

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

BEFORE THE
ILLINOIS COMMERCE COMMISSION

BENCH SESSION
(PUBLIC UTILITY)

Springfield, Illinois
Tuesday, October 17, 2012

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
- MS. LULA M. FORD, Commissioner
(Via audiovisual conference)
- MS. ERIN M. O'CONNELL-DIAZ, Commissioner
(Via audiovisual conference)
- MR. JOHN T. COLGAN, Commissioner
(Via teleconference)
- MS. ANN McCABE, Commissioner
(Via audiovisual conference)

L.A. COURT REPORTERS
By: Carla J. Boehl, Reporter
CSR #084-002710

1 PROCEEDINGS

2 CHAIRMAN SCOTT: Pursuant to the provisions of
3 the Open Meetings Act, I now convene a regularly
4 scheduled Bench Session of the Illinois Commerce
5 Commission. With us in Chicago are Commissioner
6 O'Connell-Diaz, Commissioner Ford and Commissioner
7 McCabe. I am Chairman Scott in Springfield.
8 Apparently there was something I said; I am here by
9 myself. And we have a quorum.

10 We also have Commissioner Colgan
11 available by phone. Under the Commission's rules we
12 will have to vote to allow Commissioner Colgan's
13 participation by phone. I move to allow Commissioner
14 Colgan's participation by phone. Is there a second?

15 COMMISSIONER FORD: Second.

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

17 All in favor say aye.

18 COMMISSIONERS: Aye.

19 CHAIRMAN SCOTT: Any opposed?

20 (No response.)

21 The vote is four to nothing, and
22 Commissioner Colgan may participate by phone.

1 Commissioner, are you there?

2 COMMISSIONER COLGAN: I am here, thank you.

3 CHAIRMAN SCOTT: Very good. Welcome.

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

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

17 CHAIRMAN SCOTT: Turning now to the Public
18 Utility agenda, we will begin with the approval of
19 minutes from our September 19 Bench Session. I
20 understand amendments have been forwarded.

21 Is there a motion to amend the
22 minutes?

1 COMMISSIONER O'CONNELL-DIAZ: So moved.

2 CHAIRMAN SCOTT: Is there a second?

3 COMMISSIONER FORD: Second.

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

5 All in favor say aye.

6 COMMISSIONERS: Aye.

7 CHAIRMAN SCOTT: Any opposed?

8 (No response.)

9 The vote is five to nothing, and the
10 amendments are adopted.

11 Is there a motion to approve the
12 minutes as amended?

13 COMMISSIONER O'CONNELL-DIAZ: So moved.

14 CHAIRMAN SCOTT: Is there a second?

15 COMMISSIONER McCABE: Second.

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

17 All in favor say aye.

18 COMMISSIONERS: Aye.

19 CHAIRMAN SCOTT: Any opposed?

20 (No response.)

21 The vote is five to nothing, and the
22 September 19 Bench Session minutes as amended are

1 adopted.

2 Moving into the Electric portion of
3 today's agenda, Items E-1 through E-3 can be taken
4 together. These items concern tariff changes
5 proposed by Ameren and ComEd. In each case Staff
6 recommends allowing the Company's request by not
7 suspending the filing.

8 Is there any discussion?

9 (No response.)

10 Is there a motion to not suspend the
11 filings?

12 COMMISSIONER FORD: So moved.

13 CHAIRMAN SCOTT: Is there a second?

14 COMMISSIONER McCABE: 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 five to nothing, and the
21 filings will not be suspended.

22 We will use this five to nothing vote

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

3 Item E-4 is Docket Number 10-0537.
4 This is ComEd's reconciliation case for revenues
5 collected under its Energy Efficiency Rider. ALJ
6 Hilliard recommends entry of an Order approving the
7 reconciliation with an incentive compensation
8 adjustment recommended by Staff.

9 Is there any discussion?

10 (No response.)

11 Are there any objections?

12 (No response.)

13 Hearing none, the Order is entered.

14 Item E-5 is Docket Number 12-0063.

15 This is ComEd's reconciliation proceeding for
16 revenues collected under coal tar riders in 2011.
17 ALJ Haynes recommends entry of an Order approving the
18 reconciliation.

