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BEFORE THE
ILLINOIS COMMERCE COMMISSION

PUBLIC UTILITY REGULAR OPEN MEETING AGENDA

Chicago, Illinois
Tuesday, December 22, 2009

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

PRESENT:

- MR. CHARLES BOX, Chairman
- MS. LULA M. FORD, Commissioner
- MS. ERIN M. O'CONNELL-DIAZ, Commissioner
- MR. SHERMAN J. ELLIOTT, Commissioner
- MR. JOHN T. COLGAN, Commissioner

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I N D E X

	<u>FROM</u>	<u>PAGES</u>	<u>TO</u>
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1 CHAIRMAN BOX: Pursuant to the provisions of the
2 Illinois Open Meetings Act, I now convene regular
3 scheduled prebench session of the Illinois Commerce
4 Commission.

5 With me in Chicago are Commissioners
6 O'Connell-Diaz, Elliott and Colgan and I'm Chairman
7 Box. We have a quorum. Commissioner Ford is
8 joining us by a remote hookup.

9 Is there a motion to include Commissioner
10 Ford in this meeting?

11 COMMISSIONER O'CONNELL-DIAZ: So moved.

12 CHAIRMAN BOX: Is there a second?

13 COMMISSIONER ELLIOTT: Second.

14 CHAIRMAN BOX: All in favor say aye.

15 COMMISSIONER COLGAN: Aye.

16 CHAIRMAN BOX: Opposed?

17 The vote is 4 to 0.

18 Commissioner Ford is now part of this
19 meeting.

20 Before moving into the agenda, this is
21 the time allowed for members of the public to
22 address the Commission. Members of the public

1 wishing to address the Commission must notify the
2 Chief Clerk's Office in 24 hours prior to the bench
3 session. According to the Chief Clerk's Office
4 there have been no requests to speak.

5 We have three items on today's agenda and
6 let me take them out of order. Item number two is
7 Docket 09-0166 and 09-0167 consolidated. This is
8 the Peoples Gas Light & Coke Company, North Shore
9 Gas Company rate case. The Attorney General has
10 requested oral argument and pursuant to Section
11 9-201 of the Act, the Commission will honor the AG's
12 request for oral argument. Oral argument will be
13 scheduled for Tuesday, January 5th, 2010, after
14 prebench.

15 Going back to item number one. The first
16 item would be 09-0373. The Illinois Power Agency,
17 petition for approval of the monitor procurement
18 plan. The Commission will be convening oral
19 argument after the meeting on this matter after this
20 meeting at 11:30.

21 Judge Jones, are you available for a few
22 questions that will not --

1 JUDGE JONES: I am, Mr. Chairman.

2 CHAIRMAN BOX: -- be covered?

3 The oral argument is concerning only the
4 long-term contracts. I have a question concerning
5 the short-term renewables.

6 It is my understanding that staff opposed
7 having a simultaneous auction or Request for a
8 Proposal. They indicated certain things were done
9 and change that could work to be acceptable; is that
10 correct?

11 JUDGE JONES: I didn't quite hear, Mr. Chairman.

12 (Off the record.)

13 JUDGE JONES: Mr. Chairman, I think, again,
14 raised as far as their concerns the fact that there
15 were some unknowns, the hearing was unclear how the
16 process would work so to that extent if those
17 matters were clarified to staff's satisfaction then
18 they might have taken a different final decision.

19 CHAIRMAN BOX: And that could be -- and I think
20 the information was that could be done between now
21 and the time the RFPs went out.

22 Were all the parties participating?

1 JUDGE JONES: I think it is possible,
2 Mr. Chairman. I don't know that they were really
3 suggesting that the RFP not clarify that until -- at
4 a later point but having said that I think that's
5 correct. It could be done.

6 CHAIRMAN BOX: Okay.

7 Any other questions for Judge Jones?

8 Commissioner O'Connell-Diaz.

9 COMMISSIONER O'CONNELL-DIAZ: Yes.

10 Judge Jones, just in reference to the
11 last section of your memo where you refer to the
12 benchmark for the long-term renewables and that the
13 prices would be set -- that could be competitive RFP
14 process.

15 Could you just clarify for me, Appendix K
16 provides that the procurements administrator in
17 consultation with the IPA and procurement monitor
18 and ICC staff shall develop the content of
19 benchmarks whereas the statutory provisions only
20 references the procurement administrator
21 consultation with Commission staff agency and
22 procurement. . .

1 Could you just clarify what your order
2 provides.

3 JUDGE JONES: Yes, Commissioner. Let me take a
4 quick look at that.

5 Well, on this particular item it would
6 accept the benchmark proposal contained in Appendix
7 K so it would involve the participants and the roles
8 as set out on page 2 of Appendix K.

9 COMMISSIONER O'CONNELL-DIAZ: Do we need to be
10 concerned that that does not single out with the
11 statutory provisions?

12 JUDGE JONES: I think by adding some additional
13 staff involvement that it would essentially
14 supplement it. I don't think that's too dissimilar
15 from what has happened, at least with some of the
16 other issues where in the past I know additional
17 staff involvement ordered into the process by
18 Commission order.

19 COMMISSIONER O'CONNELL-DIAZ: So in order to
20 arrive at that point we would need to include in our
21 order an amendment to Appendix K on that issue?

22 JUDGE JONES: Commissioner, I think that's

1 covered by -- we can certainly clarify that or add
2 some language to make it more clear.

