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BEFORE THE  
ILLINOIS COMMERCE COMMISSION

BENCH SESSION  
  
(PUBLIC UTILITY)

Chicago, Illinois  
Thursday, December 2, 2010

Met, pursuant to notice, at 10:30 a.m. in  
N901, Eighth Floor, 160 North LaSalle Street,  
Chicago, Illinois.

PRESENT:

MANUEL FLORES, Acting Chairman

LULA M. FORD, Commissioner

ERIN M. O'CONNELL-DIAZ, Commissioner

SHERMAN J. ELLIOTT, Commissioner  
via videoconference

JOHN T. COLGAN, Acting Commissioner  
via videoconference

SULLIVAN REPORTING COMPANY, by  
Alisa A. Sawka, CSR  
License No. 084-004588

1 PROCEEDINGS

2 ACTING CHAIRMAN FLORES: Pursuant to the  
3 provisions of the Illinois Open Meetings Act, I now  
4 convene a regularly scheduled Bench session of the  
5 Illinois Commerce Commission. With me in Chicago are  
6 Commissioners Ford and O'Connell-Diaz, with us in  
7 Springfield are Commissioners Elliott and Colgan. I  
8 am Chairman Flores. We have a quorum.

9 Before moving into the agenda,  
10 according to Section 1700.10 of the Illinois  
11 Administrative Code, this is the time we allow the  
12 members of the public to address the Commission.  
13 Members of the public wishing to address the  
14 Commission must notify the Chief Clerk's Office at  
15 least 24 hours prior to the Bench session. According  
16 to the Chief Clerk's Office, we have no requests to  
17 speak at today's.

18 Bench session.

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

1           ACTING CHAIRMAN FLORES: We're now moving  
2 forward to the Public Utility agenda. I will start  
3 with approval of the minutes from the November 4th  
4 Bench session. I understand that amendments have  
5 been forwarded.

6                   And I will make a motion to amend the  
7 minutes.

8                   Is there a second?

9           COMMISSIONER O'CONNELL-DIAZ: Second.

10           ACTING CHAIRMAN FLORES: It's been moved and  
11 seconded.

12                   All in favor, say "aye."

13                               (Chorus of ayes.)

14           ACTING CHAIRMAN FLORES: Any opposed?

15                               (No response.)

16           ACTING CHAIRMAN FLORES: The vote is 5-0 and  
17 the amendments are approved.

18                   Is there a motion to approve the -- I  
19 will make a motion to approve the minutes as amended.

20                   Is there a second?

21           COMMISSIONER O'CONNELL-DIAZ: Second.

22           ACTING CHAIRMAN FLORES: It's been moved and

1 seconded.

2 All in favor, say "aye."

3 (Chorus of ayes.)

4 ACTING CHAIRMAN FLORES: Any opposed?

5 (No response.)

6 ACTING CHAIRMAN FLORES: The vote is 5-0  
7 approving the minutes for November 4th as amended.

8 Beginning with the electric agenda,  
9 Item E-1 concerns Mt. Carmel -- excuse me --  
10 Docket 10-0681, Mt. Carmel Utility Company's fuel  
11 adjustment charge reconciliation. Staff recommends  
12 entry of an Order initiating a fuel adjustment clause  
13 reconciliation proceeding for the utility.

14 I will make a motion to enter the  
15 Order.

16 Is there a second?

17 COMMISSIONER O'CONNELL-DIAZ: Second.

18 ACTING CHAIRMAN FLORES: It's been moved and  
19 seconded.

20 All in favor, say "aye."

21 (Chorus of ayes.)

22 ACTING CHAIRMAN FLORES: Any opposed?

1 (No response.)

2 ACTING CHAIRMAN FLORES: The vote is 5-0. The  
3 Order is entered and the reconciliation proceeding is  
4 initiated.

5 We will use this 5-0 vote for the  
6 remainder of the public utilities agenda unless  
7 otherwise noted.

8 Item E-2, Docket 10-0682, concerns  
9 initiating another reconciliation proceeding;  
10 specifically, MidAmerican Company's energy efficiency  
11 and cost recovery riders. Staff recommends entry of  
12 an Order initiating a reconciliation proceeding for  
13 the utility.

14 Is there any discussion?

15 (No response.)

16 ACTING CHAIRMAN FLORES: Any objections?

17 (No response.)

