

1                                        BEFORE THE  
2                                        ILLINOIS COMMERCE COMMISSION

3                                        BENCH MEETING

4                                        (TRANSPORTATION)

5  
6                                        Chicago, Illinois  
7                                        Wednesday, October 5, 2011

8  
9  
10                                      Met, pursuant to notice, at 10:30 a.m. in  
11                                      the Main Hearing Room, Eighth Floor, 160 North  
12                                      LaSalle Street, Chicago, Illinois.

13  
14                                      PRESENT:

15                                      DOUGLAS P. SCOTT, Chairman

16                                      LULA M. FORD, Commissioner via teleconference

17                                      ERIN M. O'CONNELL-DIAZ, Commissioner

18                                      SHERMAN J. ELLIOTT, Commissioner

19                                      JOHN T. COLGAN, Acting Commissioner

20  
21                                      SULLIVAN REPORTING COMPANY, by  
22                                      Alisa A. Sawka, CSR, RPR  
                                    License No. 084-004588

1 PROCEEDINGS

2 COMMISSIONER SCOTT: Pursuant to the provisions  
3 of the Illinois Open Meetings Act, I now convene a  
4 regularly scheduled Bench Session of the Illinois  
5 Commerce Commission. With me in Chicago are  
6 Commissioners O'Connell-Diaz, Elliot and Acting  
7 Commissioner Colgan. I'm Chairman Scott. We have a  
8 quorum. I believe also that -- in fact, I know just  
9 from hearing her that we have Commissioner Ford  
10 available by phone.

11 You're there, Commissioner?

12 COMMISSIONER FORD: Yes, I am.

13 COMMISSIONER SCOTT: Great. By rule we'll take  
14 a vote to allow Commissioner Ford to participate by  
15 phone.

16 I move to allow Commissioner Ford to  
17 participate by phone.

18 Is there a second?

19 COMMISSIONER O'CONNELL-DIAZ: Second.

20 COMMISSIONER SCOTT: It's been moved and  
21 seconded.

22 All in favor say, Aye.

1 (Chorus of ayes.)

2 COMMISSIONER SCOTT: Any opposed?

3 (No response.)

4 COMMISSIONER SCOTT: The vote is 4 to nothing  
5 and Commissioner Ford may participate in today's  
6 meeting by phone.

7 Before moving into the agenda  
8 according to Section 1700.10 of Title 2 of the  
9 Administrative Code this is the time we allow members  
10 of the public to address the Commission. Members of  
11 the public wishing to address the Commission must  
12 notify the Chief Clerk's Office at least 24 hours  
13 prior to the Bench Session. According to the Chief  
14 Clerk's Office we have four requests to speak at  
15 today's Bench Session.

16 Just a reminder to those speaking,  
17 under the Commission rules they have a time limit of  
18 3 minutes for your remarks.

19 I'm going to butcher the first name.  
20 I apologize for it in advance. Mr. Rob Wyrwicki.

21 MR. ROB WYRWICKI: Very good.

22 COMMISSIONER SCOTT: Very good. Mr. Wyrwicki.

1           MR. ROB WYRWICKI: My name is Rob Wyrwicki and  
2 I'm the president and business manager of IBEW Local  
3 19. Prior to that time I worked for Nicor Gas for --  
4 well, prior to that, 26 years. Most of that time was  
5 in the Distribution Department.

6           I'm here because Local 19 is concerned  
7 that the proposed merger of Nicor and AGL will be bad  
8 for the Illinois gas customers and bad for Illinois  
9 jobs. Local 19 represents the clerical and physical  
10 bargaining units at Nicor Gas. If Joint Applicants  
11 do not maintain bargaining unit staffing levels in  
12 Illinois, Nicor Gas will not be able to continue to  
13 provide adequate reliable, efficient and safe gas  
14 service as required by the Public Utilities Act.

15           The record facts supporting my  
16 statement are documented in the IBEW's initial and  
17 reply briefs; the State of Illinois and CUB's initial  
18 brief at Pages 7 through 10; the Staff's initial  
19 brief at 6 through 11; and the ALJ's proposed order  
20 at Pages 1 and 10 through 15.