19 Is there any discussion?

20 (No response.)

21 Any objections?

22 (No response.)

1 Hearing none, the Order is entered.

2 Item E-6 is Docket Number 11-0547.

3 This matter concerns the Commission's evaluation of
4 Ameren's residential real-time pricing program. ALJ
5 Albers recommends entry of an Order determining that
6 Ameren's real-time pricing program is beneficial to
7 customers and directing its continuation.

8 Is there any discussion?

9 COMMISSIONER O'CONNELL-DIAZ: Mr. Chairman, I
10 did not request for this to be held, but I would like
11 it held just until the next Bench, please.

12 CHAIRMAN SCOTT: That will be fine.

13 COMMISSIONER O'CONNELL-DIAZ: Thank you.

14 CHAIRMAN SCOTT: So Item E-6 will be held.

15 Thank you, Commissioner.

16 Item E-7 is Docket Number 11-0770.

17 This is Lisa Smith's complaint against ComEd. ALJ
18 Teague recommends entry of an Order dismissing the
19 complaint without prejudice for want of prosecution.

20 Is there any discussion?

21 (No response.)

22 Any objections?

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

(No response.)

Hearing none, the Order is entered.

Item E-8 is Docket Number 11-0600.

This is William and Sheila Jegen's complaint against ComEd. The respondent has moved to dismiss this matter without prejudice for want of prosecution, and ALJ Hilliard recommends granting the Motion to Dismiss.

Is there any discussion?

(No response.)

Are there any objections?

(No response.)

Hearing none, the Motion to Dismiss is granted.

Items E-9 through E-11 (12-0306, 12-0473, 12-0436) can be taken together. These are customer complaints against ComEd. In each case the parties have apparently settled their differences and have brought a Joint Motion to Dismiss which the ALJ recommends we grant.

Is there any discussion?

(No response.)

1 Any objections?

2 (No response.)

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

5 Item E-12 is Docket Number 12-0132.
6 This concerns the evaluation of MidAmerican's energy
7 efficiency programs being run under Section 8-408 of
8 the Public Utilities Act. ALJ Haynes recommends
9 entry of an Order allowing the programs to continue
10 through December 2013.

11 Is there any discussion?

12 COMMISSIONER McCABE: Mr. Chairman?

13 CHAIRMAN SCOTT: Yes, Commissioner.

14 COMMISSIONER McCABE: I just want to say I
15 support the Order's recommendation to allow most of
16 MidAmerican's energy efficiency programs to continue
17 and file a new energy efficiency plan for Commission
18 approval in the future. Two of the six programs do
19 not currently satisfy the cost benefit analysis test.
20 The Order states that MidAmerican can include these
21 programs in its 2013 filing with a cost effectiveness
22 demonstration, and I hope they do so. The new

1 residential construction program, for example, has
2 relatively low costs. But given the current market
3 for new construction is weak, that could change in
4 the future so there may be a cost benefit analysis
5 there. Thank you.

6 CHAIRMAN SCOTT: Thank you, Commissioner.

7 Further discussion?

8 (No response.)

9 Are there any objections to entering
10 the Order?

11 (No response.)

12 Hearing none, the Order is entered.

13 Item E-13 is Docket Number 12-0307.

14 This is Integrys Energy Service's petition for the
15 confidential and/or proprietary treatment of its
16 continuing compliance report. ALJ Jones recommends
17 entry of an Order granting the requested protective
18 treatment.

19 Is there any discussion?

20 (No response.)

21 Are there any objections?

22 (No response.)

1 Hearing none, the Order is entered.

2 Item E-14 is Docket Number 12-0421.

3 This is a petition by the Illinois Department of
4 Transportation seeking eminent domain authority in
5 connection with the Interstate 80 improvement project
6 in Will County. ALJ Hilliard recommends entry of an
7 Order granting the petition.

8 Is there any discussion?

9 (No response.)

10 Any objections?

11 (No response.)

