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BEFORE THE
ILLINOIS COMMERCE COMMISSION
REGULAR OPEN MEETING
PUBLIC UTILITY
Tuesday, December 22, 2015
Chicago, Illinois

Met, pursuant to notice, at 10:30 A.M.,
at 160 North La Salle Street, Chicago, Illinois.

- PRESENT:
- BRIEN J. SHEAHAN, Chairman
 - ANN MCCABE, Commissioner
 - SHERINA E. MAYE EDWARDS, Commissioner
 - MIGUEL DEL VALLE, Commissioner
 - JOHN R. ROSALES, Commissioner

SULLIVAN REPORTING COMPANY, by
PATRICIA WESLEY
CSR NO. 084-002170

1 CHAIRMAN SHEAHAN: Good morning. Are we ready
2 to proceed in Springfield?

3 CHIEF CLERK: Yes, we are.

4 CHAIRMAN SHEAHAN: Pursuant to the Open Meetings
5 Act, I call to order the December 22, 2015 Regular
6 Open Meeting of the Illinois Commerce Commission.

7 Commissioners McCabe, del Valle,
8 Edwards and Rosales are present with me in Chicago.
9 We have a quorum.

10 We have no requests to speak and will,
11 therefore, move into our Regular Open Meeting
12 agenda. We have no minutes to approve this morning.

13 So moving on to our Public Utility
14 agenda, Item E-1 concerns revisions to MidAmerican
15 Street Lighting ("Rate SL") to include a 400-watt
16 equivalent light-emitting diode ("LED") base rate,
17 as well as rates for customer-owned LED street
18 lighting.

19 Are there any objections to not
20 suspending the filing?

21 (No response.)

22 Hearing none, the filing is not

1 suspended.

2 Item E-2 concerns a complaint filed
3 against ComEd. There are both substantive and
4 non-substantive edits to this Order. I believe
5 Commissioner McCabe has a statement to make.

6 COMMISSIONER McCABE: Yes. Thank you to
7 Commissioner Rosales' office for their help on these
8 edits.

9 These edits do not change the proposed
10 Order's ultimate conclusion. They correct the
11 description of what may happen in the event the
12 complainant does not comply with ComEd's request.
13 In that case, ComEd would have the right to
14 discontinue service but it is not obligated to.

15 The edits note that the record
16 indicates that ComEd did not receive permission
17 before entering the complainant's neighbor's
18 property, but the lack of permission does not affect
19 this proceeding's outcome.

20 Last, the edits urge the parties to
21 resolve any remaining differences and work with all
22 others who may be able to achieve resolution. Thank

1 you.

2 CHAIRMAN SHEAHAN: Would you like to move those
3 edits, Commissioner?

4 COMMISSIONER McCABE: So move.

5 CHAIRMAN SHEAHAN: Is there a second?

6 COMMISSIONER ROSALES: Second.

7 CHAIRMAN SHEAHAN: Any further discussion?

8 (No response.)

9 All those in favor, say aye.

10 (Chorus of ayes.)

11 Opposed, say nay.

12 (No response.)

13 The edits are adopted unanimously.

14 Is there a motion to approve the Order
15 as edited?

16 COMMISSIONER del VALLE: So move.

17 CHAIRMAN SHEAHAN: Is there a second?

18 COMMISSIONER McCABE: Second.

19 CHAIRMAN SHEAHAN: Is there any discussion?

20 (No response.)

21 All those in favor, say aye.

22 (No response.)

1 The ayes have it. I'm sorry. I
2 didn't ask for nays. Are there nays?

3 (No response.)

4 No nays. The ayes have it and the
5 edits are adopted.

6 Item E-3 concerns ComEd's request for
7 special permission to file revised tariff pages on
8 less than 45 days' notice to establish an access in
9 retrieval tenant's rates.

10 Are there any objections to granting
11 the request for special permission?

12 (No response.)

