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BEFORE THE
ILLINOIS COMMERCE COMMISSION

REGULAR OPEN MEETING

(PUBLIC UTILITY)

Chicago and Springfield, Illinois

Thursday, September 22, 2016

Met, pursuant to notice, at 10:30 a.m.,
September 22, 2016.

PRESENT:

- MR. BRIEN J. SHEAHAN, Chairman
- MS. ANN McCABE, Commissioner
- MS. SHERINA MAYE EDWARDS, Commissioner
- MR. MIGUEL DEL VALLE, Commissioner
- MR. JOHN R. ROSALES, Commissioner

SULLIVAN REPORTING COMPANY, by
Devan J. Moore, CSR
License No. 084-004589

1 CHAIRMAN SHEAHAN: Pursuant to the Open
2 Meetings Act, I call the September 22nd, 2016 Regular
3 Open Meeting to order.

4 Commissioners McCabe, del Valle,
5 Edwards, and Rosales are present with me in Chicago.
6 We have a quorum.

7 We have no requests to speak; and we
8 will, therefore, move into our Regular Public Utility
9 Agenda. We have no minutes to approve today.

10 Item E-1 concerns changes to Ameren's
11 Smart Grid AMI Deployment Plan.

12 Is there a motion to approve the
13 proposed Order?

14 COMMISSIONER MAYE EDWARDS: So moved.

15 CHAIRMAN SHEAHAN: Is there a second?

16 COMMISSIONER ROSALES: Seconded.

17 CHAIRMAN SHEAHAN: Any discussion?
18 Commissioner, del Valle?

19 COMMISSIONER DEL VALLE: Thank you,
20 Mr. Chairman.

21 Pursuant to the Energy Infrastructure
22 Modernization Act, two participating utilities

1 submitted original AMI and Infrastructure plans,
2 which the Commission analyzed and approved.
3 Subsequently, the companies have been filing annual
4 updates, which the Commission need not investigate.

5 In both this proceeding and the
6 dismissal in April of CUB's Complaint on Ameren's
7 2016 Annual AMI Plan Update, the Commission has not
8 considered whether any modifications to Ameren's AMI
9 Plan are needed, including additional targeted
10 reporting, or whether all of the promised benefits of
11 the modernization have been or will be materialized.
12 This is because the Commission has repeatedly looked
13 to merely satisfy the bare minimum requirements of
14 the Public Utilities Act regarding whether
15 information regarding these large expenditures is
16 present without any findings on the quality of that
17 progress or achieved benefits.

18 Absent from the Commission's review of
19 these modernization projects, however, is any vision
20 or direction from the Commission of ensuring the
21 promised benefits -- particularly, the important
22 customer and societal benefits -- are actually

1 delivered in an efficient and timely manner.

2 Additionally, in this proceeding, CUB
3 and EDF, again, advocate for the Commission to
4 promote community solar and Time of Use rates. On
5 both of these issues the Commission has declined.

6 I'll state again, the competitive
7 markets remain unable to provide any meaningful Time
8 of Use offerings, and it is time for the utilities to
9 take the initiative to offer these products. Ameren
10 formally included them as a promised benefit in their
11 original cost benefit analysis. And, as I noted in a
12 dissent earlier this year, the utilities certainly
13 should not be permitted to block RESs from providing
14 community solar. Five years after the Smart Grid Law
15 was passed, both of these benefits are virtually
16 non-existent in Illinois, and there's currently no
17 pathway in place to ensure that they materialize.

18 I will vote for this order, as I
19 believe that the additional meters will benefit all
20 of Ameren's customers. However, for more than a
21 decade now the Commission has known about the
22 valuable consumer benefits, which have not yet

1 materialized in any meaningful way, that are enabled
2 by the modernizations. I believe that, ultimately,
3 the responsibility falls on the Commission to ensure
4 that those promised benefits, and the broader range
5 of new services made possible by AMI, are actually
6 delivered in a timely fashion to customers. Thank
7 you.

8 CHAIRMAN SHEAHAN: Any other discussion?

9 (No response.)

10 CHAIRMAN SHEAHAN: There's a motion and a
11 second. All of those in favor say, "Aye".

12 (Chorus of "Ayes".)

13 CHAIRMAN SHEAHAN: Opposed say, "Nay".

14 (No response.)

15 CHAIRMAN SHEAHAN: The "ayes" have it, and the
16 proposed Order is approved.

17 Item E-2 concerns the ICC's amendment
18 of Code Parts 412 and 453. We do have some
19 amendments, which I think we probably should handle,
20 to the proposed Order.