18 ACTING CHAIRMAN FLORES: Hearing none, the  
19 Order is entered and the proceeding is initiated.

20 Item E-3 is Docket 09-0080. This is  
21 ComEd's reconciliation proceeding for the  
22 reconciliation revenues collected under power

1 procurement riders with actual costs associated with  
2 power procurement expenditures. Administrative Law  
3 Judge Jones recommends entry of an Order approving  
4 the reconciliation.

5 Is there any discussion?

6 (No response.)

7 ACTING CHAIRMAN FLORES: Any objections?

8 (No response.)

9 ACTING CHAIRMAN FLORES: Hearing none, the  
10 Order is entered.

11 Item E-4 is Docket No. 10-0413. This  
12 is Kenny Smith's complaint as to billing and/or  
13 charges against ComEd. Administrative Law Judge  
14 Teague recommends entry of an Order dismissing the  
15 complaint with prejudice.

16 Is there any discussion?

17 (No response.)

18 ACTING CHAIRMAN FLORES: Any objections?

19 (No response.)

20 ACTING CHAIRMAN FLORES: Hearing none, the  
21 Order is entered and the complaint is dismissed.

22 Item E-5 is Docket No. 10-0543. This

1 is James Spina and Jamochs Caffè Corporation's  
2 complaint as to billing and/or charges against ComEd.  
3 And the parties have apparently settled their  
4 differences and brought a Joint Motion to Dismiss,  
5 which Administrative Law Judge Gilbert recommends  
6 that we grant.

7 Any discussion?

8 (No response.)

9 ACTING CHAIRMAN FLORES: Any objections?

10 (No response.)

11 ACTING CHAIRMAN FLORES: Hearing none, the  
12 docket is dismissed.

13 Item E-6 is Docket No. 10-0549. This  
14 is MC Squared Energy Services' Application to amend  
15 its Certificate of Service Authority to allow it to  
16 serve all eligible retail customers in ComEd's  
17 service territory. Administrative Law Judge Yoder  
18 recommends that the Commission enter an Order  
19 granting the requested relief.

20 Any discussion?

21 (No response.)

22 ACTING CHAIRMAN FLORES: Any objections?

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(No response.)

ACTING CHAIRMAN FLORES: Hearing none, the Order is entered.

Item E-7 is Docket No. 10-0597. This item concerns a Petition for Special Permission filed by ComEd regarding a request to revise its tariff sheets on less than 45 days' notice. Here, the request concerns the Company ceasing to collect operating expenses under its Rider AMP consistent with a recent Appellate Court decision and its ability to seek recovery of costs associated with its AMI pilot in its ongoing rate case.

Any discussion on this matter?

COMMISSIONER ELLIOTT: Yeah, Mr. Chairman, I have asked some questions of John Kelliher. I appreciate the quick turnaround on John's response.

This has been quite confusing to me about what this tariff modification is actually accomplishing. And from my perspective I'm still unclear as to whether or not it's -- the modification to the tariff requested in the special permission is consistent with the Court decision and the recent



1 ComEd remand.

2 So from that perspective I think I'm  
3 either going to abstain or vote no on this. So I'd  
4 like to request a roll call. I appreciate it.

5 ACTING CHAIRMAN FLORES: Any further discussion  
6 on this matter?

7 Commissioner Elliott, do we have  
8 Mr. Kelliher here?

9 Did you have -- I mean, Mr. Kelliher  
10 was -- I know Mr. Kelliher has provided an  
11 explanation. I mean, do you have a question for him  
12 now consistent with what has already been explained?  
13 As a matter of fairness -- I would just say, as a  
14 matter of fairness, if it's a new question or  
15 questions that hadn't been posed, I would just ask  
16 that -- I mean, I want to make sure that  
17 Mr. Kelliher's prepared to -- in fairness to  
18 Mr. Kelliher -- to be able to answer questions.

19 But I think -- I have reviewed the  
20 memo and my Staff's reviewed the memo. I think it's  
21 pretty clear what this particular special permission  
22 filing is about. I mean, I think it's also important

1 to note that we are dealing with some special  
2 circumstances here, in that this comes about from an  
3 Appellate Court decision, as I indicated in my  
4 earlier remarks, that basically, you know, created  
5 this condition, if you will.

