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BEFORE THE
ILLINOIS COMMERCE COMMISSION
REGULAR OPEN MEETING
(PUBLIC UTILITY)
Thursday, November 6, 2014
Chicago, Illinois

Met pursuant to notice at 10:30 a.m. at
160 North LaSalle Street, Chicago, Illinois.

- PRESENT:
- MR. DOUGLAS P. SCOTT, Chairman
 - MR. JOHN T. COLGAN, Commissioner
 - MR. MIGUEL del VALLE, Commissioner
 - MS. ANN McCABE, Commissioner
 - MS. SHERINA E. MAYE, Commissioner

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1 CHAIRMAN SCOTT: Is everything ready in
2 Springfield?

3 JUDGE WALLACE: It is, Mr. Chairman.

4 CHAIRMAN SCOTT: Thank you. Pursuant to the
5 provisions of the Open Meetings Act, I now convene a
6 Regular Open Meeting of the Illinois Commerce
7 Commission. With me in Chicago are Commissioner
8 Colgan, Commissioner McCabe, Commissioner del Valle,
9 and Commissioner Maye. I'm Chairman Scott. We have
10 a quorum.

11 Before moving into the agenda,
12 according to Section 1700.10 of Title 2 of the
13 Administrative Code, this is the time we allow
14 members of the public to address the Commission.
15 Members of the public wishing to address the
16 Commission must notify the Chief Clerk's office at
17 least 24 hours prior to Commission meetings.

18 According to the Chief Clerk's office,
19 we have no requests to speak at today's meeting.

20 I'd ask Commissioner Colgan to say a
21 few words about the unfortunate passing of a --

22 COMMISSIONER COLGAN: Yeah, it was -- this

1 morning I -- I heard the bad news that former
2 Congressman Lane Evans had passed away. And
3 Congressman Evans was -- was, I know, a good friend
4 to some people here. He certainly was a good,
5 trusted colleague of mine for a number of years. And
6 he -- he'd suffered for years with Parkinson's
7 Disease and he was only 63 years old.

8 But he -- he passed away last night,
9 so I just thought it was appropriate to recognize him
10 and the service that he gave to the people of this
11 state.

12 CHAIRMAN SCOTT: Absolutely. And if we could,
13 could we just have a moment of silence for
14 Congressman Evans.

15 (Whereupon, a moment of silence
16 was observed.)

17 CHAIRMAN SCOTT: Thank you. Thank you,
18 Commissioner Colgan.

19 The first item of business on today's
20 agenda is MidAmerican Energy Company's filing to
21 update access charges and capacity charges under
22 Rider 17, Non-Residential Real Time Pricing Tariff.

1 Staff recommends that we approve the update by not
2 suspending the filing.

3 Is there a motion to not suspend the
4 filing?

5 COMMISSIONER McCABE: So moved.

6 CHAIRMAN SCOTT: Is there a second?

7 COMMISSIONER COLGAN: Second.

8 CHAIRMAN SCOTT: Moved by Commissioner McCabe.
9 Seconded by Commissioner Colgan.

10 Any discussion?

11 (No response.)

12 All in favor, say aye.

13 (Chorus of ayes.)

14 Any opposed?

15 (No response.)

16 The vote is 5 to nothing and the
17 filing is not suspended.

18 We will use this 5 to nothing vote for
19 the remainder of today's Regular Open Meeting agenda
20 unless otherwise noted.

21 Items 2 and 3 can be taken together.

22 These items are our reconciliation of revenues

1 collected under MidAmerican's and Mt. Carmel's fuel
2 adjustment charges with actual costs prudently
3 incurred.

4 In each case, the ALJ recommends entry
5 of an Order approving the reconciliation.

6 Is there any discussion?

7 (No response.)

8 Any objections?

9 (No response.)

10 Hearing none, the Orders are entered.

11 Item 4 is Docket No. 14-0066. This is
12 MidAmerican Energy Company's proposed general rate
13 increase for electric service.