13 Hearing none, the request for special
14 permission is granted.

15 Moving on to our gas agenda, Items G-1
16 and 2 concern merger compliance revisions to Peoples
17 and North Shore Gas' large volume transportation
18 pooling.

19 Are there any objections to
20 considering these items together and not suspending
21 the filings?

22 (No response.)

1 Hearing none, the filings are not
2 suspended.

3 Moving on to T-1 concerns emergency
4 amendments to standards of service applicable for
5 9-1-1 emergency systems which have been made
6 necessary by recent amendments to the Emergency
7 Telephone System Act.

8 There are substantive edits
9 recommended by Staff. Commissioner McCabe is going
10 to handle presentation of those edits.

11 COMMISSIONER McCABE: I have just got to move the
12 edits.

13 CHAIRMAN SHEAHAN: Okay. Is there a second?

14 COMMISSIONER del VALLE: Second.

15 CHAIRMAN SHEAHAN: Is there any discussion?

16 (No response.)

17 All those in favor, say aye.

18 (Chorus of ayes.)

19 Opposed, say nay.

20 (No response.)

21 The ayes have it and the edits are
22 adopted.

1 Is there a motion to enter the Order
2 as edited?

3 COMMISSIONER McCABE: So move.

4 COMMISSIONER MAYE EDWARDS: So move.

5 CHAIRMAN SHEAHAN: Is there a second?

6 COMMISSIONER ROSALES: Second.

7 CHAIRMAN SHEAHAN: Is there any discussion?

8 (No response.)

9 All those in favor, say aye.

10 (Chorus of ayes.)

11 Opposed, say nay.

12 (No response.)

13 The ayes have it and the Order as
14 edited is approved.

15 Item M-1 concerns the adoption of
16 rules concerning the rate case treatment of
17 charitable contributions. There are non-substantive
18 edits throughout the proposed Order and substantive
19 edits concerning the supplemental information
20 provided by utilities.

21 Commissioner Edwards, I believe you
22 are going to handle this item.

1 COMMISSIONER MAYE EDWARDS: Thank you,
2 Mr. Chairman.

3 The overall substance of the edits
4 that I propose state that any portion of the rule
5 must assist the Commission in reviewing donations
6 under Section 9-227 which requires the Commission to
7 ensure, one, that the purpose of the donation is
8 lawful and, two, that the amount is reasonable.

9 In Section 2 regarding definitions,
10 the edits remove the terms and definitions from
11 management as well as the parent company as neither
12 term is included in the rule as edited.

13 In Section 3 regarding the
14 supplemental information to be provided regarding
15 charitable contributions, our edits adopt all the
16 Staff's reporting requirements, except for 325.30A8,
17 A9, B2, and B3.

18 The remaining reporting requirements
19 are adopted including 325.30A3 which requires a
20 utility to include a written description of why a
21 donation is reasonable in amount.

22 In Section 5 regarding required

1 disclosures, our edits do not adopt any of Staff's
2 proposed required disclosures.

3 We argue that such disclosures are
4 beyond the scope of corporate rulemaking in Section
5 9-227 because they require communications with
6 charitable organizations, customers and the public,
7 focused on disclosures to the Commission.

8 The proposed required disclosures have
9 no bearing upon the Commission's review of
10 reasonableness under 9-227.

11 Lastly, in Section 7 regarding
12 disclosures for donations for charitable
13 contributions made in compliance with requirements
14 of Article 9 and Section 16-108.5, our edits strike
15 the portion of Staff's proposal that requires the
16 certification related to Sections 9-224 and 9-225
17 for those utility filings in Article 9 rate
18 proceedings.

19 Sections 9-224, 9-225 and 9-227 are
20 distinct from one another and should be treated as
21 such. Expenses addressed in 9-224 and 225 have no
22 bearing on and contribute no information to the

1 required reasonableness review under 9-227.