6 That being said, I think that we have  
7 to undertake this action in order to be consistent  
8 with the practice of how the tariff sheets are  
9 treated. So I look at this as an actual  
10 procedural -- more of a procedural issue here to make  
11 sure that we are in line with both what the ICC has  
12 to do in review of these kinds of cases, but also be  
13 in line with what the Appellate Court decision -- the  
14 Appellate Court has held in this matter.

15 But to the point that -- to the extent  
16 that there may need -- that we have a need for  
17 further clarification, I think Mr. Kelliher could  
18 explain in further -- could explain it in terms of  
19 what he has explained already in his memo.

20 COMMISSIONER ELLIOTT: Well, I guess my  
21 question would be if there's any action taken by the  
22 Commission relative to recovery of costs associated

1 with this consistent with the Court decision, it's to  
2 stop all recovery of costs. And in my mind this  
3 memo -- or this special permission does not do that.  
4 It, in fact, extends recovery of costs of certain  
5 costs from the date of the Court decision through  
6 December of this year. And in my mind I just don't  
7 find that to be consistent with the keeping of the  
8 court's remand -- or the reversal.

9 ACTING CHAIRMAN FLORES: Mr. Kelliher, could  
10 you -- just again, in terms of the explanation that  
11 you provided -- just so that everyone's clear.

12 MR. KELLIHER: Right. I mean, I think that  
13 Illinois law is clear that once a Commission Order is  
14 overturned, that the utility not only is entitled to  
15 continue charging under the reversed tariffs but also  
16 it's required to unless and until the Commission  
17 entered a different rate Order.

18 And the way I view this special  
19 permission tariff is that it is -- it is not coming  
20 up with a new tariff to continue. It's only  
21 stripping off the recovery of certain of the costs  
22 that the Court found shouldn't have been part of the

1 rider.

2                   So it's kind of an -- it's a voluntary  
3 decision on the Utility's part not to recover these  
4 costs that they are otherwise entitled to recover  
5 subject to refund during the period of time in  
6 between when the matter comes back to the Commission  
7 and a new rate Order goes in effect.

8                   COMMISSIONER ELLIOTT: And maybe this isn't a  
9 question for you, but it's a question in my mind. Is  
10 it all costs under the rider or just a portion?

11                   MR. KELLIHER: I believe it's just the  
12 operating expenses and it's not the capital costs,  
13 the carrying charges. And that's why I -- they're  
14 continuing recovery under the capital costs, but  
15 they're deciding not to on the operating expenses and  
16 they're trying to put that into the rate case.

17                   COMMISSIONER ELLIOTT: And I guess that leads  
18 to my position here is that in my mind I don't find  
19 that to be consistent with the Court's Order.

20                   MR. KELLIHER: I've been wrong before, but I  
21 would be comfortable going forward to defend this  
22 portion of it.

1           COMMISSIONER ELLIOTT:  It just seems a partial  
2   step to me as opposed to the full --

3           ACTING CHAIRMAN FLORES:  I think -- I mean,  
4   look, we're dealing with a set of circumstances that  
5   are a little out of the ordinary here.  You also have  
6   a rate case that is pending and that will also in  
7   many ways determine, I think, part of the question --  
8   answer part of the question that you have here.

9                           And, so -- you know, and I understand  
10   your position, Commissioner Elliott.  I think it's a  
11   good point and it's one in which we have to still  
12   determine how -- I mean, part of the issue is trying  
13   to figure out how this Appellate Court decision  
14   affects this new program.

15                           That being said, I feel comfortable  
16   and I believe that Mr. Kelliher's analysis is  
17   correct.  So...

18           COMMISSIONER ELLIOTT:  Well, I just would like  
19   to point out that -- I mean, I voted to support this  
20   program, and I do support the program and it's  
21   unfortunate that the Court decision has put us into  
22   this position.  It's just that being in the position,

1 I'm unsure what my steps going forward are, and I'm  
2 not sure -- this is not clear to me and doesn't feel  
3 particularly comfortable as a stepping off point to  
4 go further; but I'm not sure what other options there  
5 are out there. But this one just seems to be -- in  
6 my mind, just procedurally a little bit flawed.

7 ACTING CHAIRMAN FLORES: Look, I mean, I think  
8 it's -- we are dealing here with -- we're dealing  
9 here with, again, a set of circumstances that were  
10 created by in large part an Appellate Court decision.  
11 That being said, I think that everyone has analyzed  
12 these issues and that this is not just simply being  
13 treated in isolation because there is still a larger  
14 pending rate case in this matter.

