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PROCEEDINGS

CHAIRMAN SCOTT: Pursuant to the provisions of the Open Meetings Act, I now convene a regularly scheduled Bench Session of the Illinois Commerce Commission. With me in Springfield are Commissioner Colgan and Commissioner McCabe. With us in Chicago is Commissioner O'Connell-Diaz. I am Chairman Scott. We have a quorum.

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

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

CHAIRMAN SCOTT: On to the Public Utility

1 agenda, we will begin with the Electric portion.
2 Item E-1 (13-0077) concerns initiating a proceeding
3 for the adoption of policies related to our
4 previously-approved Statewide Technical Reference
5 Manual for electric and gas energy efficiency
6 programs run pursuant to Section 8-103 and 8-104 of
7 the Public Utilities Act. Staff recommends entry of
8 an Order initiating the policy proceeding.

9 Is there any discussion?

10 (No response.)

11 Is there a motion to enter the Order?

12 COMMISSIONER McCABE: So moved.

13 CHAIRMAN SCOTT: Is there a second?

14 COMMISSIONER COLGAN: Second.

15 CHAIRMAN SCOTT: It's been moved and seconded.

16 All in favor say aye.

17 COMMISSIONERS: Aye.

18 CHAIRMAN SCOTT: Any opposed?

19 (No response.)

20 The vote is four to nothing, and the
21 Order is entered.

22 We will use this four to nothing vote

1 for the remainder of the Public Utility agenda,
2 unless otherwise noted.

3 Item E-2 (13-0078) concerns initiating
4 a proceeding for an investigation into ComEd's
5 compliance with its Year 4 energy efficiency program
6 savings goals. Staff recommends entry of an Order
7 initiating the proceeding.

8 Is there any discussion?

9 (No response.)

10 Any objections?

11 (No response.)

12 Hearing none, the Order is entered.

13 Item E-3 concerns a filing made by
14 ComEd to revise and clarify certain cost recovery
15 aspects of its purchased electricity and hourly
16 pricing riders. Staff recommends granting the
17 company's requests by not suspending the filing.

18 Is there any discussion?

19 (No response.)

20 Any objections?

21 (No response.)

22 Hearing none, the filing will not be

1 suspended.

2 Item E-4 (13-0079) concerns a proposed
3 rate increase and rate design revision filed by Mt.
4 Carmel Public Utility Company. Staff recommends that
5 the filing be suspended and that the matter be set
6 for hearing through entry of a Suspension Order.

7 Is there any discussion?

8 (No response.)

9 Any objections?

10 (No response.)

11 Hearing none, the Suspension Order is
12 entered.

13 Item E-5 is Docket Number 10-0598.

14 This is a customer complaint by Harold Savitz and
15 Manors of Highland Park Condominium Association
16 against ComEd. Given the settlement of these issues
17 among certain parties to the proceeding, ALJ Haynes
18 recommends entry of an Order dismissing the complaint
19 due to the remaining complainant's lack of standing.

20 Judge Haynes, I think I saw you enter
21 the room. Could I ask you a couple questions on this
22 one?

1 JUDGE HAYNES: Sure. Go ahead.

2 CHAIRMAN SCOTT: Thank you. So I am assuming
3 the reason for the lack of standing is that the
4 condominium association is actually the party to the
5 contract with ComEd?

6 JUDGE HAYNES: Yes, with ComEd and
7 Constellation.

8 CHAIRMAN SCOTT: And Constellation, okay. And
9 that if Mr. Savitz -- it is not that he doesn't have
10 any remedy; it just may not be here. If he has got a
11 remedy, it would be -- because he thinks that the
12 condo association essentially sold all the condo
13 members short by settling for less than they should
14 have, his remedy would be an action against the condo
15 association, in some other forum then perhaps?