2 Thank you very much also to the
3 Chairman's office for his contributions in these
4 edits.

5 With that, I move for the adoption.

6 CHAIRMAN SHEAHAN: Is there a second?

7 COMMISSIONER McCABE: Second.

8 CHAIRMAN SHEAHAN: We have discussion on the
9 edits, Commissioner del Valle.

10 COMMISSIONER del VALLE: Thank you, Mr. Chairman.

11 I can certainly appreciate all the
12 work that's gone into this edit and this Order,
13 having had personal experience -- first-hand
14 experience with this area both as executive director
15 of a non-for-profit organization, as well as having
16 been involved in fund-raising efforts for other
17 non-for-profits as a board member, or a volunteer,
18 and also as a legislator for 20 years.

19 I have to say that I have strong
20 disagreement here. With all due respect, every year
21 the utility spends over 10 million ratepayer dollars
22 on charitable contributions and, in some cases, a

1 donation to a single entity can be hundreds of
2 thousands of dollars.

3 The companies are perceived by many,
4 including many legislators, by the way, as taking
5 these donations out of their profits when it is, in
6 fact, ratepayers that are involuntarily paying extra
7 in their bills to cover these amounts.

8 In the past the Commission has been
9 frustrated by lack of transparency and supporting
10 evidence which has limited our prudence and
11 reasonableness review. This rulemaking was
12 initiated to increase the details available for each
13 donation when the company first files for a rate
14 case.

15 Unfortunately, I received these most
16 recent proposed edits at the close of business
17 yesterday 16 hours before I was expected to vote on
18 them.

19 At this point, Mr. Chairman, I would
20 like to make a recommendation, and I realize that
21 all of our staff work very hard, and we have
22 excellent people on the staff, but I want to

1 recommend that when we are dealing with sub-edits,
2 substantive edits, that there be at least 24 hours
3 given to the Commissioners to review these edits.

4 Now I have no problem with
5 non-sub-edits being dropped at the very, very last
6 minute, but in a case like this where it was
7 well-known -- because I had a conversation with
8 Commissioner Maye, and I had problems with the edits
9 and the original edits -- we should allow a little
10 more time so that we can prepare our review.

11 Having time for only a quick review, I
12 can still see these edits with regard to the
13 rule-making purposes, and I think Staff and the ALJ
14 did a very good job of dealing with a very important
15 issue -- a controversial issue.

16 As a matter of fact, there was
17 legislation introduced on March 11th by Senator
18 Duffy to get the problem of contributions being
19 made -- donations being made in a way that some may
20 feel are questionable in ways that are questionable,
21 and it's the Commission's role to protect
22 ratepayers.

1 I personally want to see even more
2 contributions made to non-for-profits, but I want to
3 make sure that they're made in the appropriate
4 manner, and we have to question whether someone
5 being honored, a president of a company is being
6 honored -- agencies or non-for-profit organizations
7 that decide that they're going to honor someone,
8 because they know that in honoring someone -- a
9 utility president, for example -- they are able then
10 to get a large contribution.

11 And, technically, I don't see anything
12 wrong with that, but if the utilities are going to
13 be able to use these contributions to get positive
14 press coverage and to continue to build their image
15 and these contributions are being paid for by
16 ratepayers, then the ratepayers should be aware of
17 where those contributions are going and how much of
18 their money is being used for this purpose.

19 The elements required by Staff's
20 proposed rule form a required determination in the
21 just and reasonable analysis that expenditures are
22 reasonable and prudently incurred. These edits also

1 delete an entire section of the proposed rule
2 concerning disclosure to donators and ratepayers
3 severely limiting the transparency and
4 accountability of more than 10 million a year in
5 ratepayer money.

6 And, for this reason, I, with all due
7 respect, will be voting no on the edits and will
8 also be filing a dissenting vote on this Order.
9 Thank you.

10 CHAIRMAN SHEAHAN: Thank you, Commissioner.

11 Any other discussion? Commissioner
12 Rosales.

13 COMMISSIONER ROSALES: Mr. Chairman, the statute
14 and the Supreme Court's interpretation of the
15 statute provides very clear parameters for the
16 Commission with respect to charitable contributions,
17 and, with that, I would be voting yes on both the
18 edits and on the Order.