15 So what I'd like to do is -- you know,  
16 I'd like to -- I'm going to be --

17 Is there any further discussion in  
18 this matter?

19 COMMISSIONER O'CONNELL-DIAZ: I would like us  
20 to vote on this today. I think it's pending. We  
21 have the rate case pending. There's a schedule  
22 there, and, you know, I agree these are different

1 kinds of circumstances. I believe that we've gotten  
2 good counsel from our solicitor general, and --

3 COMMISSIONER ELLIOTT: Well, I agree and I  
4 really want to thank John for that quick turnaround  
5 and I don't feel any reason to hold this any further  
6 either.

7 ACTING CHAIRMAN FLORES: Very well. So then is  
8 there a motion to allow the Company special  
9 permission?

10 COMMISSIONER O'CONNELL-DIAZ: So moved.

11 ACTING CHAIRMAN FLORES: Is there a second?

12 COMMISSIONER FORD: Second.

13 ACTING CHAIRMAN FLORES: It's been moved and  
14 seconded.

15 All in favor, say "aye."

16 (Chorus of responses.)

17 ACTING CHAIRMAN FLORES: Any opposed?

18 COMMISSIONER ELLIOTT: No.

19 ACTING CHAIRMAN FLORES: "No" you're not  
20 opposed, or "no" you're voting "no"?

21 COMMISSIONER ELLIOTT: I am opposed.

22 ACTING CHAIRMAN FLORES: Okay. Very well. So

1 let's take a roll call.

2 Commissioner Ford?

3 COMMISSIONER FORD: Aye.

4 ACTING CHAIRMAN FLORES: Commissioner

5 O'Connell-Diaz?

6 COMMISSIONER O'CONNELL-DIAZ: Aye.

7 ACTING CHAIRMAN FLORES: Commissioner Elliott?

8 COMMISSIONER ELLIOTT: No.

9 ACTING CHAIRMAN FLORES: Commissioner Colgan?

10 ACTING COMMISSIONER COLGAN: Aye.

11 ACTING CHAIRMAN FLORES: Chairman Flores votes

12 "aye."

13 Let the record reflect that it's 4-1

14 to allow the Company special permission request.

15 I also want to make a note, though,

16 that in terms of the -- we want to be clear on

17 this -- that the recovery of contested AMI operating

18 expenses will still be reviewed by the Commission as

19 part of ComEd's rate case. Okay. So I think it's

20 important to note on that.

21 COMMISSIONER O'CONNELL-DIAZ: Well, and just to

22 be clear, the original plan that we had when we



1 entered the Order that is now in the Appellate Court,  
2 there were no costs that were going to be given to  
3 the Company without a prudency review. So it's a  
4 question of -- again, of timing or which way do you  
5 recover, in a rate case or in a rider? We voted on  
6 many riders today. I would suggest that that  
7 Appellate Court opinion puts those under a fish eye,  
8 too.

9                   So, you know, there was never this  
10 blank check that seems to be kind of out there that  
11 we were -- the Commission was going to let the  
12 Company run away with the total cookie jar. So  
13 you're correct in that these will be included and  
14 they will be looked at in the rate case, which,  
15 again, brings up other issues because a rate case has  
16 like 150,000 issues as opposed to a prudency hearing  
17 which you just look at one particular cost.

18                   So it's problematic and it's --

19                   COMMISSIONER ELLIOTT: Well, I think that --

20                   COMMISSIONER O'CONNELL-DIAZ: -- we all  
21 struggle with it.

22                   COMMISSIONER ELLIOTT: -- they could offer that

1 there's still a question of whether they'll be  
2 reviewed in the rate proceeding as well. So...

3 COMMISSIONER O'CONNELL-DIAZ: How's that?

4 COMMISSIONER COLGAN: Well, I'd just like to  
5 say that I think that this is -- I'm not sure that  
6 there is a real clear one answer to move forward on  
7 this. And, you know, we got kind of hit with a  
8 situation where the Commission had approved a project  
9 which is costly and it had approved a cost recovery  
10 mechanism for it and so then they're out hanging with  
11 all of these costs and how do they recover that.

12 And I know there's been a lot of  
13 thinking gone into what is the proper cost recovery  
14 for this approved project. And I think the special  
15 permission request created a lot of confusion in  
16 terms of, you know, what does it mean? How does all  
17 this play out?