16 JUDGE HAYNES: I am not sure about that, what
17 his remedy would be. It is just that it is not his
18 individual account at issue here. And so any
19 complaint would give money to the condominium
20 association, not to him. And, yeah, I guess that
21 his -- if he wanted to do something, he would have to
22 take it up with the condominium association.

1 CHAIRMAN SCOTT: Because the only question I
2 had about it from a standing perspective is, the
3 condominium association, he is a member of that which
4 means that any kind of overcharge, if that indeed
5 happened in this case as it is alleged, any kind of
6 overcharge, he and the other members of the
7 condominium association are going to pay for it. So
8 he can put forth, at least, an argument that he is a
9 party who has been harmed, at least allege that he is
10 a party who has been harmed. The question is more
11 the privity of the contract, you are saying, between
12 the association and ComEd and Constellation?

13 JUDGE HAYNES: Well, I think it might even go
14 beyond that in that, you know, this kind of -- it
15 would be a huge mess if individual condominium owners
16 could bring this sort of action when they have
17 elected this board to bring this action for them, and
18 then part of that electing the board, it is the board
19 who is going to represent the interests of all the
20 condominium owners. And so just even to -- so it is
21 the contract is between the condominium association
22 and the utility, but also just to keep it all -- this

1 is why you have the condominium association, to
2 insure that there is one body that speaks for all of
3 the members.

4 CHAIRMAN SCOTT: Right. It is just kind of
5 strange because he brought the complaint first and
6 then they joined in afterwards, as opposed to, you
7 know, initiating the way it normally does in these
8 cases.

9 JUDGE HAYNES: Well, I think Mr. Savitz is very
10 vocal, and he -- I think that originally when I think
11 this all started was back in the 1980s and he was
12 more involved then, and so -- and so he is very
13 interested in what goes on at the condominium and I
14 think he has been on and off the board over the
15 years. However, recently he hasn't been on the -- he
16 isn't on the board now and I don't think he has been
17 for awhile.

18 JUDGE SCOTT: Okay. I appreciate that. Thank
19 you. Any further questions?

20 COMMISSIONER O'CONNELL-DIAZ: Just I would as
21 an aside, I would think that the bylaws of the
22 condominium association would give guidance to the

1 legal representative of the entity in situations such
2 as this. And what is clear here is that he is not
3 the legal representative of the condominium
4 association at this point in time.

5 CHAIRMAN SCOTT: Any further discussion?

6 (No response.)

7 Are there any objections to entering
8 the Order dismissing the complaint due to lack of
9 standing?

10 (No response.)

11 Hearing none, the Order is entered.
12 Thank you, Judge Haynes.

13 Item E-6 is Docket Number 11-0790.
14 This is RWE Management's complaint against ComEd
15 regarding the switch installation. ALJ Teague
16 recommends entry of an Order denying the complaint.

17 Is Judge Teague available as well?

18 JUDGE TEAGUE: Good morning.

19 CHAIRMAN SCOTT: Good morning, Judge. Thanks
20 for being here. Just a couple of questions. I think
21 I understand this one, but I just want to make sure I
22 am as clear on this as I can be.

1 So the allegation about the moving of
2 the lines ultimately doesn't really matter here
3 because the company paid for moving of the lines. So
4 the complainant wasn't the person who was charged for
5 that; he was only charged for the switch that was
6 installed?

7 JUDGE TEAGUE: Exactly.

8 CHAIRMAN SCOTT: And the switch that was
9 installed was done, not because the lines were placed
10 improperly in the right place, it is because there
11 wasn't enough room to put them far enough away so
12 that the switch wasn't necessary?

13 JUDGE TEAGUE: Exactly, yes. The moving of the
14 line was just to meet the NEIS standards, the
15 National Electric Standards, and that had to be done
16 twice because by mistake ComEd moved it over five
17 feet and then they had to come out and move it to the
18 7.5 that is required. But whether that was done in
19 one or two steps, they still had to get the switch
20 because they needed to meet the OSHA standards.