14 ALJ Jorgenson recommends entry of an
15 Order approving new rates.

16 I understand Commissioner Maye will be
17 proposing some edits. Commissioner?

18 COMMISSIONER MAYE: Thank you, Chairman. I
19 have two sets of edits to propose on this Order that
20 can be taken together.

21 First, regarding MidAmerican's PIP
22 incentive compensation costs, the edits do not change

1 the PEPO's disallowance of the incentive compensation
2 costs, but note that if MidAmerican does seek to
3 recover these expenses in the future, it should work
4 with Staff to develop a waiting mechanism for its
5 Incentive Compensation Plan.

6 The edits also note that the
7 Commission has allowed a recovery for incentive
8 compensation in the past which should provide
9 guidance to the company as to what is required for
10 recovery rates.

11 I'd like to thank Commissioner McCabe
12 for her collaboration on this item as well.

13 The second edit pertains to the state
14 income tax rate adjustment. These edits reverse the
15 PEPO's adoption of Staff's state income tax
16 adjustment which reflects the January 2015 scheduled
17 drop in the tax rate.

18 While I do not disagree with the
19 argument this is a known and measurable change,
20 Section 287.40 of the Commission's Rules on Pro Forma
21 Adjustments to historical test year data states that
22 adjustments shall reflect changes that impact the

1 ratepayers where such changes occur during the
2 selected historical year or are reasonably certain to
3 occur subsequent to the historical test year within
4 12 months after the filing date of the tariffs.

5 In this case, MidAmerican used 2012 as
6 a historical test year and they filed the rate case
7 on December 16th, 2013. Because the change in the
8 Illinois corporate income tax rate is not scheduled
9 to take effect until January 1st, 2015, Staff's
10 proposed adjustment falls outside the prescribed
11 window and, therefore, is inappropriate.

12 With that, I move for the adoption of
13 these items.

14 Thank you, Mr. Chairman.

15 CHAIRMAN SCOTT: Is there a second?

16 COMMISSIONER McCABE: Second.

17 CHAIRMAN SCOTT: Second by Commissioner McCabe.

18 Discussion on the edits?

19 Commissioner del Valle?

20 COMMISSIONER del VALLE: Mr. Chairman, are we
21 going to take two separate votes?

22 CHAIRMAN SCOTT: We can if you'd like to. If

1 you want to separate them, we can -- we can do that.

2 COMMISSIONER MAYE: So that -- that's fine.

3 How do I -- do you want to just --

4 CHAIRMAN SCOTT: Why don't you tell us which
5 one you want to make comments on, Commissioner
6 del Valle.

7 COMMISSIONER del VALLE: Well, I support the
8 first edit --

9 COMMISSIONER MAYE: Oh, I see. Okay.

10 COMMISSIONER del VALLE: -- but I -- I'm not
11 going to vote in favor of the second edit.

12 CHAIRMAN SCOTT: Okay. We'll take -- if you
13 want to make your comments --

14 COMMISSIONER del VALLE: Okay.

15 CHAIRMAN SCOTT: -- and then we'll just take
16 two separate votes on it, that's fine.

17 COMMISSIONER del VALLE: Very good. Thank you.

18 I will be supporting the PEPO in this
19 docket. I believe that it is inappropriate to freeze
20 a higher tax rate in the statute which was effective
21 during the test year, 12 months after the filing as
22 an automatic readjustment lowering the corporate

1 state income tax on January 1st, 2015.

2 The bottom line is that when
3 MidAmerican determines that its costs are not being
4 reasonably recovered by their rates, they can elect
5 to come back to the Commission. But if the
6 Commission-approved rates benefit MidAmerican with a
7 known incorrect income tax treatment, the ratepayers
8 are stuck.

9 It has been more than 20 years since
10 the last time MidAmerican came for a rate case. If
11 they do not come back within a similar length of
12 time, then Staff's adjustment adopted by the PEPO
13 representing over 313,000 a year will add up for
14 MidAmerican's customers, roughly 85,000 of them.

15 And given the results of the last
16 election, I think that it's likely that that
17 corporate tax rate will be reduced, even though
18 that's speculation and for this purposes -- purpose,
19 we shouldn't engage in speculation. That's why I
20 thought Staff did a good job with the rationale they
21 presented on this particular issue.

