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BEFORE THE
ILLINOIS COMMERCE COMMISSION

PUBLIC UTILITY SPECIAL OPEN MEETING

Chicago, Illinois
December 28, 2009

Met pursuant to notice at 1:30 p.m.

BEFORE:

MR. CHARLES E. BOX, Chairman

MS. ERIN M. O'CONNELL-DIAZ, Commissioner

MR. SHERMAN J. ELLIOTT, Commissioner
(via teleconference)

MR. JOHN T. COLGAN, Commissioner
(Via teleconference)

SULLIVAN REPORTING COMPANY, by
Tracy L. Overocker, CSR

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1 CHAIRMAN BOX: All right. Is everything ready
2 in Springfield?

3 Pursuant to the provisions of the
4 Illinois Opening Meetings Act, I now convene a
5 special open meeting of the Illinois Commerce
6 Commission. With me in Chicago is Commissioner
7 O'Connell-Diaz and joining us by video conference in
8 Springfield are Commissioners Elliott and Colgan. I
9 am Chairman Box and we do have a quorum.

10 As I indicated, the Commission wishes
11 to express its condolences to Commissioner Ford,
12 whose mother passed away yesterday in Arkansas. I
13 think that's why she's not going to be on the call
14 this morning. She had intended to join us.

15 Is there -- before moving to the
16 agenda, this is the time we allow the members of the
17 public to address the Commission. Members of the
18 public wishing to address the Commission must notify
19 the Chief Clerk's Office at least 24 hours prior to
20 the bench session. According to the Chief Clerk's
21 Office, they have received no requests to speak.

22 We have one item on today's agenda and

1 following that, I would like to recognize several
2 Commission Staff who are moving on or are retiring.

3 Item 1 is Docket 09-0373, the Illinois
4 Power Agency's petition for approval of its initial
5 procurement plan. We have several amendments to the
6 order to consider.

7 My office has circulated an amendment
8 regarding the simultaneous short-term REC auction.
9 This amendment adopts the IPA's proposal to have a
10 simultaneous auction for RECs. In doing so, the
11 amendment also adopts the Staff's alternative
12 proposal, which requires the IPA to address the
13 Staff's questions raised in developing the RFPs.

14 Is there a motion to adopt this
15 amendment?

16 COMMISSIONER ELLIOTT: So moved.

17 CHAIRMAN BOX: Is there a second?

18 COMMISSIONER O'CONNELL-DIAZ: Second.

19 CHAIRMAN BOX: It's been moved and seconded.

20 All in favor say "aye."

21 (Chorus of ayes.)

22 Opposed?

1 (No response.)

2 The vote is 4-0. That amendment
3 passes.

4 Next, Commissioner Elliott circulated
5 amendments on the proposed demand response capacity
6 procurement.

7 Commissioner Elliott.

8 COMMISSIONER ELLIOTT: Yes, Mr. Chairman.
9 Along the lines of a lot of the discussion in the
10 order, it was my understanding and my reading of the
11 record that there would be little to no benefit in DR
12 in the ComEd territory with the structure of the
13 existing RPM market and so to that end, I changed the
14 order's language to not have the DR pursued in the
15 ComEd territory as not being cost effective.

16 CHAIRMAN BOX: Is there a motion?

17 COMMISSIONER ELLIOTT: That would be my
18 motions.

19 CHAIRMAN BOX: Is there a second?

20 COMMISSIONER COLGAN: Second.

21 CHAIRMAN BOX: Moved and seconded. Any other
22 comments or discussion?

1 (No response.)

2 All in favor say "aye."

3 (Chorus of ayes.)

4 Opposed?

5 (No response.)

6 The vote is 4-0. That amendment
7 passes also.

8 Next on the next provision, there are
9 two different proposed amendments that have been
10 circulated. First, we'll go to Commissioner Elliott.
11 You have a proposed amendment?

12 COMMISSIONER ELLIOTT: Yes, Mr. Chairman.
13 Again, consistent with the Commission decision on the
14 issue of long-term renewable issues in the last IPA
15 order, I have found in my analysis of this case that
16 there's still significant issues that remain to be
17 resolved in my mind. And, certainly, had I been
18 aware of this prior to the question of whether we
19 were to have hearings, it certainly would have
20 changed my perspective on that decision as well.

21 So to that end, I've changed the
22 conclusions in the order to not allow long-term RECs

1 at this point, but to seek workshops with
2 stakeholders, again, as we directed in our order last
3 year with regard to this issue, though I think in the
4 language I set forth, it's been much more extensive
5 in the direction to the parties as to what we'd like
6 to see the parties address, particularly, with regard
7 to impacts to the developing competitive market for
8 the residential customers. I just think that there
9 are a significant number of questions with regard to
10 this significant change in policy to obligate
11 customers for two decades when just in the last
12 decade, we've seen such a remarkable change in the
13 marketplace for electricity. I think that we can
14 clearly meet our renewable goals through short-term
15 RECs as we've done in the past procurement and not
16 damage any effects with regard to that while these
17 issues are more clearly delineated in my mind. And
18 so I would offer this language as an alternative and
19 open up for discussion.