21 CHAIRMAN SCOTT: And that moving of the lines
22 wasn't something that the complainant was charged

1 for?

2 JUDGE TEAGUE: The moving, no. The moving of
3 the lines they weren't charged for, just the switch.

4 CHAIRMAN SCOTT: Very good. I appreciate that.
5 Thank you.

6 Any further questions for the Judge?

7 (No response.)

8 Thank you, Judge.

9 Further discussion?

10 (No response.)

11 Are there any objections to entering
12 the Order denying the complaint?

13 (No response.)

14 Hearing none, the Order is entered.

15 Items E-7 through E-9 (12-0353,
16 12-0359, 12-0583) can be taken together. These are
17 customer complaints against ComEd. In each case the
18 parties have apparently settled their differences and
19 brought a Joint Motion to Dismiss which the ALJ
20 recommends we grant.

21 Is there any discussion?

22 (No response.)

1 Any objections?

2 (No response.)

3 Hearing none, the Joint Motions to
4 Dismiss are granted.

5 Item E-10 is Docket Number 12-0627.

6 This is John Osman's complaint against ComEd. The
7 complainant has filed to withdraw his complaint, and
8 ALJ Haynes recommends dismissal of the matter without
9 prejudice.

10 Is there any discussion?

11 (No response.)

12 Any objections?

13 (No response.)

14 Hearing none, the matter is dismissed.

15 Item E-11 is Docket Number 12-0415.

16 This is Illinois Gas and Electric's petition seeking
17 the confidential and/or proprietary treatment of
18 portions of its compliance report. ALJ Jorgensen
19 recommends entry of an Order granting the requested
20 relief.

21 Is there any discussion?

22 (No response.)

1 Any objections?

2 (No response.)

3 Hearing none, the Order is entered.

4 Item E-12 is Docket Number 12-0598.

5 This is Ameren Transmission Company's filing seeking
6 authority for the construction of a new transmission
7 line across central Illinois. There were some issues
8 with proper notice being provided to some landowners
9 in this case, so ALJs Albers and Yoder recently ruled
10 that for statutory deadline purposes the 150-day
11 deadline clock should begin as of January 7, 2013.
12 Ameren has filed a Petition for Interlocutory Review
13 contesting that decision, and the ALJs have also put
14 forward the question of whether there should be an
15 additional 75-day extension granted, consistent with
16 the extension previously granted in this matter.

17 I would ask if either or both of
18 Judges Albers and Yoder are here for this one. Good
19 morning, gentlemen.

20 JUDGE ALBERS: Good morning.

21 JUDGE YODER: Good morning.

22 CHAIRMAN SCOTT: It is a little scary when you

1 bring the book with you, too. My question is on the
2 75 days, Judge. And, before, that was brought as a
3 motion from Staff to us. And my question is, if we
4 were inclined to grant 75 days again as of a
5 restarted date, hypothetically, if that were
6 something that would come from the case, is that
7 something that would require another motion to be
8 brought or is that something that the Commissioners
9 could do, that we could do through just a motion?

10 JUDGE ALBERS: I don't think the statute
11 requires anyone to ask for it. I think Subparagraph
12 G provides for the 30-day -- I am sorry, the 75-day
13 extension, and the language in there simply indicates
14 that it has to be done within -- any extension
15 granted has to be done within 30 days of the
16 application being filed. And if you consider the
17 application having been filed on January 7, then you
18 are well within 30 days.

19 CHAIRMAN SCOTT: So we could do that on our
20 own?

21 JUDGE ALBERS: On your own.

22 CHAIRMAN SCOTT: On our own motion.

1 JUDGE ALBERS: Yeah.

2 CHAIRMAN SCOTT: Okay. And the rationale, as I
3 understood it before when we voted on this, the
4 rationale was that because of the complex nature of
5 the evidence involved in this and the number of
6 landowners that are involved, the potential for
7 alternative routes and other things, that the 75 days
8 would be necessary for both the persons that are
9 affected by it as well as for Staff to do all the
10 work that was necessary to make that work.