12 Hearing none, the Order is entered.

13 Item E-15 is Docket Number 12-0515.

14 This is MRDB Holdings' petition to cancel its
15 certificate to operate as an Agent, Broker and
16 Consultant. ALJ Albers recommends entry of an Order
17 cancelling the certificate.

18 Is there any discussion?

19 (No response.)

20 Any objections?

21 (No response.)

22 Hearing none, the Order is entered.

1 Item 16 is Docket Number 12-0466.
2 This is the Village of Melrose Park's petition
3 requesting that the Commission promulgate use tax
4 rates pursuant to Title 83 Part 418 of the
5 Administrative Code. The Village has requested to
6 withdraw its petition, and ALJ Hilliard recommends
7 granting withdrawal by dismissing this docket without
8 prejudice.

9 Is there any discussion?

10 (No response.)

11 Are there any objections?

12 (No response.)

13 Hearing none, the matter is dismissed.

14 Item E-17 is Docket Number 11-0708.

15 This is a citation proceeding against Evolving Energy
16 Systems for failure to file its Annual Compliance
17 Recertification Report. ALJ Kimbrel recommends entry
18 of an Order revoking the company's Certificate of
19 Authority.

20 Is there any discussion?

21 (No response.)

22 Are there any objections?

1 (No response.)

2 Hearing none, the Order is entered.

3 Items E-18 and E-19 (12-0521, 12-0538)

4 can be taken together. These items concern

5 applications for Licensure as an Agent, Broker and

6 Consultant under Section 16-115C of the Public

7 Utilities Act. In each case ALJ Albers recommends

8 entry of an Order granting the certificate.

9 Is there any discussion?

10 (No response.)

11 Any objections?

12 (No response.)

13 Hearing none, the Orders are entered.

14 Turning now to Natural Gas, Item G-1

15 (12-0509) concerns a filing by Nicor seeking to add a

16 rider for PORCB. Staff recommends that the filing be

17 suspended and set for a docketed proceeding through

18 the entry of a Suspension Order.

19 Is there any discussion?

20 (No response.)

21 Any objections?

22 (No response.)

1 Hearing none, the Suspension Order is
2 entered.

3 Item G-2 is Docket Number 11-0633.
4 This is George Fehringer's complaint against Nicor.
5 The parties have apparently settled their differences
6 and brought a Joint Motion to Dismiss which ALJ Dolan
7 recommends we grant.

8 Is there any discussion?

9 (No response.)

10 Any objections?

11 (No response.)

12 Hearing none, the Joint Motion to
13 Dismiss is granted.

14 Item G-3 is Docket Number 12-0085.

15 This is Michael Kieta's complaint against Nicor. ALJ
16 Teague recommends entry of an Order dismissing this
17 matter for want of prosecution.

18 Is there any discussion?

19 (No response.)

20 Are there any objections?

21 (No response.)

22 Hearing none, the Order is entered.

1 Item G-4 is Docket Number 12-0396.
2 This is FTR Energy Services' application for a
3 certificate to operate as an Alternative Gas
4 Supplier. We will hold this item for disposition at
5 a future Commission proceeding.

6 Items G-5 and G-6 (12-0460, 12-0461)
7 can be taken together. These are petitions by
8 Peoples and North Shore Gas seeking a protective
9 order over information at issue in their rate case.
10 The companies now seek to withdraw their petitions,
11 and ALJs Dolan and Teague recommend granting
12 withdrawal.

13 Is there any discussion?

14 (No response.)

15 Any objections?

16 (No response.)

17 Hearing none, the Motions to Withdraw
18 are granted.

19 Moving on to Telecommunications, Items
20 T-1 through T-3 (12-0133, 12-0376, 12-0405) can be
21 taken together. These are citation proceedings
22 against telecommunications carriers for failure to

1 maintain their corporate status. In each case ALJ
2 Kimbrel recommends entry of an Order revoking the
3 certificate.

4 Is there any discussion?

5 (No response.)

6 Any objections?

7 (No response.)

8 Hearing none, the Orders are entered.

9 Item T-4 is Docket Number 12-0443.

10 This is Bandwidth.com's application for a Certificate
11 of Service Authority to provide resold non-prepaid
12 commercial mobile radio service in Illinois. ALJ Von
13 Qualen recommends entry of an Order granting the
14 requested certificate.