21 I'll move that we approve the
22 amendments. Is there a second?

1 COMMISSIONER ROSALES: Seconded.

2 COMMISSIONER McCABE: Seconded.

3 CHAIRMAN SHEAHAN: Is there any discussion?

4 (No response.)

5 CHAIRMAN SHEAHAN: All of those in favor say,
6 "Aye".

7 (Chorus of "Ayes".)

8 CHAIRMAN SHEAHAN: Opposed say, "Nay".

9 (No response.)

10 CHAIRMAN SHEAHAN: The "ayes" have it, and the
11 edits are approved.

12 Moving on to the proposed Order as
13 edited, is there a motion and a second?

14 COMMISSIONER ROSALES: So moved.

15 COMMISSIONER McCABE: Seconded.

16 CHAIRMAN SHEAHAN: Is there any discussion?
17 Commissioner del Valle?

18 (No response.)

19 CHAIRMAN SHEAHAN: Commissioner McCabe?

20 COMMISSIONER McCABE: I share the concerns
21 about marketing practices by some Retail Electric
22 Suppliers. I agree with the Order's training

1 requirements for RES agents and agree with the
2 ordered workshop so that parties can discuss the
3 details of the uniform training program.

4 That said, I have concerns that the
5 proposed 412 Rule is overly prescriptive in some
6 areas. For example, the proposed rule requires RESs
7 to notify customers when rates change by more than 20
8 percent rather than Staff's initial proposal of 30
9 percent.

10 While notifications regarding
11 substantial rate increases can be valuable for
12 customers, I share Staff's concern that customers may
13 disregard the frequent notice.

14 The Order recognizes the lack of
15 information in the record regarding the potential
16 number of notifications at each level. I encourage
17 the parties to provide additional information in the
18 record to shed more light on this issue.

19 The Order declines to adopt annual
20 workshops, as ICEA recommended, because the results
21 would not be enforceable in the rules. Even if not
22 required in this order, I encourage the parties to

1 consider an annual workshop. An annual check-in
2 between the interested parties could facilitate
3 better compliance with, and understanding of, the
4 rules and provide an opportunity to discuss future
5 changes. Thank you.

6 CHAIRMAN SHEAHAN: Commissioner del Valle?

7 COMMISSIONER DEL VALLE: Thank you,
8 Mr. Chairman. I want to thank you, Mr. Chairman, for
9 your leadership in editing this docket. I appreciate
10 the way that you ensured that all offices had an
11 opportunity for input.

12 And I also want to thank your former
13 staff person, Elizabeth, because I think she did a
14 wonderful job in communicating with all --

15 CHAIRMAN SHEAHAN: Thank you.

16 COMMISSIONER DEL VALLE: -- and then your new
17 staff that are also doing an excellent job in
18 communicating with all of the offices regarding this
19 particular docket.

20 I also want to thank all of the other
21 parties for all of the time that they've spent and
22 their hard work.

1 This has been a long process, but I
2 truly believe that to ensure a vibrant and robust
3 marketplace in Illinois, electricity customers must
4 know and understand what they are being offered and
5 what they are buying.

6 The requirements that we propose here
7 protect, inform, and educate Illinois' customers.
8 And that's good. I look forward to the First Notice
9 Comments from all of the parties on how we can
10 strengthen this proposal to accomplish this goal.
11 But I think it's a very strong proposal already.
12 Thank you.

13 CHAIRMAN SHEAHAN: Thank you.

14 COMMISSIONER MAYE EDWARDS: Mr. Chairman, can I
15 add something in, please?

16 CHAIRMAN SHEAHAN: Please.

17 COMMISSIONER MAYE EDWARDS: Commissioner
18 del Valle, I wanted to somewhat echo your sentiment.
19 We do want to encourage the state of Illinois to have
20 a robust, you know, marketplace. We obviously are
21 pro-choice. We've welcomed alternative suppliers. I
22 think at this point we have about 84 alternative

1 suppliers, which is the most I think out of any other
2 state; if not, maybe second.

3 And I think we've had situations in
4 the past where we've kind of had the opportunity to
5 look and say, Okay, this is what's working and this
6 is what's not. And so we've, therefore, worked all
7 together, all five of us, individually -- in our
8 individual capacities -- to come together and work on
9 this docket.