11 JUDGE ALBERS: Oh, yes, absolutely.

12 CHAIRMAN SCOTT: Further questions of the
13 Judges?

14 COMMISSIONER O'CONNELL-DIAZ: Judge Albers,
15 with regard to what the company suggested is an
16 inadvertent neglect with the 130 landowners not being
17 notified of this, under the statute what is the
18 dismissal possibilities in such a situation where
19 appropriate notice is not given in the initial filing
20 by the applicant?

21 JUDGE ALBERS: I don't think the statute has
22 anything explicit on that question. Judge Yoder, do

1 you recall anything?

2 JUDGE YODER: Well, there is the one
3 provision -- I can't remember if it is in the rules
4 or in the statute -- that failure to notice parties
5 would not invalidate a Final Order. So I guess the
6 question becomes, when it is found this early in the
7 process and notice can be given to those parties and
8 with the relatively short delay that we have
9 contemplated within the whole process, is that an
10 appropriate remedy.

11 JUDGE ALBERS: Right.

12 JUDGE YODER: It is not where we are finding
13 people after the Order has already been entered with
14 the Commission.

15 JUDGE ALBERS: Right. I think it is in our
16 rules, too. 200.150(h), I believe, is the provision
17 in the rule that has what he is referring to.

18 COMMISSIONER O'CONNELL-DIAZ: Again, I am not
19 suggesting that that's -- but when we have what I
20 would suggest is deficient notice here, prospectively
21 we should be looking at, you know, there is 130
22 landowners that are affected by not being noticed up

1 on this and now we are going to remedy that deficient
2 filing, in my estimation, to allow extra time for
3 them to in fact be properly notified and participate
4 in this proceeding.

5 But going forward when we have
6 situations like this, I mean, it is incumbent upon
7 the company to come to us with a full and complete
8 filing. And if I recall, I think that this filing --
9 Judge Wallace can correct me if I am wrong -- but
10 this caused mayhem in our Clerk's office, this
11 filing.

12 Is that correct, Judge Wallace?

13 JUDGE WALLACE: Yes, it did.

14 COMMISSIONER O'CONNELL-DIAZ: So, you know, I
15 just think it is a very important filing, but the I's
16 need to be dotted and the T's need to be crossed when
17 you are talking about landowner rights. And this is
18 troubling to me as I look at this filing. I mean,
19 are we going to have another one next week where
20 there are 65 other landowners that are inadvertently
21 not included? These are important parts of the
22 filing that should have been occasioned and studied

1 before it was actually given to our Clerk's office.

2 So that's -- I am not commenting in
3 opposite of what has been recommended or what was
4 contemplated in this, but going forward I think it is
5 incumbent upon any company coming to this Commission
6 to file as complete as possible filing so that we are
7 not asking to tailor things after it's been filed,
8 especially when you are talking about landowner
9 issues.

10 CHAIRMAN SCOTT: I agree with that, and I think
11 that restarting the clock makes perfectly good sense
12 in this case. I think the 75-day, the rationale for
13 it that we voted on at the end of November
14 previously, the same rationale for that applies now
15 to the 130 landowners who weren't included in this
16 petition. There is no question, as Commissioner
17 O'Connell-Diaz just said, that in this case it is the
18 company's error. They are obviously admitting to
19 that as well. And I think the burden for that needs
20 to remain on them for the reasons that Commissioner
21 O'Connell-Diaz stated. Notice is incredibly
22 important. The property owners' rights in this and

1 any similar case are extremely important, and I think
2 to give everyone the same opportunity to move
3 forward, it makes sense both to restart the clock and
4 add the 75 days on.

5 And so I would move to deny Ameren
6 Transmission Company's Petition for Interlocutory
7 Review and grant the additional 75-day extension. Is
8 there a second to that motion?