21           Nicor and AGL admit to the importance  
22 of maintaining staffing levels in order to provide

1 appropriate and safe service. In spite of this, as  
2 the ALJ acknowledges in his proposed order, AGL has  
3 not committed to maintaining the current staffing  
4 levels in Illinois of employees dedicated to  
5 servicing Nicor Gas customers. What it has promised  
6 to do is keep 2,070 full-time employees in the  
7 service of Nicor Gas but not necessarily in the  
8 state. And it has promised to keep 2,070 full-time  
9 employees in the state but not necessarily in the  
10 service of Nicor Gas customers.

11 So what does that mean to Nicor  
12 customers and to the bargaining unit? Well, it means  
13 AGL could meet its 2,070 commitment by moving, for  
14 example, 100 corporate and administrative jobs  
15 unrelated to Nicor Gas customers to Illinois and then  
16 moving 200 bargaining unit clerical positions outside  
17 of Illinois perhaps to India and have them perform  
18 customer service work from afar. AGL could also  
19 reduce the number of physical bargaining unit  
20 positions thereby postponing needed maintenance,  
21 delaying installation and maintenance response times  
22 reducing inspections and the like, all resulting in

1 reducing the quality of service to Illinois gas  
2 customers. Those bargaining unit full-time employees  
3 then could be replaced by corporate or administrative  
4 employees to reach the 2,070 full-time commitment.  
5 For the State of Illinois and the Union, this would  
6 also mean the loss of good Union jobs. To the gas  
7 customers this would mean that people out of state  
8 and perhaps out of the country would be handling  
9 their customer service calls.

10 For these reasons Local 19 requests  
11 the Commission not approve the merger unless and  
12 until Joint Applicants agree that they will not  
13 reduce the bargaining unit staffing numbers for at  
14 least three years following the merger.

15 COMMISSIONER SCOTT: Thank you, Mr. Wyrwicki.

16 Up next is Lisa Roscoe.

17 MS. LISA ROSCOE: Good morning. My name is  
18 Lisa Roscoe and I'm a business representative for  
19 IBEW Local 19 for the clerical workers at Nicor. I'm  
20 also a 29-year employee of Nicor Gas. I've worked in  
21 many different clerical positions including a clerk  
22 in Remittance Department and operations

1 representatives in the Damage Prevention Department  
2 and a call center representative.

3 I'm very concerned about what happens  
4 if the merger is approved and AGL decides to  
5 outsource Nicor's call center work as it did after it  
6 acquired Virginia Natural Gas and Elizabethtown Gas.  
7 If that happens, I believe customer service will  
8 suffer as it did in those two cases and the company's  
9 ability to provide safe, efficient and reliable  
10 service will be jeopardized.

11 The Nicor call center is staffed by  
12 approximately 200 employees in three different  
13 classifications all represented by Local 19. These  
14 employees are trained and qualified to handle many  
15 types of calls from customers, everything from  
16 starting and stopping service, billing questions and  
17 disputes, payment options to various credit-related  
18 duties. But in my opinion, the most important thing  
19 the call center does is deal with emergency calls,  
20 calls about inside and outside gas leaks, hit gas  
21 services and mains and explosions.

22 In those cases, the call center plays

1 a pivotal role in obtaining an accurate location of  
2 the emergency and getting the service person to the  
3 site promptly. They get important details from the  
4 customers and most important, provide them  
5 information on how to stay safe when there is an  
6 emergency.

7                   The fact that the call center  
8 employees live and work in the same communities where  
9 the customers live helps them to better serve those  
10 customers. The employees know the neighborhoods, the  
11 geography of area and are familiar with street names.  
12 They also know what the weather is on any given day.  
13 These things improve customer service in every  
14 interaction with a Nicor customer. That local  
15 familiarity is critical when an emergency arises.

16                   Precious seconds are saved because our  
17 call center employees know, for example, the spelling  
18 of a street name and because they can communicate  
19 with customers in terms that they understand. In  
20 these cases, knowing the area is a huge element in  
21 providing good customer service and keeping customers  
22 and the general public safe.