10 I think what we're trying to do is, of
11 course, continue to encourage that robust marketplace
12 of choice, but at the same time discourage bad
13 actors, as we've seen over the last couple of years.
14 So I think that we have a product where we can do
15 that, and I'm proud to be a regulator and to have
16 such a great choice, but at the same time able to
17 regulate. Thank you.

18 CHAIRMAN SHEAHAN: Thank you.

19 Over some number of years our Consumer
20 Services Division has seen an increase in public
21 complaints regarding the marketing practice of some
22 Retail Electric Suppliers which led to this

1 rule-making.

2 I'd like to thank the Attorney General
3 and her staff, and CUB and their staff for their
4 suggestions. We've adopted many of their suggestions
5 in the edited rule that we will adopt today. This
6 rule works to protect consumers by providing them
7 with sufficient information to make informed
8 decisions and prevent Retail Electric Suppliers from
9 using separate marketing practices.

10 Some of these changes include
11 standardizing the contracts and creating a uniform
12 disclosure statement to clearly display the terms,
13 restricting the use of utility names and logos and
14 requiring rate notifications to prevent deceptive
15 marketing practices, limiting the definition of fixed
16 rate offers and agreeing to all of the renewable
17 offers to reduce customer confusion and expanding
18 consumer protections for in-person solicitation and
19 marketing.

20 I'm proud of this rule. I'm looking
21 forward to getting feedback as we move through the
22 process and, as Commissioner -- as all of the

1 Commissioners have stated, maintaining a policy in
2 this state where consumers have a lot of choices; and
3 they're well-informed choices.

4 So with that, are there any objections
5 to approving the first Notice Order as edited?

6 (No response.)

7 CHAIRMAN SHEAHAN: Hearing none, the first
8 Notice Order as edited is approved.

9 Items E-3 and 4, Ameren Illinois's
10 Reconciliation of Revenues.

11 Is there any objection to considering
12 these items together and approving the proposed Order
13 and approving the Reconciliations?

14 (No response.)

15 CHAIRMAN SHEAHAN: Hearing none, the Orders are
16 approved.

17 Items E-5 and 6 concern complaints
18 against ComEd.

19 Are there any objections to
20 considering these items together and granting Joint
21 Motions to Dismiss with prejudice?

22 COMMISSIONER ROSALES: With prejudice?

1 (No response.)

2 CHAIRMAN SHEAHAN: Hearing none, the Orders are
3 approved.

4 Items E-20 through 24 concern various
5 citations for failure to file Compliance
6 Recertification Reports.

7 Are there any objections to
8 considering these items together and approving the
9 proposed Orders revoking the certificates?

10 (No response.)

11 CHAIRMAN SHEAHAN: Hearing none, the Orders are
12 approved.

13 Items E-25 through 27 concern
14 petitions to cancel ABC Certificates.

15 Are there any objections to
16 considering these items together and approving the
17 Orders to cancel the certificates?

18 (No response.)

19 CHAIRMAN SHEAHAN: Hearing none, the Orders are
20 approved.

21 Item E-28 concerns McEnergy's
22 Application for Cancellation of its Service

1 Authority.

2 Are there any objections to approving
3 the proposed Order cancelling the certificate?

4 (No response.)

5 CHAIRMAN SHEAHAN: Hearing none, the Order is
6 approved.

7 Items E-29 and 30 concern Applications
8 for Certification as Installers of Distributed
9 Generation Facilities.

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

13 (No response.)

14 CHAIRMAN SHEAHAN: Hearing none, the Orders are
15 approved.

16 Item E-31 concerns Tenaska Power
17 Management's Application for a Certificate of Service
18 Authority.

19 Are there any objections to approving
20 the proposed Order granting the certificate?

21 (No response.)

22 CHAIRMAN SHEAHAN: Hearing none, the Order is

1 approved.

2 Moving on to our Gas Agenda, Item G-1
3 concerns Peoples' petition to reopen a docket
4 regarding transfer of interest into a property.

5 Are there any objections to granting
6 the Petition to Reopen?

7 (No response.)

8 CHAIRMAN SHEAHAN: Hearing none, the petition
9 is granted.

10 Item G-2 concerns Peoples Gas and
11 North Shore Energy Savings Gas Program for Years 1
12 through 3.

13 Are there any objections to approving
14 the proposed Order approving the Energy Savings?

15 (No response.)

16 CHAIRMAN SHEAHAN: Hearing none, the Order is
17 approved.

18 Item G-3 concerns a consumer complaint
19 against Nicor.

20 Are there any objections to approving
21 the proposed Order denying their complaint?

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(No response.)