9 COMMISSIONER McCABE: Second.

10 CHAIRMAN SCOTT: Any further discussion on
11 that?

12 (No response.)

13 All in favor say aye.

14 COMMISSIONERS: Aye.

15 CHAIRMAN SCOTT: Any opposed?

16 (No response.)

17 The vote is four to nothing, and the
18 Petition for Interlocutory Review is denied and the
19 additional 75 days are granted.

20 Thank you very much, gentlemen.

21 JUDGE ALBERS: Thank you.

22 CHAIRMAN SCOTT: Appreciate it. Item E-13 is

1 Docket Number 12-0672. This is Zone Energy's
2 application to expand the territory it serves as an
3 alternative retail electric supplier to now include
4 the Ameren service territory. ALJ Von Qualen
5 recommends entry of an Order granting the expanded
6 authority.

7 Is there any discussion?

8 (No response.)

9 Any objections?

10 (No response.)

11 Hearing none, the Order is entered.

12 Turning now to Natural Gas, Item G-1
13 is Docket Number 10-0398, and we will be holding this
14 item for disposition at a future Commission
15 proceeding. I believe I will also have some
16 questions to submit to the parties in this matter.

17 Item G-2 is Docket Number 12-0326.

18 This is Liberty Energy's petition seeking authority
19 to enter into an intercompany loan agreement. ALJ
20 Yoder recommends entry of an Order granting the
21 requested authority.

22 Is there any discussion?

1 (No response.)

2 Any objections?

3 (No response.)

4 Hearing none, the Order is entered.

5 Item G-3 is Docket Number 12-0569.

6 This is Nicor's Purchase of Receivables with
7 Consolidated Billing case. Up for consideration
8 today is a Resuspension Order allowing an additional
9 six months for the case's completion.

10 Is there any discussion?

11 (No response.)

12 Any objections?

13 (No response.)

14 Hearing none, the Resuspension Order
15 is entered.

16 Item G-4 is Docket Number 12-0692.

17 This is a request by Ameren seeking a waiver of
18 requirements in Title 83, Part 285 of the
19 Administrative Code concerning the accounting guide
20 relied upon in preparing documents for its gas rate
21 case. ALJ Yoder recommends entry of an Order
22 granting the requested waiver.

1 Is there any discussion?

2 (No response.)

3 Any objections?

4 (No response.)

5 Hearing none, the Order is entered.

6 Moving on to Telecommunications, Item
7 T-1 is Docket Number 12-0607. This item will be held
8 for disposition at a future Commission proceeding.

9 Item T-2 is Docket Number 12-0612.

10 This is Sage Telecom's application for a Certificate
11 of Service Authority under Section 13-401 of the
12 Public Utilities Act. ALJ Riley recommends entry of
13 an Order granting the certificate.

14 Is there any discussion?

15 (No response.)

16 Any objections?

17 (No response.)

18 Hearing none, the Order is entered.

19 Item T-3 is Docket Number 12-0600.

20 This is a Joint Petition for the approval of an
21 amendment to an Interconnection Agreement between
22 telecommunication carriers. Petitioners have moved

1 to withdraw this docket, and ALJ Baker recommends
2 dismissing this matter without prejudice.

3 Is there any discussion?

4 (No response.)

5 Any objections?

6 (No response.)

7 Hearing none, the matter is dismissed.

8 Items T-4 through T-9 (12-0606,
9 12-0608, 12-0614, 12-0615, 12-0616, 12-0617) can be
10 taken together. These items are Joint Petitions for
11 the approval of amendments to Interconnection
12 Agreements between telecommunications carriers. In
13 each case ALJ Baker recommends entry of an Order
14 approving the amendment.

15 Is there any discussion?

16 (No response.)

17 Any objections?

18 (No response.)

19 Hearing none, the Orders are entered.

20 Item T-10 is Docket Number 12-0618.

21 This is a Joint Petition for the approval of an
22 Interconnection Agreement between telecommunications

1 carriers. ALJ Jorgensen recommends entry of an Order
2 approving the agreement.