22 So I will be voting against the edit.

1 CHAIRMAN SCOTT: Further discussion on the
2 edits, Commissioner Colgan?

3 COMMISSIONER COLGAN: I'm going to -- I'm with
4 Commissioner del Valle on the -- on the income tax
5 issue. I'm not going to try to explain it any more
6 than he did, but I agree with his explanation. But
7 I'm okay with the PIP.

8 CHAIRMAN SCOTT: Further discussion,
9 Commissioner McCabe?

10 COMMISSIONER McCABE: I'm going to support the
11 edits. I think if we adhere to the PEPO, we'd be
12 setting a bad precedent as was discussed in oral
13 arguments and the briefs.

14 CHAIRMAN SCOTT: Yeah, I'm going to support
15 both of the edits as well. And while I understand
16 the argument that Commissioner Colgan and
17 Commissioner del Valle made and it may tug at me in a
18 certain way, I look at the law and the law seems, to
19 me, to be very clear.

20 And I agree with Commissioner McCabe
21 that -- that this would open up a whole new avenue of
22 looking at all kinds of expenditures, costs,

1 different things beyond the one-year period that the
2 statute clearly calls for, and I don't see any wiggle
3 room in that.

4 And so while I understand the
5 sentiment behind the argument, I think that the law
6 is clear that that's what we -- we need to take care
7 of that. That's why I support the edit that
8 Commissioner Maye is proposing.

9 So we've got two separate votes.
10 Let's take the vote on the incentive program first.
11 That's been moved and approved by Commissioner Maye
12 and Commissioner McCabe.

13 All in favor of that edit, say aye.

14 (Chorus of ayes.)

15 Any opposed?

16 (No response.)

17 That edit carries on a vote of 5 to
18 nothing.

19 And then on the income tax edit also
20 moved and seconded by Commissioner Maye and McCabe,
21 all in favor of that edit, say aye.

22 (Chorus of ayes.)

1 Order as amended is entered.

2 Item 5 is Docket No. 14-0312. This is
3 ComEd's annual formula rate update and revenue
4 requirement reconciliation filed pursuant to
5 Section 16-108.5 of the Public Utilities Act. The
6 Attorney General's office has requested oral
7 argument, which ALJs Haynes and Teague-Kingsley
8 recommend we deny.

9 Is there any discussion?

10 (No response.)

11 Are there any objections to denying
12 the request for oral argument?

13 (No response.)

14 Hearing none, the request for oral
15 argument is denied.

16 Item 6 is Docket No. 14-0316. This is
17 ComEd's Petition filed pursuant to Sections
18 16-108.5(c) and 9-201 of the Public Utilities Act to
19 make housekeeping revisions and a compliance change
20 to its filed rate formula. ComEd has requested oral
21 argument in this proceeding which ALJs Haynes and
22 Teague-Kingsley recommend we grant.

1 Is there any discussion?

2 (No response.)

3 Are there any objections to granting
4 the request for oral argument?

5 (No response.)

6 Hearing none, the request for oral
7 argument is granted.

8 Item 7 is Docket No. 14-0326. This is
9 C4 Connection's Petition to Cancel its Certificate of
10 Service Authority to operate as an agent, broker, or
11 consultant under Section 16-115C of the Public
12 Utilities Act.

13 ALJ Kimbrel recommends entry of an
14 Order granting the requested relief.

15 Is there any discussion?

16 (No response.)

17 Any objections?

18 (No response.)

19 Hearing none, the Order is entered.

20 Item 8 is Docket No. 14-0435. This is
21 Connor Electric Services' Application for
22 Certification to Install, Maintain, or Repair

1 Electric Vehicle Charging Station Facilities under
2 Section 16-128A of the Public Utilities Act.

3 ALJ Benn recommends entry of an Order
4 granting the requested certificate.

5 Is there any discussion?

6 (No response.)

7 Any objections?

8 (No response.)

9 Hearing none, the Order is entered.

10 Item 9 is Docket No. 07-0570. This is
11 our reconciliation of revenues collected under
12 Consumers Gas Company's gas adjustment charges with
13 actual costs prudently incurred.