CHAIRMAN SHEAHAN: Hearing none, the Order is approved.

Item G-4 concerns Think Energy's Application for Certificate of Service Authority.

Are there any objections to approving the proposed Order granting the certificate?

(No response.)

CHAIRMAN SHEAHAN: Hearing none, the Order is approved.

Moving on to our Telecommunications Agenda, Items T-1 through 4 concern Petitions for Emergency Relief to protect confidential information.

Are there any objections to considering these items together and approving the proposed Orders granting the petitions?

(No response.)

CHAIRMAN SHEAHAN: Hearing none, the Orders are approved.

Items T-5 and 6 concern Petitions to Cancel Certificates of Service Authority.

Are there any objections to

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

3 (No response.)

4 CHAIRMAN SHEAHAN: Hearing none, the Orders are
5 approved.

6 Item T-7 concerns Netrino and
7 Everstream's Motions -- Everstream's Motion to
8 Withdraw its Joint Application.

9 Are there any objections to granting
10 the Motion to Withdraw?

11 (No response.)

12 CHAIRMAN SHEAHAN: Hearing none, the motion is
13 granted.

14 Moving on to our Water Agenda,
15 Item W-1 concerns Illinois-American's Petition for
16 Initiation of Reconciliation Hearing.

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

19 (No response.)

20 CHAIRMAN SHEAHAN: Hearing none, the Order is
21 approved.

22 Item W-2 concerns Aqua Illinois'

1 Petition for the Extension of a Certificate of
2 Approval of Rates, Accounting Entries, and Tariff
3 Language.

4 Are there any objections to approving
5 the proposed Order granting the petition?

6 (No response.)

7 CHAIRMAN SHEAHAN: Hearing none, the Order is
8 approved.

9 We have one item -- or two items on
10 our Miscellaneous Agenda. Item M-1 concerns the
11 Commission's motion to authorize release of
12 information and entry into an interagency agreement
13 with the Illinois Department of Natural Resources.

14 Are there any objections to approving
15 the proposed Order?

16 (No response.)

17 CHAIRMAN SHEAHAN: Hearing none, the Order is
18 approved.

19 Item M-2 concerns the Commission's own
20 motion to develop and adopt rules concerning rate
21 case treatment of charitable contributions.

22 Is there a motion to approve the

1 proposed Order adopting the rules?

2 COMMISSIONER McCABE: So moved.

3 CHAIRMAN SHEAHAN: Is there a second?

4 COMMISSIONER ROSALES: Seconded.

5 CHAIRMAN SHEAHAN: Commissioner del Valle?

6 COMMISSIONER DEL VALLE: Thank you,

7 Mr. Chairman.

8 Between 2012 and 2014, just three
9 years of formula rates, ComEd recovered roughly
10 \$23 million in ratepayer funds for charitable
11 contributions. This year Illinois' four largest
12 utilities are recovering nearly \$11 million dollars
13 combined.

14 How these contributions are steered is
15 at the discretion of management, and not transparent.
16 And when the public sees a newspaper article or a
17 utility's logo indicating a utility's monetary
18 support for a group or event -- and we see the press
19 releases regularly -- they generally do not know it
20 is ratepayer money collected in what many courts
21 around the country have characterized as an
22 involuntary levy.

1 Many years ago, the Illinois Supreme
2 Court concluded that a monopoly utility's charitable
3 contributions cannot be financed with ratepayer
4 money. But the General Assembly enacted
5 Section 9-227 directing the Commission to consider
6 charitable expenses as an operating expense.

7 The Commission's original Part 325,
8 which attempted to find an equitable balance for
9 recoverability of charitable expenses, was
10 subsequently invalidated by the courts. In the years
11 since, the Commission has consistently found the
12 evidence supporting these expenses in numerous rate
13 cases lacking.

14 Over 40 states, either by law, rule,
15 or case law prohibit the recovery of charitable
16 contributions from ratepayers, finding the practice
17 unreasonable, inequitable, and even unconstitutional.

18 In Mississippi, where its legislature
19 similarly passed a law directing its Commission to
20 consider the recoverability of charitable
21 contributions, the Commission did so by adopting a
22 rule barring the recovery of charitable contributions

1 in base rates. After some research, I found that
2 even those few states that do permit the recovery of
3 charitable contributions, the amounts approved are
4 dwarfed by the amounts recovered in Illinois.