3 Is there any discussion?

4 (No response.)

5 Any objections?

6 (No response.)

7 Hearing none, the Order is entered.

8 Items T-11 through T-17 (12-0543,
9 12-0631, 12-0632, 13-0001, 13-0002, 13-0024, 13-0025)
10 can be taken together. These items are petitions for
11 the confidential and/or proprietary treatment of
12 petitioner's Annual Report. In each case the ALJ
13 recommends entry of an Order granting the requested
14 protective treatment.

15 Is there any discussion?

16 (No response.)

17 Any objections?

18 (No response.)

19 Hearing none, the Orders are entered.

20 On to Water and Sewer, Item W-1 is a
21 filing by Aqua Illinois seeking tariff changes to
22 alter the way water and sewer charges are incurred

1 for lawn irrigation. Staff recommends granting the
2 company's request by not suspending the filing.

3 Is there any discussion?

4 (No response.)

5 Any objections?

6 (No response.)

7 Hearing none, the filing will not be
8 suspended.

9 Item W-2 is Docket Number 12-0570.

10 This is our investigation of Nunda Utility Company

11 under Section 8-102 of the Public Utilities Act.

12 This item will be held for disposition at a future
13 Commission proceeding.

14 Item W-3 is Docket Numbers 12-0603 and

15 12-0604 Consolidated. This is the rate case for

16 Apple Canyon Utility Company and Lake Wildwood

17 Utilities Corporation. Before us today is an

18 Amendatory Order amending the date named in the

19 November Orders suspending these filings for further
20 investigation.

21 Is there any discussion?

22 (No response.)

1 Any objections?

2 (No response.)

3 Hearing none, the Amendatory Order is
4 entered.

5 We have two miscellaneous items up for
6 consideration today. Item M-1 (13-0080) concerns
7 initiating an emergency rulemaking proceeding for
8 Title 83, Part 281 of the Administrative Code
9 regarding military service member disconnection
10 rules. Staff recommends entry of an Order initiating
11 the proceeding and adopting the rules on an emergency
12 basis.

13 Is there any discussion?

14 (No response.)

15 Are there any objections?

16 (No response.)

17 Hearing none, the Order is entered.

18 Item M-2 is Docket Number 06-0703.

19 This is the rulemaking proceeding for Title 83, Part
20 280 of the Administrative Code, and this item will be
21 held for disposition at a future Commission
22 proceeding.

1 Judge Wallace, are there any other
2 matters to come before the Commission today?

3 JUDGE WALLACE: No, sir, that's all. In
4 regards to Nunda, when would you like to see that
5 back on? We did receive a response to the
6 Commissioner data requests that were sent out.

7 CHAIRMAN SCOTT: I would suggest -- because the
8 next meeting is so short, I would suggest February
9 14.

10 JUDGE WALLACE: All right.

11 CHAIRMAN SCOTT: And, Commissioner
12 O'Connell-Diaz, you can't see this, but Chief Judge
13 Wallace, in honor of Robert Burns Day, came today
14 wearing, not only his Scottish tie, but also his
15 kilt.

16 COMMISSIONER O'CONNELL-DIAZ: Oh, my goodness.
17 Don't you make scones, too?

18 JUDGE WALLACE: Yes, yes.

19 CHAIRMAN SCOTT: There were scones and a Robert
20 Burns' poem reading in the Commission offices earlier
21 this morning. So as a Scotsman I think that was
22 perfectly acceptable and proper.

1 COMMISSIONER O'CONNELL-DIAZ: Well, I won't ask
2 him to do the Highland Fling.

3 CHAIRMAN SCOTT: Very good. Hearing nothing
4 else to come before the Commission, this meeting
5 stands adjourned. Thanks, everyone.

6 HEARING CONCLUDED AT 11:00 A.M.

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