18 I know I've given it a lot of  
19 consideration, and I think that we've probably  
20 crafted the best interim step forward on this and  
21 where it comes out, we'll have to see; but I would  
22 hate to see the AMI project not going forward. And I

1 think it kind of challenges, doesn't it, some of the  
2 traditional regulatory structures that we have in  
3 place? I think there's a lot of brave new world  
4 things happening. And if our rider approval  
5 mechanisms are in doubt, our flexibility is really  
6 kind of challenged. And so hopefully this will play  
7 out to a positive outcome for everybody.

8 COMMISSIONER O'CONNELL-DIAZ: Well, just as an  
9 aside if -- Commissioner Ford and I were here when we  
10 entered that Order and one of the arguments for those  
11 that were against the Smart Grid -- I'm going to call  
12 it the pilot program -- one of the arguments was that  
13 it all should be in a rate case. Well, it's in a  
14 rate case now. So they've gotten what they wanted.

15 However, you know, unlike Maryland  
16 where they came in with this huge, huge program that  
17 was extremely expensive and -- that's not what we did  
18 in Illinois. We said, We need to take baby steps and  
19 we need to be foundational and that's what we did.  
20 And I -- to this moment I believe it was the right --  
21 we are looked at as the number one leader in the  
22 United States, maybe even in the world as to how to,

1 you know, move that ball forward in a way that's  
2 responsible to our ratepayers, responsible to the  
3 information that we need to understand. And without  
4 us having this type of a vehicle, I really don't know  
5 how one could -- we could have done a better job.

6 And, again, I go back to it's a  
7 question of timing. Is it in the rate case or is it  
8 in a rider where those costs would be looked at in a  
9 very discrete way?

10 COMMISSIONER FORD: Also, if it had been a  
11 rider, we possibly would not have looked at it as  
12 cautiously as we're going to look at it now because  
13 we would just -- it would have been service items.  
14 And we wouldn't have had the internal audit and some  
15 other subsequent expenses that we would have looked  
16 at, in my opinion.

17 COMMISSIONER O'CONNELL-DIAZ: If it was in the  
18 rider.

19 COMMISSIONER FORD: If it was in the rider.

20 COMMISSIONER O'CONNELL-DIAZ: So it's -- I  
21 think we're kind of handed a bad set of cards, that  
22 we're trying to make the best hand we can out of it,

1 but our Smart Grid Program is something that our  
2 Commission and our state can be very proud of. So...

3 ACTING CHAIRMAN FLORES: Thank you all.

4 I'd like to go back though to going  
5 forward on the remainder of the agenda to the most  
6 favorable vote, which is 5-0 in moving forward.

7 Turning now to the gas. Item G-1,  
8 10-0683 through 10-0693, concerns reconciliations  
9 surrounding gas adjustment cost charges. Staff  
10 recommends entry of an Order initiating gas  
11 adjustment clause reconciliation proceedings for the  
12 many utilities statewide that had purchased gas  
13 adjustment clauses during 2010.

14 Is there any discussion?

15 (No response.)

16 ACTING CHAIRMAN FLORES: Any objections?

17 (No response.)

18 ACTING CHAIRMAN FLORES: Hearing none, the  
19 Order is entered and the PGA reconciliation  
20 proceedings are initiated.

21 Item G-2 is Docket No. 09-084 --  
22 excuse me. It's Docket 09-0184. This item is

1 Dominion Retail's Petition For Confidential Treatment  
2 of its 2008 Report made pursuant to Title 83, Part  
3 551, of the Administrative Code. Administrative Law  
4 Judge Kimbrel recommends entry of an Order dismissing  
5 the petition without prejudice for want of  
6 prosecution.

7 Any discussion?

8 (No response.)

9 ACTING CHAIRMAN FLORES: Any objections?

10 (No response.)

11 ACTING CHAIRMAN FLORES: Hearing none, the  
12 docket is dismissed.

13 Item G-3 is Docket No. 10-0429. This  
14 is Jacqueline Yurs's complaint as to billing and/or  
15 charges against Nicor. The parties have apparently  
16 settled their differences and brought a Joint Motion  
17 to Dismiss, which Administrative Law Judge Hilliard  
18 recommends that we grant.

19 Is there any discussion?

20 (No response.)

21 ACTING CHAIRMAN FLORES: Any objections?

22 (No response.)