19 CHAIRMAN SHEAHAN: Thank you.

20 Any further discussion?

21 COMMISSIONER MAYE EDWARDS: Mr. Chairman, I did
22 want to apologize for the tardiness of the edits. I

1 apologize to all of the other offices about that.

2 CHAIRMAN SHEAHAN: I don't know that an apology
3 is necessary. I think that's something we can talk
4 about as a Commission.

5 I would note -- I would just note, and
6 I think that this is important, you know, these
7 contributions are legal under the Illinois law.
8 That is a decision that the legislature and Governor
9 made. Efforts over the years to amend and change
10 those provisions have failed. The legislation that
11 is currently before the legislature didn't get out
12 of the Rules Committee in the Senate.

13 The fact is that the Commerce
14 Commission has a very limited role by statute
15 in reviewing the propriety of these contributions
16 is limited determining their purpose and
17 making sure that the purpose is within
18 statutorily-prescribed areas and, second, that the
19 contributions are reasonable in amount.

20 And so to the extent that there are
21 parties who wish to have more information than that,
22 you know, there are avenues to amend the statute

1 legislatively and expand our authority to request
2 that information, and I think many other
3 Commissioners think that, you know, this rule ought
4 to keep closely to the statute out of respect to our
5 legislatively mandated role, and I think to the
6 contrary some statements made, you know, this rule
7 requires significantly more information from the
8 utilities, and it's a good step, and I think it's
9 good amendments, and I commend Commissioner Edwards
10 for her work on this.

11 Is there any other discussion before
12 we have a vote on the edits?

13 (No response.)

14 With that, all those in favor of
15 adopting the edits, say aye.

16 (Chorus of ayes.)

17 Those opposed, say nay.

18 COMMISSIONER del VALLE: Nay.

19 CHAIRMAN SHEAHAN: The vote is 4 to one and the
20 edits are adopted.

21 I would like to entertain a motion to
22 approve the Order as edited.

1 COMMISSIONER ROSALES: So move.

2 CHAIRMAN SHEAHAN: Is there a second?

3 COMMISSIONER McCABE: Second.

4 CHAIRMAN SHEAHAN: Is there any discussion?

5 (No response.)

6 All those in favor, say aye.

7 (No response.)

8 Opposed, say nay.

9 COMMISSIONER del VALLE: Nay.

10 CHAIRMAN SHEAHAN: The motion on the Order as
11 edited is 4 to one and the Order as edited passes.

12 Item PR-1 concerns Petitions for
13 Rehearing filed regarding Grain Belt Express Clean
14 Line's Application for a Certificate of Public
15 Convenience and Necessity. There are several
16 matters before us this morning. The first is a
17 motion to deny the Farm Bureau Concern Citizens'
18 request for Oral Arguments.

19 Is there a motion?

20 COMMISSIONER McCABE: So move.

21 CHAIRMAN SHEAHAN: Is there a second?

22 COMMISSIONER MAYE EDWARDS: Second.

1 CHAIRMAN SHEAHAN: Is there any discussion?

2 All those in favor of denying the
3 request for Oral Arguments, say aye.

4 (Chorus of ayes.)

5 Opposed say nay.

6 (No response.)

7 The ayes have it and the request is
8 denied.

9 Is there a motion to deny the
10 Applications for Rehearing on the issue of Public
11 Utility Status? And, for the record, I would just
12 note that there are multiple requests for rehearing
13 from multiple parties and we are going to treat
14 these motions by subject matter rather than by
15 itself.

16 So this is a motion to deny
17 Applications for Rehearing all of them on the issue
18 of Public Utility Status. Is there a motion?

19 COMMISSIONER MAYE EDWARDS: So move.

20 CHAIRMAN SHEAHAN: Is there a second?

21 COMMISSIONER ROSALES: Second.

22 CHAIRMAN SHEAHAN: Is there any discussion?

1 (No response.)