1                   Without an agreement by the Joint  
2 Applicants in this case to maintain staffing levels  
3 within the state of Illinois in each bargaining unit  
4 classification, including those in the call center,  
5 AGL may well decide to move the call center work and  
6 those good bargaining unit jobs out of the state.  
7 That move would compromise Nicor's ability to provide  
8 safety, efficient and reliable service.

9                   On behalf of IBEW Local 19 and the  
10 Illinois gas customers, I urge you not to approve  
11 this merger without an explicit agreement by Joint  
12 Applicants to maintain the staffing level in Illinois  
13 of the current bargaining unit employees until at  
14 least three years from the date of the merger.

15                   Thank you.

16                   COMMISSIONER SCOTT: Thank you, Ms. Roscoe.

17                   Up next is Mark Klinefelter.

18                   MR. MARK KLINEFELTER: Hello. My name is Mark  
19 Klinefelter and I am a business rep representing IBEW  
20 Local 19. I have worked at Nicor Gas for almost  
21 28 years. Currently I'm a distribution technician.

22                   I'm here today because Local 19 is

1 concerned that the proposed merger will be bad for  
2 Illinois gas customers and bad for Illinois jobs.  
3 AGL's promise to maintain 2,070 full-time equivalents  
4 in the State of Illinois is a hollow promise because,  
5 as AGL admits, the guarantee does not include  
6 retaining 2,070 full-time equivalents in Illinois who  
7 are dedicated to serving Illinois gas customers.

8 Under the ALJ's proposed order, Joint  
9 Applicants are free to substitute administrative and  
10 corporate Illinois jobs for Illinois bargaining unit  
11 jobs that actually provide service to the Nicor Gas  
12 customers. The Local 19 bargaining unit employees  
13 are the employees that take customer calls, perform  
14 related clerical work and install and maintain the  
15 gas transmission and distribution lines. Thus, the  
16 bargaining unit employees are critical for providing  
17 safe, reliable service to the customers. Yet, the  
18 Joint Applicants refuse to provide any commitment to  
19 maintain current bargaining unit staffing for even  
20 three years following the merger.

21 Local 19 has repeatedly tried to  
22 obtain such an agreement from Nicor and AGL, but

1 these efforts have been unsuccessful. AGL's refusal  
2 to agree suggests an intent to reduce the bargaining  
3 unit staffing members and thus the employees  
4 available to take care of customers. Replacing  
5 employees who actually service Illinois gas customers  
6 with administrative and corporate employees to keep  
7 the number of Illinois's full-time equivalents at  
8 2,070 will interfere with providing adequate,  
9 reliable, efficient, safe service to the customer.

10 Further, Local 19 suggests that the  
11 testimony of other witnesses -- such Lisa Roscoe, Ron  
12 Kastner -- will show, contrarily to the ALJ's  
13 assumptions, AGL's past history in mergers does not  
14 give one any confidence in AGL's staffing decisions.  
15 In several past situations AGL has moved jobs that  
16 were servicing the State's customers out of state and  
17 out of the country. This resulted in poor customer  
18 service.

19 The only way the Commission can be  
20 sure Joint Applicants will continue to provide  
21 adequate, reliable, efficient and safe service is to  
22 secure a commitment from them that they will maintain

1 in Illinois the current clerical and physical  
2 bargaining unit jobs -- that service -- bargaining  
3 unit jobs that service Nicor Gas customers for a  
4 period of at least three years from the date of the  
5 merger.

6 Thank you.

7 COMMISSIONER SCOTT: Thank you, Mr.  
8 Klinefelter.

9 And, finally, Mr. Kastner.

10 MR. RONALD KASTNER: Mr. Chairman,  
11 Commissioners, good morning. My name's Ronald  
12 Kastner. I am the vice president of the AFL-CIO  
13 representing 54,000 IBEW members. I'm also the  
14 president, business manager and financial secretary  
15 of IBEW Local 21. Local 21 is a predominately based  
16 telecom local in Illinois representing 8,000 AT&T  
17 workers.