14 ALJ Yoder recommends entry of an Order
15 approving the reconciliation.

16 Is there any discussion?

17 (No response.)

18 Any objections?

19 (No response.)

20 Hearing none, the Order is entered.

21 Item 10 is Docket No. 13-0691. This
22 is our reconciliation of revenues collected under

1 Mt. Carmel's gas adjustment charges with actual costs
2 prudently incurred.

3 ALJ Yoder recommends entry of an Order
4 approving the reconciliation.

5 Is there any discussion?

6 (No response.)

7 Any objections?

8 (No response.)

9 Hearing none, the Order is entered.

10 Item 11 is Docket No. 14-0351. This
11 is XOOM Energy Illinois LLC's petition for
12 confidential and/or proprietary treatment of its
13 Part 551 Financial Report.

14 ALJ Jorgenson recommends entry of an
15 Order granting the requested relief.

16 Is there any discussion?

17 (No response.)

18 Any objections?

19 (No response.)

20 Hearing none, the Order is entered.

21 Item 12 is Docket No. 14-0501. This
22 is Peoples Gas's Petition for an Order approving an

1 agreement for the transfer of an interest in real
2 property between affiliates pursuant to
3 Sections 7-101 and 7-102 of the Illinois Public
4 Utilities Act.

5 ALJ Jorgenson recommends entry of an
6 Order granting the petition.

7 Is there any discussion?

8 (No response.)

9 Any objections?

10 (No response.)

11 Hearing none, the Order is entered.

12 Item 13 is Docket No. 14-0493. This
13 is Thomas Nwokeji's complaint against Peoples Gas as
14 to billing and/or charges in Chicago. It appears
15 that the parties have settled their differences and
16 have filed a Stipulation and a Joint Motion to
17 Dismiss which ALJ Jorgenson recommends we grant.

18 Is there any discussion?

19 (No response.)

20 Any objections?

21 (No response.)

22 Hearing none, the Motion to Dismiss is

1 granted and the proceeding is dismissed.

2 Item 14 is Docket No. 13-0593. This
3 is our amendment to 83 Illinois Administrative Code,
4 Section 745 which sets forth requirements applicable
5 to the tariff-filing process for telecommunications
6 carriers.

7 ALJ Jones recommends entry of an Order
8 adopting the proposed amendment to Part 745.

9 Is there any discussion?

10 (No response.)

11 Any objections?

12 (No response.)

13 Hearing none, the Order is entered.

14 Items 15 through 20 can be taken
15 together. These items are petitions for the
16 confidential and/or proprietary treatment of
17 Petitioners' Annual Reports.

18 In each case, ALJ Jones recommends
19 entry of an Order granting the requested relief.

20 Is there any discussion?

21 (No response.)

22 Any objections?

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(No response.)

Hearing none, the Orders are entered.

Item 21 is Docket No. 14-0503. This is Illinois Consolidated Telephone Company's Petition for an Order terminating conditions imposed in Docket No. 04-0793.

ALJ Yoder recommends entry of an Order granting the requested relief.

Is there any discussion?

(No response.)

Any objections?

(No response.)

Hearing none, the Order is entered.

Item 22 is Docket No. 14-0597. This is O'Donnell's Foods doing business as PSM Pay-Tel's Petition to Cancel its Certificate of Service Authority to provide customer owned pay telephone service in Illinois pursuant to Section 13-404 of the Act.

ALJ Jorgenson recommends entry of an Order granting the requested relief.

Is there any discussion?

1 (No response.)

2 Any objections?

3 (No response.)

4 Hearing none, the Order is entered.

5 Items 23 through 25 can be taken
6 together. These items are joint petitions for
7 approval of Interconnection Agreements or amendments
8 to Interconnection Agreements pursuant to 47 U.S.C.,
9 Section 252.

10 In each case, ALJ Baker recommends
11 entry of an Order approving the agreement.

12 Is there any discussion?

13 (No response.)

14 Any objections?

15 (No response.)