15 Is there any discussion?

16 (No response.)

17 Any objections?

18 (No response.)

19 Hearing none, the Order is entered.

20 Item T-5 is Docket Number 12-0504.

21 This is AT&T's application for a Certificate of
22 Prepaid Calling Service Provider Authority to operate

1 as a telecommunications carrier in Illinois. ALJ
2 Riley recommends entry of an Order granting the
3 requested certificate.

4 Is there any discussion?

5 (No response.)

6 Are there any objections?

7 (No response.)

8 Hearing none, the Order is entered.

9 Item T-6 is Docket Number 11-0685.

10 This is Jamal Shehadeh's complaint against
11 Consolidated Communications. ALJ Yoder recommends
12 denying the complainant's oral argument request and
13 entry of an Order granting Consolidated's Motion to
14 Dismiss the complaint.

15 I'll take the oral argument request
16 first. Is there any discussion on the oral argument
17 request?

18 (No response.)

19 Are there any objections to denying
20 the oral argument request?

21 (No response.)

22 Hearing none, the request for oral

1 argument is denied.

2 On the Order dismissing the complaint,
3 is there any discussion?

4 (No response.)

5 Are there any objections to the entry
6 of that Order?

7 (No response.)

8 Hearing none, the Order is entered,
9 and the complaint is dismissed.

10 Item T-7 is Docket Number 12-0447.

11 This is a joint petition for the approval of an
12 amendment to an Interconnection Agreement between New
13 Cingular Wireless PCS and Illinois Consolidated
14 Telephone Company. ALJ Jorgensen recommends entry of
15 an Amendatory Order making a minor correction to the
16 Order previously entered by the Commission.

17 Is there any discussion?

18 (No response.)

19 Any objections?

20 (No response.)

21 Hearing none, the Amendatory Order is
22 entered.

1 Item T-8 is Docket Number 12-0462.
2 This is a joint petition by CenturyLink and Access
3 Point seeking approval of a resale agreement. ALJ
4 Jorgensen recommends entry of an Order approving the
5 resale agreement.

6 Is there any discussion?

7 (No response.)

8 Are there any objections?

9 (No response.)

10 Hearing none, the Order is entered.

11 Items T-9 through T-11 (12-0452,
12 12-0453, 12-0474) can be taken together. These are
13 joint petitions by telecommunications carriers
14 seeking the approval of amendments to Interconnection
15 Agreements. In each case ALJ Jorgensen recommends
16 entry of an Order approving the amendment.

17 Is there any discussion?

18 (No response.)

19 Any objections?

20 (No response.)

21 Hearing none, the Orders are entered.

22 Item T-12 is Docket Number 11-0668.

1 This is Dex One's petition for a variance from the
2 requirements of Title 83 Section 735.180 of the
3 Administrative Code. We will hold this item for
4 consideration at a future Commission meeting.

5 Item T-13 through T-15 (12-0191,
6 12-0207, 12-0246) can be taken together. These items
7 are petitions for the confidential and/or proprietary
8 treatment of the petitioners' Annual Reports. In
9 each case ALJ Jones recommends entry of an Order
10 granting the requested protective treatment.

11 Is there any discussion?

12 (No response.)

13 Any objections?

14 (No response.)

15 Hearing none, the Orders are entered.

16 Item T-16 is Docket Number 12-0439.

17 This is Megatel International's petition to cancel
18 its previously-issued Certificate of Prepaid Calling
19 Service Provider Authority. ALJ Teague recommends
20 entry of an Order granting the petition for
21 cancellation.

22 Is there any discussion?

1 (No response.)

2 Any objections?

3 (No response.)

4 Hearing none, the Order is entered.

5 On to Water and Sewer, Item W-1

6 (12-0510) concerns initiating an investigation into
7 the service adequacy of Nunda Utility Company under
8 Section 8-102 of the Public Utilities Act. Staff
9 recommends entry of an Order initiating the
10 investigation.

11 Is there any discussion?

12 (No response.)

13 Are there any objections?

14 (No response.)