18 You've heard that the Joint Applicants  
19 have refused to agree not to reduce Illinois  
20 employees who are dedicated to servicing Illinois  
21 customers as a result of the merger. I'm going to  
22 explain why we think concerns about staffing are not

1 just hypothetical. The Joint Applicants have asked  
2 the Commission to look at AGL's performance on  
3 staffing following previous mergers to predict how  
4 they will handle this one. Judge Gilbert has done  
5 just that in his proposed order even though the only  
6 evidence the Joint Applicants have offered on this  
7 point consisted of one paragraph of generalized and  
8 conclusory statements about AGL's past record  
9 contained in the Joint Applicant's Exhibit 8 at  
10 Page 5.

11                   When we actually looked at what AGL  
12 has done following past mergers, it becomes clear why  
13 AGL has refused to make hard commitments on staffing.  
14 In 2000 AGL acquired Virginia Natural Gas which  
15 provides natural gas service to approximately 273,000  
16 customers in the Hamptons Roads area of Southeastern  
17 Virginia. The very next year, AGL closed down the  
18 call center that served these customers and moved  
19 that work to Georgia. AGL told the 35 call center  
20 employees in Virginia that they had a choice, either  
21 follow their work to Georgia or lose their jobs.

22                   In 2005 AGL acquired Elizabethtown Gas

1 in New Jersey. The following year AGL outsourced  
2 Elizabethtown Gas call center work to a call center  
3 in India. Those jobs were among 140 call center jobs  
4 the company outsourced to India in 2006.

5 In testimony she gave before the New  
6 Jersey Board of Public Utilities in 2009  
7 Elizabethtown vice president, Connie McIntyre,  
8 acknowledged that outsourcing the call center work  
9 results in an increase in customer complaints due to  
10 issues related to knowledge base and experience among  
11 other things. McIntyre acknowledged that the  
12 outsourcing created certain challenges for New Jersey  
13 customers. In her 2009 testimony McIntyre outlined  
14 the company's plan to return the work to New Jersey  
15 in an effort to address those challenges.

16 Elizabethtown Gas president, Jodi  
17 Gidley, also testified at that time that AGL had  
18 determined a local customer call center with  
19 employees who would be part of a local community and  
20 better able to understand its distinct needs was a  
21 more suitable approach to customer service.  
22 Eventually after three years of outsourcing, the call

1 center was returned to New Jersey and 60 jobs were  
2 created to serve local New Jersey customers.

3 The histories of acquiring utility and  
4 then outsourcing its call center work either out of  
5 state or even out of the country is not a pattern  
6 that should be repeated here in Illinois. By  
7 refusing to make clear-cut commitments to retain  
8 bargaining unit classifications of Nicor Gas  
9 employees working within the State of Illinois, AGL  
10 is attempting to give itself to do just that.

11 On behalf of the Illinois AFL-CIO and  
12 the Illinois gas customers, I urge you not to approve  
13 this merger without an explicit agreement by Joint  
14 Applicants to maintain the staffing levels in  
15 Illinois of the current bargaining unit employees  
16 until at least three years from the date of the  
17 merger.

18 In closing, I've got copies of the  
19 outline articles and links to them that I referred to  
20 in my statement if you'd like them. Thank you for  
21 your time.

22 COMMISSIONER SCOTT: Thank you, Mr. Kastner.

1                   And thank you to each of you for your  
2    comments today. That will conclude the public  
3    comment portion of today's Bench Session.

4                   We will start with the Transportation  
5    Agenda and we will begin with the approval of minutes  
6    from prior Commission meetings. Up first are minutes  
7    from our September 8th Bench Session. I understand  
8    amendments have been forwarded.

9                   Is there a motion to amend the  
10   minutes?

11                  COMMISSIONER O'CONNELL-DIAZ: So moved.

12                  COMMISSIONER SCOTT: Is there a second?

13                  ACTING COMMISSIONER COLGAN: Second.

14                  COMMISSIONER SCOTT: It's been moved and  
15   seconded.

16                  All in favor say, Aye.

17                                  (Chorus of ayes.)

18                  COMMISSIONER SCOTT: Any opposed?

19                                  (No response.)

20                  COMMISSIONER SCOTT: The vote is 5 to nothing  
21   and amendments to the September 8th minutes are  
22   adopted.