3 COMMISSIONER O'CONNELL-DIAZ: Okay. Thank you.

4 CHAIRMAN BOX: Any other questions for Judge
5 Jones?

6 Judge, thank you very much.

7 JUDGE JONES: Thank you, Mr. Chairman.

8 CHAIRMAN BOX: The last item this morning is
9 Docket 08-0569. This is an order on rehearing under
10 the Illinois Bell Telephone Company's petition to
11 declare services to be competitive in several MSAs
12 outside of Chicago.

13 I understand that their language has been
14 circulated.

15 Commissioner O'Connell-Diaz.

16 COMMISSIONER O'CONNELL-DIAZ: Thank you,
17 Chairman.

18 Yes, if you will recall that the
19 Commission entered an order in which we provided
20 that the similar requirements of the -- that will be
21 approved in MSA-1 would be approved in this order
22 and we found that the hearing and as -- I finally

1 looked at the evidence or lack of evidence to turn
2 this Commission's mind with regard to our
3 decision -- our unanimous decision early on. I have
4 not found that and so I circulated the language
5 which essentially states that while this decision
6 stands on its own record versus that of MSA-1, our
7 inquiry is similar whether competition is this for
8 residential service in the greater Illinois MSA, not
9 MSA-1. While we do agree with AT&T with regard
10 to -- different. AT&T's assertion it's central
11 office and outside plant cost will be substantially
12 higher on a per customer basis than in greater was
13 in the Chicagoland is consistent with our conclusion
14 that while reclassification was and is appropriate
15 sustainable competition is less certain greater LADA
16 than MSA-1. We find that there is no evidence to
17 demonstrate that while some customers in the greater
18 Illinois MSA have broadband options many areas are
19 grossly underserved but to accomplish the -- goal of
20 substituting competition for regulations while
21 insuring customer choice and in order to provide
22 greater Illinois MSA symmetry with MSA-1, the

1 Commission properly imposed additional requirements
2 under AT&T as a condition of the classification.

3 So essentially what -- I guess what I'm
4 suggesting is that we're back at the same place we
5 were when we voted on the order. There's been
6 nothing new and that the Commission's June 11th
7 order should be sustained and the customers in
8 MSA -- in the greater Illinois MSA should be treated
9 on the same level as those with MSA-1. I think it's
10 really a fairness issue but it is supported by the
11 evidence in the record.

12 So I was -- that Commissioners would
13 support me on this.

14 CHAIRMAN BOX: We're trying to amend the briefs
15 and the parties, AT&T that was the case they would
16 be asking for more time.

17 COMMISSIONER O'CONNELL-DIAZ: Yes, Chairman.
18 Thank you.

19 Additionally, this does provide the
20 company had requested until 2012 to accomplish what
21 is ordered in this and that requested date is
22 approved pursuant to this order.

1 JUDGE HILLIARD: If I recall correctly it was
2 July 1 of 2012.

3 COMMISSIONER O'CONNELL-DIAZ: Thank you.

4 CHAIRMAN BOX: Is there a second to the motion by
5 Commissioner O'Connell-Diaz?

6 COMMISSIONER COLGAN: Second.

7 CHAIRMAN BOX: It's been moved and seconded to
8 amend the order.

9 All in favor of the amendment say aye.

10 COMMISSIONER COLGAN: Aye.

11 COMMISSIONER ELLIOTT: No.

12 COMMISSIONER O'CONNELL-DIAZ: Aye.

13 COMMISSIONER FORD: No.

14 CHAIRMAN BOX: The vote is 3/2 on the amendments.

15 Further discussion on this order as
16 amended?

17 COMMISSIONER ELLIOTT: Mr. Chairman, I just like
18 to point out that in the original order I did
19 support the extension of this as a broad policy
20 matter. After further review of the information and
21 the response of the Judge in the rehearing case I
22 come to the difficult conclusion that in my mind as

1 this was an -- MSA-1 was an agreement between AT&T
2 and the Citizens Utility Board and not a finding of
3 the Commission and while I think it's -- you know,
4 the extension of DSL service is a good policy, in --
5 I'm just not sure that as a requirement of the
6 Commission that we -- we aren't just picking winners
7 here and I'm not sure what the appropriate solution
8 would be so I've decided to vote no.

9 CHAIRMAN BOX: Okay. Further discussion?

10 COMMISSIONER FORD: My concern is anything we did
11 not amend compare to the fact that we were doing
12 broadband. . .

13 (Inaudible.)

14 CHAIRMAN BOX: Further discussion?

15 There's a motion to enter the order on
16 rehearing as amended.

17 Is there a second?

18 COMMISSIONER O'CONNELL-DIAZ: Second.

19 CHAIRMAN BOX: All in favor say aye.

20 COMMISSIONER O'CONNELL-DIAZ: Aye.

21 COMMISSIONER COLGAN: Aye.

22 CHAIRMAN BOX: Opposed?

1 COMMISSIONER ELLIOTT: No.

2 COMMISSIONER FORD: No.

3 CHAIRMAN BOX: The vote is 3 -- the vote is 3/2.

4 The order on rehearing as amended is entered.

5 This completes the Commission work on
6 this case. I want to thank Judge Hilliard, our
7 staff and all the parties for their hard work.

8 Anything else coming before us today?

9 JUDGE WALLACE: Mr. Chairman, I would just ask if
10 you'd like a specific time for the Peoples oral
11 argument on January 5th.

12 CHAIRMAN BOX: Okay. I thought it was after
13 prebench. Let's say 2:00 o'clock.

14 JUDGE WALLACE: 2:00 o'clock. Thank you. That's
15 all for today then.

16 CHAIRMAN BOX: All right. And we have oral
17 argument. We'll start on the IPA matter at 11:30.

18 Let's take a recess.

19 (Whereupon, the meeting was
20 adjourned.)

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