1           ACTING CHAIRMAN FLORES: Hearing none, the  
2 docket is dismissed.

3                   Item G-4 is Docket No. 10-0534. This  
4 is Andeljko Franceski's complaint as to billing  
5 and/or charges against Peoples Gas. The parties have  
6 apparently settled their differences and brought a  
7 Joint Motion to Dismiss, which Administrative Law  
8 Judge Kimbrel recommends that we grant.

9                   Any discussion?

10                                   (No response.)

11           ACTING CHAIRMAN FLORES: Any objections?

12                                   (No response.)

13           ACTING CHAIRMAN FLORES: Hearing none, the  
14 docket is dismissed.

15                   Item G-5 is Docket No. 10-0562. This  
16 item concerns Nicor's Petition for Interlocutory  
17 Review concerning a ruling on a motion to exclude  
18 testimony regarding recovery of fixed cost charges in  
19 the Company's energy efficiency case. Administrative  
20 Law Judge Kimbrel recommends that the Commission rule  
21 to deny the relief requested in Nicor's Petition for  
22 Interlocutory Review.

1 Any discussion?

2 (No response.)

3 ACTING CHAIRMAN FLORES: Very well. Any  
4 objections?

5 (No response.)

6 ACTING CHAIRMAN FLORES: Hearing none, the  
7 company's petition is denied.

8 Telecommunications Item T-1, is Docket  
9 No. 09-0512. This is Grasshopper Group's Application  
10 for a Certificate of Interexchange Authority to  
11 Operate as a Reseller of Telecommunications Services  
12 throughout Illinois. Administrative Law Judge Benn  
13 recommends entry of an Order granting the requested  
14 Certificate of Service Authority.

15 Any discussion?

16 (No response.)

17 ACTING CHAIRMAN FLORES: Any objections?

18 (No response.)

19 ACTING CHAIRMAN FLORES: Hearing none, the  
20 Order is entered and the certificate is granted.

21 Item T-2 is Docket No. 10-0074. This  
22 is Call Select USA's application for a Certificate of



1 Interexchange Authority to Operate as a  
2 Facility-Based Carrier of Telecommunications Services  
3 in Illinois. The Company seeks to withdraw its  
4 application and Administrative Law Judge Benn  
5 recommends that the Commission grant the company's  
6 motion and dismiss this docket without prejudice.

7 Is there any discussion?

8 (No response.)

9 ACTING CHAIRMAN FLORES: Any objections?

10 (No response.)

11 ACTING CHAIRMAN FLORES: Hearing none, the  
12 docket is dismissed.

13 Item T-3 is Docket No. 10-0406. This  
14 is XYN Communications of Illinois's Application for  
15 Certificates of Local and Interexchange Authority to  
16 Operate as a Facility-Based Carrier of  
17 Telecommunications Services in Illinois.  
18 Administrative Law Judge Benn recommends the  
19 Commission enter an Order granting the certificates.

20 Is there any discussion?

21 (No response.)

22 ACTING CHAIRMAN FLORES: Any objections?

1 (No response.)

2 ACTING CHAIRMAN FLORES: Hearing none, the  
3 Order is granted and the certificates are granted.

4 Item T-4 is Docket No. 10-0542. This  
5 is Assurance Home Phone Service's Application for a  
6 Certificate of Local Authority to Operate as a Resale  
7 and Facilities-Base/UNE Carrier of Telecommunications  
8 Services in Illinois. Administrative Law Judge  
9 Teague recommends that the Commission enter an Order  
10 granting the requested certificates.

11 Is there any discussion?

12 (No response.)

13 ACTING CHAIRMAN FLORES: Any objections?

14 (No response.)

15 ACTING CHAIRMAN FLORES: Hearing none, the  
16 Order is entered and the certificates are granted.

17 Item T-5 is Docket No. 10-0548. This  
18 is Fidelity Communications Services III's Application  
19 for Certificates of Local and Interexchange Authority  
20 to Operate as a Facilities-Based Carrier of  
21 Telecommunication Services in Illinois.

22 Administrative Law Judge Teague recommends that the

1 Commission enter an Order granting the requested  
2 certificates.

3 Is there any discussion?

4 (No response.)

5 ACTING CHAIRMAN FLORES: Any objections?

6 (No response.)