1                   Is there a motion to approve the  
2 minutes as amended?

3           COMMISSIONER ELLIOTT:   So moved.

4           COMMISSIONER SCOTT:   Is there a second?

5           COMMISSIONER O'CONNELL-DIAZ:   Second.

6           ACTING COMMISSIONER COLGAN:   Second.

7           COMMISSIONER SCOTT:   It's been moved and  
8 seconded.

9                   All in favor say, Aye.

10                                   (Chorus of ayes.)

11           COMMISSIONER SCOTT:   Any opposed?

12                                   (No response.)

13           COMMISSIONER SCOTT:   The vote is 5 to nothing  
14 and the September 8th Bench Session minutes as  
15 amended are approved.

16                   Now on to the Railroad Section.  Items  
17 RR-1 through RR-3 can be taken together.  These items  
18 concerns stipulated agreements regarding public  
19 safety improvements at a highway-rail grade crossing  
20 across Illinois.  In each case Staff recommends entry  
21 of an Order approving the agreement.

22                   Is there a motion to enter the Orders?

1           ACTING COMMISSIONER COLGAN:    So moved.

2           COMMISSIONER SCOTT:    Is there a second?

3           COMMISSIONER O'CONNELL-DIAZ:    Second.

4           COMMISSIONER ELLIOTT:    Second.

5           COMMISSIONER SCOTT:    It's been moved and  
6   seconded.

7                            All in favor say, Aye.

8                                        (Chorus of ayes.)

9           COMMISSIONER SCOTT:    Any opposed?

10                                       (No response.)

11           COMMISSIONER SCOTT:    The vote is 5 to nothing  
12   and the Orders are entered.

13                            We will use this 5 to nothing vote for  
14   the remainder of the Transportation Agenda unless  
15   otherwise noted.

16                            Items RR-4 through RR-6 can be taken  
17   together.   These items are petitions seeking  
18   authority for construction projects at rail crossings  
19   across Illinois and for associated relief.   In each  
20   case ALJ Kirkland-Montaque recommends entry of an  
21   Order authorizing the project.

22                            Is there any discussion?

1 (No response.)

2 COMMISSIONER SCOTT: Any objections?

3 (No response.)

4 COMMISSIONER SCOTT: Hearing none, the Orders  
5 are entered.

6 Now on to Motor Carriers. Items MC-1  
7 through MC-4 can be taken together. These items are  
8 stipulated settlement agreements concerning alleged  
9 violations of the Illinois Commercial Transportation  
10 Law. In each case our transportation counsel  
11 recommends entry of an Order accepting the stipulated  
12 settlement agreement.

13 Is there any discussion?

14 (No response.)

15 COMMISSIONER SCOTT: Any objections?

16 (No response.)

17 COMMISSIONER SCOTT: Hearing none, the Orders  
18 are entered and the settlement agreements are  
19 approved.

20 Item MC-5 is North Shore Movers &  
21 Storage's application for a new Household Goods  
22 Property Motor Carrier Authority. ALJ

1 Kirkland-Montague recommends entry of an Order  
2 granting the requested certificate.

3 Is there any discussion?

4 (No response.)

5 COMMISSIONER SCOTT: Any objections?

6 (No response.)

7 COMMISSIONER SCOTT: Hearing none, the Order is  
8 entered and the Certificate is granted.

9 We have one administrative matter to  
10 address. Item AM-1 concerns initiating a citation  
11 proceeding requiring compliance from the Dakota,  
12 Minnesota & Eastern Railroad Corporation with  
13 requirements set forth in Commission Orders relating  
14 to the installation of automatic flashing light  
15 signals and gates at crossings. Staff recommends  
16 entry of a Citation Order requiring the company to  
17 show cause regarding its continued noncompliance.

18 Is there any discussion?

19 (No response.)

20 COMMISSIONER SCOTT: Any objections?

21 (No response.)

22 COMMISSIONER SCOTT: Hearing none, the Citation

1 Order is entered.

2 Mr. Matrisch, is there any further  
3 business to come before the Commission today?

4 MR. MATRISCH: Nothing further, Chairman.  
5 Thank you.

6 COMMISSIONER SCOTT: Thank you. Hearing none,  
7 that concludes today's Transportation Agenda.

8 (Whereupon, the Public Utility  
9 Agenda is contained in a  
10 separate transcript.)

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