16 Hearing none, the Orders are entered.

17 Item 26 is Docket No. 14-0105. This
18 is Illinois American Water Company's Application for
19 the Issuance of a Certificate of Public Convenience
20 and Necessity to Provide Water Service to areas in
21 Hardin, Gallatin, Pope, and Saline Counties and for
22 the Approval of the Purchase of Certain Assets of

1 Hardin Water -- Hardin County Water Company, in
2 Accordance with Section 8-406 of the Illinois Public
3 Utilities Act.

4 ALJ Jones recommends entry of an
5 Order, one, approving the purchase by IAWC of the
6 Hardin Water system assets, and, two, granting a
7 Certificate to IAWC for the area served by Hardin.

8 Is there any discussion?

9 (No response.)

10 Any objections?

11 (No response.)

12 Hearing none, the Order is entered.

13 Item 27 is Docket No. 14-0416. This
14 is David L. Herbst's complaint against Aqua Illinois
15 as to billing and/or charges. It appears the parties
16 have settled their differences and filed a
17 Stipulation for Dismissal requesting that the
18 Commission dismiss the complaint.

19 ALJ Jorgenson recommends that we grant
20 the requested relief.

21 Is there any discussion?

22 (No response.)

1 Any objection?

2 (No response.)

3 Hearing none, the complaint is
4 dismissed.

5 Item 28 is Docket No. 13-0252. This
6 is FutureGen Industrial Alliance's Application for a
7 Certificate Authorizing the Construction and
8 Operation of a Carbon Dioxide Pipeline.

9 On February 20th, 2014, the Commission
10 granted the requested Certificate of Authority;
11 however, on July 31st, 2014, the Alliance filed a
12 verified Supplemental Application pursuant to Section
13 20(h) of the CO₂ Act requesting minor deviations to
14 the certified pipeline route for the purposes of
15 addressing environmental concerns or to accommodate
16 landowner requests.

17 ALJ Von Qualen recommends entry of an
18 Amendatory Order granting the requested relief.

19 Is there any discussion?

20 (No response.)

21 Any objections?

22 (No response.)

1 Hearing none, the Amendatory Order is
2 entered.

3 Item 29 is Docket 14-0522. This is
4 Ameren Transmission Company of Illinois' Application
5 for Rehearing of the Commission's decision on its
6 Petition for an Order pursuant to Section 8-509 of
7 the Public Utilities Act Authorizing Use of Eminent
8 Domain Power.

9 ALJ Albers recommends that we grant
10 the application for rehearing and enter an Order on
11 Rehearing adopting the outcome reflected in the
12 September 26, 2014 Proposed Order.

13 I have a couple of comments on this.
14 Although I voted to deny ATXI's petition for eminent
15 domain authority, primarily based on the fact that
16 ATXI re-drew the route for the Pana-Mt. Zion section
17 of the route without any Commission oversight or
18 approval, it appears now, according to their Petition
19 for Rehearing, that ATXI recognizes and accepts that
20 it should seek Commission approval to modify the
21 portion of the Pana to Mt. Zion route to avoid land
22 owned by the MCCD.

1 Further, I have concerns regarding
2 ATXI's claim that delaying a decision regarding
3 eminent domain on the entire portion of the line
4 prior to this small section being addressed would
5 risk a voltage collapse in the Decatur area in the
6 near future. As a result, I would move to grant
7 ATXI's Petition for Rehearing consistent with
8 ALJ Albers' recommendation.

9 Is there a second?

10 COMMISSIONER McCABE: Second.

11 CHAIRMAN SCOTT: Second by Commissioner McCabe.

12 Any discussion?

13 (No response.)

14 All in favor, say aye.

15 (Chorus of ayes.)

16 Opposed?

17 (No response.)

18 The vote is 5 to nothing and ATXI's
19 Petition for Rehearing is granted.

20 Judge Wallace, is there any other
21 matters to come before the Commission today?

22 JUDGE WALLACE: No, there aren't, Mr. Chairman.

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CHAIRMAN SCOTT: Thank you, sir.

Hearing none, this meeting stands
adjourned.

Thank you, everyone.