMISSIONER MAYE:  Thank you both.

17          COMMISSIONER COLGAN:  Any further discussion?

18   (No response.)

19          COMMISSIONER COLGAN:  Do we have a motion to  
20  enter the Order or do we have another motion?  
21  Anyone?

22          COMMISSIONER McCABE:  I will move the --

23   Go ahead, Commissioner.

24          ACTING COMMISSIONER DEL VALLE:  I move to

1 enter the Order.

2 JUDGE WALLACE: It would be to grant  
3 rehearing.

4 ACTING COMMISSIONER DEL VALLE: To grant  
5 rehearing.

6 COMMISSIONER COLGAN: We have a motion to  
7 grant rehearing.

8 Is there a second?

9 COMMISSIONER McCABE: Second.

10 COMMISSIONER COLGAN: All in favor of that  
11 motion say aye.

12 MS. McCABE: Aye.

13 COMMISSIONER COLGAN: Aye.

14 MR. DEL VALLE: Aye.

15 COMMISSIONER COLGAN: All opposed.

16 CHAIRMAN SCOTT: No.

17 ACTING COMMISSIONER MAYE: No.

18 COMMISSIONER COLGAN: The vote is three to  
19 two, and the rehearing is granted. And so with  
20 that, I think that notice should go out to all the  
21 landowners on the affected line. And that's -- all  
22 right.

23 JUDGE ALBERS: It's limited to that one little  
24 corner there?

1 COMMISSIONER COLGAN: To that one, yes.

2 JUDGE ALBERS: Thank you.

3 COMMISSIONER COLGAN: Judge Wallace, are there  
4 any other matters that come before the Commission  
5 today?

6 JUDGE WALLACE: Not today. I did send a  
7 calendar around. And whenever everyone is ready,  
8 let me know.

9 COMMISSIONER COLGAN: Okay. Hearing that  
10 there are no other matters, this meeting stands  
11 adjourned.

12 BENCH SESSION ADJOURNED.

13

14

15

16

17

18

19

20

21

22

23

24

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

CERTIFICATE OF REPORTER

I, Angela C. Turner, a Certified Shorthand Reporter within and for the State of Illinois, do hereby certify that the meeting aforementioned was held on the time and in the place previously described.

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

\_\_\_\_\_

License No. 084-004122