5 Staff's initial proposed Rule for
6 reinstating Part 325 went a long ways towards
7 minimizing -- but not of course eliminating -- the
8 risks involved in recovering these expenses by
9 ensuring the greatest level of transparency for
10 reviewing the utility's process of making
11 contributions with ratepayer money, and by ensuring
12 that the utility would have to inform the public of
13 the use of ratepayer-funded charitable contributions.
14 But those requirements were arbitrarily removed from
15 the Rule.

16 With the modest initial disclosure
17 requirements being approved today, I expect continued
18 difficulties and litigation in rate cases around
19 these substantial sums, and that the rule will do
20 little to improve the accountability of the
21 utilities' distribution of these funds.

22 These companies and their shareholders

1 should -- I repeat "should" -- play an important role
2 as corporate citizens through their charitable
3 giving. But the source of that giving should not be
4 the involuntary levy on ratepayers; and if it is, the
5 entire process should be transparent.

6 For these reasons and those stated in
7 my two dissents, I'm voting "no" today. Thank you.

8 CHAIRMAN SHEAHAN: Any other discussion?

9 (No response.)

10 CHAIRMAN SHEAHAN: We have a motion and a
11 second to approve the proposed Order adopting the
12 rules. All of those in favor say, "Aye".

13 (Chorus of "Ayes".)

14 CHAIRMAN SHEAHAN: Opposed say, "Nay".

15 COMMISSIONER DEL VALLE: Nay.

16 CHAIRMAN SHEAHAN: The vote is 4 to 1, and the
17 Order is approved.

18 In Other Business we have an item
19 regarding the Illinois Power Agency's Fall 2016
20 Solicitation of Bids to Sell Zonal Resource Credits
21 to Ameren.

22 Is there a motion to approve the

1 Procurement Administrator's Recommendations on
2 Selection of Winning Bids?

3 COMMISSIONER ROSALES: So moved.

4 CHAIRMAN SHEAHAN: Is there a second?

5 COMMISSIONER MAYE-EDWARDS: Seconded.

6 CHAIRMAN SHEAHAN: Any discussion?

7 (No response.)

8 CHAIRMAN SHEAHAN: All of those in favor say,
9 "Aye".

10 (Chorus of "Ayes".)

11 CHAIRMAN SHEAHAN: Opposed say, "Nay".

12 (No response.)

13 CHAIRMAN SHEAHAN: They "ayes" have it, and the
14 methodology is approved.

15 Judge Kimbrel, do you have any other
16 matters to bring before the Commission this morning?

17 JUDGE KIMBREL: No, Mr. Chairman.

18 CHAIRMAN SHEAHAN: Thank you.

19 Commissioners, this is the time
20 usually reserved for Commissioners to bring items
21 before the Commission.

22 Commissioner Rosales, I believe you

1 have an item?

2 COMMISSIONER ROSALES: Thank you, Mr. Chairman.

3 I would like to take this moment to
4 acknowledge Hispanic Heritage Month, celebrated every
5 year from September 15th through October 15th. The
6 Hispanic population in the United States is over
7 56 million, constituting over 17 percent of the
8 nation's total population.

9 In Illinois, the Hispanic population
10 is somewhere near 2.2 million, which, to the person,
11 mirrors the same percent of the nation, with the
12 other 17 percent of state residents being of Hispanic
13 descent.

14 So it's important to take a moment to
15 reflect on Hispanic Heritage Month, with an eye
16 toward finding ways to improve acceptance and
17 diversity in all areas throughout the state for men
18 and women of all ethnicities and races.

19 Last week Governor Bruce Rauner cut
20 the ribbon at the Illinois Hispanic Chamber of
21 Commerce. And if you were there, or watched a clip
22 on TV, it took a very long time to cut the ribbon

1 with those large ceremonial cardboard scissors.

2 I appreciate the Governor attending
3 and speaking at the event, which kicked off the
4 Hispanic Heritage Month here in Chicago.

5 At the ICC we celebrate Hispanic
6 Heritage Month in our "diversity and inclusion"
7 program, in which all employees -- all employees --
8 are recognized for their talent, their experiences,
9 and their contributions in moving the Illinois
10 Commerce Commission forward.

11 Thank you, Mr. Chairman.

12 CHAIRMAN SHEAHAN: Thank you.

13 Are there any other comments from the
14 Commissioners?

15 (No response.)

16 CHAIRMAN SHEAHAN: Hearing none, without
17 objection, we stand adjourned.

18 (Whereupon, the above matter was
19 adjourned.)

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