7 ACTING CHAIRMAN FLORES: Hearing none, the  
8 Order is entered and the certificates are granted.

9 Item T-66 is Docket No. 10-0488. This  
10 is TON Services' Petition for the Cancellation of its  
11 Certificate of Service Authority to Provide  
12 Telecommunications Services on an Interexchange  
13 Basis, to Provide Pay Telephone Service, and to  
14 Provide Prepaid Calling Service in Illinois that had  
15 been previously issued by the Commission.  
16 Administrative Law Judge Teague recommends the  
17 Commission enter an Order granting the petition and  
18 canceling the certificates.

19 Is there any discussion?

20 (No response.)

21 ACTING CHAIRMAN FLORES: Any objections?

22 (No response.)

1           ACTING CHAIRMAN FLORES: Hearing none, the  
2 Order is entered and the certificates are canceled.

3                       Items T-7 is Docket No. 10-0498. This  
4 is ITI Inmate Telephone's Petition for Cancellation  
5 of its Certificate of Service Authority to Provide  
6 Competitive Telecommunication Services on an  
7 Interexchange Basis in Illinois issued in Docket  
8 No. 04-0418. Administrative Law Judge Teague  
9 recommends that the Commission enter an Order  
10 granting the petition and canceling the certificate.

11                               Any discussion?

12   (No response.)

13           ACTING CHAIRMAN FLORES: Any objections?

14   (No response.)

15           ACTING CHAIRMAN FLORES: Hearing none, the  
16 Order is entered and the certificate is canceled.

17                       Item T-8 is Docket No. 10-0518. This  
18 is Dialaround Enterprises' Petition to cancel its  
19 Certificate of Service Authority previously issued in  
20 Docket 02-0347 and its Certificate of Prepaid Calling  
21 Service Provider Authority previously issued in  
22 Docket 06-0204. Administrative Law Judge Teague

1 recommends that the Commission enter an Order  
2 granting the petition and canceling the certificates.

3 Is there any discussion?

4 (No response.)

5 ACTING CHAIRMAN FLORES: Any objections?

6 (No response.)

7 ACTING CHAIRMAN FLORES: Hearing none, the  
8 Order is entered and the certificates are canceled.

9 Items T-9 through T-14 can be taken  
10 together. Each of these items each involve joint  
11 petitions surrounding resale and interconnection  
12 agreements under 47 U.S.C. 252. In each docket the  
13 Administrative Law Judge recommends entering an Order  
14 approving a new agreement or amending an existing  
15 agreement.

16 Is there any discussion?

17 (No response.)

18 ACTING CHAIRMAN FLORES: Any objections?

19 (No response.)

20 ACTING CHAIRMAN FLORES: Hearing none, the  
21 Orders are entered.

22 Items T-15 and T-16, 10-0694 and

1 10-0695, can be taken together. These items concern  
2 potential citation proceedings against DNA  
3 Communications and CMC Telecom. The citations are to  
4 determine whether the companies possess the requisite  
5 managerial resources to provide intrastate  
6 telecommunication services in Illinois and whether  
7 penalties should be assessed for failure to comply  
8 with reporting requirements. In each case, Staff  
9 recommends entry of an Order initiating the citation  
10 proceeding.

11 Is there any discussion?

12 (No response.)

13 ACTING CHAIRMAN FLORES: Any objections?

14 (No response.)

15 ACTING CHAIRMAN FLORES: Hearing none, the  
16 Initiating Orders are entered.

17 Item T-17 is Docket No. 09-0315. This  
18 item concerns an investigation into whether the  
19 intrastate access charges charged by McLeodUSA  
20 Telecommunications Services d/b/a PAETEC Business  
21 Services are just and reasonable. In light of Senate  
22 Bill 107 from this past legislative session,

1 Administrative Law Judge Benn recommends that the  
2 Commission dismiss this docket as being statutorily  
3 moot.

4 Any discussion?

5 (No response.)

6 ACTING CHAIRMAN FLORES: Any objections?

7 (No response.)

8 ACTING CHAIRMAN FLORES: Hearing none, the  
9 docket is dismissed.

10 Item T-18 and T-19 can be taken  
11 together. These items concern citation proceedings  
12 against Tele-Reconnect, Incorporated, and U.S. Fiber,  
13 LLC, for failure to file 2009 Annual Reports. In  
14 each case, Administrative Law Judge Teague recommends  
15 that the Commission enter an Order revoking the  
16 Company's Certificate of Service Authority.

17 Any discussion?

18 (No response.)

19 ACTING CHAIRMAN FLORES: Any objections?

20 (No response.)