2 All those in favor of denying the
3 Applications for Rehearing, say aye.

4 (Chorus of ayes.)

5 Opposed say nay.

6 COMMISSIONER MAYE EDWARDS: Aye.

7 COMMISSIONER del VALLE: No.

8 COMMISSIONER McCABE: No.

9 COMMISSIONER ROSALES: Aye.

10 CHAIRMAN SHEAHAN: Aye.

11 The vote is 3 to 2 and the Motions for
12 Rehearing on the issue of Public Utility Status are
13 denied.

14 Is there a motion to deny the
15 Applications for Rehearing on all other issues by
16 all other parties?

17 COMMISSIONER MAYE EDWARDS: So move.

18 CHAIRMAN SHEAHAN: Is there a second?

19 COMMISSIONER ROSALES: Second.

20 CHAIRMAN SHEAHAN: Is there any discussion?

21 (No response.)

22 All those in favor of denying the

1 Applications for Rehearing, say aye.

2 (Chorus of ayes.)

3 Opposed, say nay?

4 (No response.)

5 Any abstentions?

6 (No response.)

7 The vote is 4 ayes with no nays and no
8 abstentions, and the motion is --

9 COMMISSIONER MAYE EDWARDS: Mr. Chairman --

10 CHAIRMAN SHEAHAN: -- adopted.

11 COMMISSIONER MAYE EDWARDS: -- I'm not sure we
12 have 4 ayes and no nays and no abstentions.

13 CHAIRMAN SHEAHAN: Sure. We have a Commissioner
14 who doesn't vote, doesn't abstain, so we had a
15 motion on the issue of the Public Utilities to deny
16 those, and this is to deny all of the other motions.

17 COMMISSIONER del VALLE: Okay. I vote nay.

18 CHAIRMAN SHEAHAN: Let the record reflect the
19 vote is 4 to one, 4 ayes, one nay, and the motions
20 are denied.

21 COMMISSIONER del VALLE: Okay.

22 CHAIRMAN SHEAHAN: Finally, we have a --

1 COMMISSIONER del VALLE: I'm sorry. My no vote
2 was under Public Utility Status --

3 CHAIRMAN SHEAHAN: Okay. We have got that.

4 COMMISSIONER del VALLE: -- and yes on all the
5 others.

6 CHAIRMAN SHEAHAN: Oh, yes, on all the others?

7 COMMISSIONER del VALLE: Yes. Yes, for the
8 record.

9 CHAIRMAN SHEAHAN: So the record should reflect
10 that the vote to deny all the other Applications for
11 Rehearing by all other parties is 5 to zero.

12 So now we are on the vote for the
13 mandatory Order.

14 Is there a motion to adopt the
15 mandatory Order?

16 COMMISSIONER MAYE EDWARDS: So move.

17 CHAIRMAN SHEAHAN: Is there a second?

18 COMMISSIONER ROSALES: Second.

19 CHAIRMAN SHEAHAN: Is there any discussion?

20 (No response.)

21 All those in favor of approving the
22 mandatory Order, say aye.

1 (Chorus of ayes.)

2 Opposed, say nay.

3 COMMISSIONER McCABE: Nay.

4 CHAIRMAN SHEAHAN: The vote is 4 to one and the
5 mandatory Order is entered.

6 Judge Kimbrel, do we have any other
7 matters to come before the Commission this morning?

8 JUDGE KIMBREL: There's nothing further,
9 Mr. Chairman.

10 CHAIRMAN SHEAHAN: Commissioners, do any of you
11 have any other business to bring before the
12 Commission this morning?

13 Commissioner del Valle.

14 COMMISSIONER del VALLE: Just one. I wish
15 everyone a Merry Christmas and a happy holiday.

16 CHAIRMAN SHEAHAN: Thank you. I would second
17 that.

18 Unless there's anything else, we stand
19 adjourned. Thank you.

20 (Whereupon, the above
21 matter was adjourned.)

22