15 Hearing none, the Order is entered.

16 Item W-2 is Docket Number 11-0264.

17 This is Illinois-American Water Company's
18 reconciliation proceeding for its qualifying
19 infrastructure plant surcharges in 2010. ALJ Jones
20 recommends entry of an Order approving the
21 reconciliation.

22 Is there any discussion?

1 (No response.)

2 Are there any objections?

3 (No response.)

4 Hearing none, the Order is entered.

5 Moving on to Miscellaneous items, Item

6 M-1 is Docket Number 06-0703 and this is the

7 rulemaking proceeding for Title 83 Part 280 of the

8 Administrative Code. We will be holding this item

9 for disposition at a future Commission proceeding.

10 We have one Petition for Rehearing to

11 consider today. Item PR-1 is Docket Number 12-0001.

12 This is Ameren's initial formula rate proceeding, and

13 the Commission entered an Order in this matter on

14 September 19. The Commission has filed a petition

15 for rehearing on five issues, and ALJs Albers and

16 Yoder recommend denying that petition in part and

17 granting it in part.

18 Is there any discussion?

19 (No response.)

20 I would make a motion to deny the

21 petition in its entirety. Is there a second?

22 COMMISSIONER McCABE: Second.

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

2 Is there any discussion on that motion?

3 (No response.)

4 All in favor of that motion vote aye.

5 COMMISSIONERS: Aye.

6 CHAIRMAN SCOTT: Opposed?

7 COMMISSIONER O'CONNELL-DIAZ: No.

8 CHAIRMAN SCOTT: Commissioner Ford, I am sorry,
9 I didn't hear your vote.

10 COMMISSIONER FORD: Aye.

11 CHAIRMAN SCOTT: You vote aye?

12 COMMISSIONER FORD: Aye.

13 CHAIRMAN SCOTT: Okay, thank you. The vote is
14 four to one, and the motion denying the petition in
15 its entirety is granted.

16 Last up we have two items of Other
17 Business today. These items concern pending
18 litigation. We will go into Closed Session to
19 address them.

20 Is there a motion to go into Closed
21 Session?

22 COMMISSIONER McCABE: So moved.

1 CHAIRMAN SCOTT: Is there a second?

2 COMMISSIONER FORD: Second.

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

4 All in favor say aye.

5 COMMISSIONERS: Aye.

6 CHAIRMAN SCOTT: Any opposed?

7 (No response.)

8 The vote is five to nothing, and the

9 Commission will now go into Closed Session. Please

10 let us know when the room is ready in Chicago.

11 (Whereupon at this point

12 pages 25 - 57 of the

13 proceedings are

14 contained in a separate

15 closed transcript.)

16

17

18

19

20

21

22

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

CONTINUATION OF PROCEEDINGS

CHAIRMAN SCOTT: In Closed Session the Commission discussed making a filing in FERC Docket ER12-2708. Is there a motion to make that filing with FERC?

COMMISSIONER O'CONNELL-DIAZ: So moved.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER McCABE: Second.

CHAIRMAN SCOTT: It's been moved and seconded.

All in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN SCOTT: Any opposed?

(No response.)

The vote is five to nothing, and the comments on ER12-2708 will be filed with FERC.

With respect to IN12-7 is there a motion to continue to allow Staff to continue negotiations with AG and CUB?

COMMISSIONER McCABE: So moved.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER FORD: Second.

CHAIRMAN SCOTT: Is there any further

1 discussion?

2 (No response.)

3 It's been moved and seconded.

4 All in favor say aye.

5 COMMISSIONERS: Aye.

6 CHAIRMAN SCOTT: Any opposed?

7 (No response.)

8 The vote is five to nothing, and Staff
9 is authorized to continue negotiations with AG and
10 CUB on IN12-7.

11 Judge Wallace, are there any other
12 matters to come before the Commission today?

13 JUDGE WALLACE: No, I don't believe so,
14 Mr. Chairman.

15 CHAIRMAN SCOTT: Thank you, sir. This meeting
16 stands adjourned.

17 MEETING ADJOURNED

18

19

20

21

22