21 ACTING CHAIRMAN FLORES: Hearing none, the  
22 Orders are entered and the certificates are revoked.

1                   Moving to the Water and Sewer portion  
2 of today's agenda. Item W-1 is Docket No. 10-0194.  
3 This item concerns Aqua Illinois's proposed rate  
4 increase for its Kankanksee Water Division.  
5 Administrative Law Judges Hilliard and Benn recommend  
6 that the Commission enter an Order reflecting a 17.55  
7 percent increase in water rates.

8                   Any discussion?

9   (No response.)

10           ACTING CHAIRMAN FLORES: Is there a motion to  
11 enter the Order?

12           COMMISSIONER O'CONNELL-DIAZ: So moved.

13           ACTING CHAIRMAN FLORES: Is there a second?

14           COMMISSIONER FORD: Second.

15           ACTING CHAIRMAN FLORES: It's been moved and  
16 seconded.

17                                   All in favor, say "aye."

18   (Chorus of ayes.)

19           ACTING CHAIRMAN FLORES: Any opposed?

20   (No response.)

21           ACTING CHAIRMAN FLORES: The vote is 5-0 and  
22 the Order is entered.



1                   Item W-2 is Docket No. 10-0197. This  
2 is Aqua Illinois' petition for approval of its  
3 reconciliation of its purchased water surcharge.  
4 Administrative Law Judge Kimbrel recommends that the  
5 Commission enter an Order approving the  
6 reconciliation of purchased water costs and revenues.

7                   Is there any discussion?

8                                   (No response.)

9                   ACTING CHAIRMAN FLORES: Any objections?

10                                   (No response.)

11                   ACTING CHAIRMAN FLORES: Hearing none, the  
12 Order is entered.

13                                   We have one miscellaneous matter.  
14 Item M-1, 10-0696, concerns the appointment of  
15 representatives to the Underground Damage Prevention  
16 Advisory Committee. Specifically, before us today  
17 are the appointments for representatives of JULIE,  
18 the general public and the excavators. Staff  
19 recommends that the Commission adopt a resolution  
20 which reappoints Mr. Scott Bertulis as the general  
21 public representative, reappoints Mr. Mark Frost as  
22 the JULIE representative and appoints Mr. Paul Jansyn

1 as the excavator representative.

2 Any discussion?

3 (No response.)

4 ACTING CHAIRMAN FLORES: Any objections?

5 (No response.)

6 ACTING CHAIRMAN FLORES: Hearing none, the  
7 resolution is adopted and Mr. Bertulis, Mr. Frost and  
8 Mr. Jansyn are appointed to the Committee.

9 And thank you very much, gentlemen,  
10 for your service.

11 There are two final items today  
12 concerning pending litigation so we will go into  
13 closed session to address them.

14 I will make a motion to go into closed  
15 session.

16 Is there a second?

17 COMMISSIONER FORD: Second.

18 COMMISSIONER O'CONNELL-DIAZ: Second.

19 ACTING CHAIRMAN FLORES: It's been moved and  
20 seconded.

21 All in favor, say "aye."

22 (Chorus of ayes.)

1           ACTING CHAIRMAN FLORES:   Any opposed?

2   (No response.)

3           ACTING CHAIRMAN FLORES:   The vote is 5-0 to go  
4 into closed session.

5   (Whereupon at this point Pages  
6   35-49 of the proceedings are  
7   contained in a separate closed  
8   transcript.)

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CONTINUATION OF PROCEEDINGS

ACTING CHAIRMAN FLORES: In closed session the Commission discussed the ongoing appellate litigation surrounding its Order in Docket No. 07-0566.

The Commission also discussed filing Comments with FERC in FERC Docket No. ER11-2104-000.

I will make a motion to file the Comments with FERC.

Is there a second?

COMMISSIONER FORD: Second.

ACTING CHAIRMAN FLORES: It's been moved and seconded.

All in favor, say "aye."

(Chorus of ayes.)

ACTING CHAIRMAN FLORES: Any opposed?

(No response.)

ACTING CHAIRMAN FLORES: The vote is 5-0. The Comments will be filed with FERC.

Judge Wallace, your Honor, are there any other matters to come before the Commission today?

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

1           ACTING CHAIRMAN FLORES: Very well. Thank you,  
2    sir.

3                       Hearing none, this meeting stands  
4    adjourned. Thank you, everybody.

5                                       MEETING ADJOURNED

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