20 CHAIRMAN BOX: Okay. First of all, is there a
21 second to that motion?

22 (No response.)

1 The motion died for lack of a
2 second.

3 My office has also served
4 amendments concerning the long-term renewable portion
5 of the order. My amendment accepts the
6 Administrative Law Judge's long-term renewable
7 proposal for the 2010-2011 procurement cycle, but
8 also requires the IPA, working with all the parties,
9 including our Office of Retail Market Development, to
10 convene public workshops on the merits and drawbacks
11 of long-term contracts during the next year and
12 before the filing of the next procurement plan.

13 I think a lot of that's in the
14 evidence to the amendment and the reason being this
15 is -- I think in 2012, the renewable must constantly
16 be 7 percent of the procurement of the parties, which
17 means the long-term contracts are 5 and a half of
18 that or 3 and a half percent. There's a lot of
19 discussion and concern about the transparency and
20 openness of the process. My amendment would allow
21 the IPA and the parties to proceed and with the RFPs
22 to see if, in fact, long-term contract survival for

1 the year beginning June 1st, 2012; but in the next
2 12 months having discussions that really should have
3 taken place before we entered this contract. We
4 realize that it's only 3 and a half percent and other
5 issues concerning the docket, I could live with it;
6 but as long as those workshops and those other public
7 meetings that proceed take place between now and the
8 time that the IPA files its next procurement plan,
9 that's my amendment.

10 Is there a second?

11 COMMISSIONER COLGAN: Second.

12 CHAIRMAN BOX: It's been moved and seconded.

13 Further discussion?

14 Commissioner O'Connell-Diaz.

15 COMMISSIONER O'CONNELL-DIAZ: Chairman, also
16 Commissioner Elliott, I appreciate the work that your
17 office did with regard to the changes that you have
18 presented to us. This is a very tough position for
19 the Commission to be in. Normally in our proceedings
20 we have, you know, hearings and records and all these
21 good things that the Commission can look at and what
22 we have here is an agreement that the parties came to

1 which it is really not fair to the Commission because
2 the record is not as robust as we normally would see
3 and from that standpoint, you know, I believe that
4 Commissioner Elliott's revisions are appropriate and
5 called for.

6 However, given the fact that we do
7 have the benchmarks that I believe will ultimately
8 protect our consumers from any type of inordinate
9 rate shock that might come from these contracts that
10 are the subject of this docket and I really did have
11 to set aside my feelings with regard to the openness
12 and I hate the word "transparency," because this
13 process was anything but transparent. I believe what
14 the Commission was given was a totally new plan in
15 early November and it had to be decided by today and
16 it was extremely disappointing and that the record
17 wasn't developed in the manner that I believe
18 Commission proceedings are supposed to be developed
19 and assist the Commission in being able to understand
20 the party's position in a very clear and concise
21 manner so that we can do our job.

22 When parties get together and they

1 come to an agreement, that's what -- we do encourage
2 that; however, there were many unanswered questions
3 that we struggled with when it was first presented to
4 us and during oral argument -- I think it was very
5 clear during oral argument how -- what was magic
6 about the 20-year contract period? I still don't
7 know about that answer. So I'm glad to see that the
8 Chairman has put in the changes that he's put forward
9 to -- I can't use the word "requirement," but that
10 there be a workshop process, within our order -- I
11 know everyone can read English -- should have been
12 going on and we would not be sitting here today with
13 unanswered questions. It's a very tough job for a
14 Commissioner to be sitting here and have questions
15 about something that they're doing that they want to
16 do right to protect consumers and it's up to the
17 parties to bring that forward to the Commission.

18 That was not done here in the way
19 that we are used to seeing. It was very troubling,
20 but it is -- I believe we do have backstops and I
21 know Judge Jones spoke about the benchmarking
22 procedures that will be developed as we moved

1 forward, and so that ultimately will be -- in my
2 mind, that will be where the rubber meets the road
3 and that consumers will be protected; but in our
4 future procurement plans, I don't ever want to see
5 something like this. This just did not give the
6 Commission what we really did need on our plate in
7 order to make just a little bit cleaner
8 decision-making process. So I thank both
9 Commissioner Elliott and the Chairman for their work
10 on this.

11 CHAIRMAN BOX: Further discussion of the
12 amendment?

13 COMMISSIONER COLGAN: Mr. Chairman, I support
14 your amendment to the order and -- but I'd also like
15 to say that I do appreciate Commissioner Elliott's
16 genuine effort and concern about this proposal. I
17 know that he put that forward in good faith and with
18 some good basis under his thinking.

19 I also support the number of comments
20 that Commissioner O'Connell-Diaz has just made. Not
21 having been a part of the process last year, I know
22 it would be very concerning to me to have put forward

1 that sincere request for that workshop process to
2 occur and for it to not occur, I can understand how
3 that would be disconcerting, to say the least. But
4 on balance, I think that the order makes the case and
5 opens up the opportunity to at least have a process
6 put in place to bring forward the benchmarks which
7 will come back to the Commission and hopefully this
8 can all work out for the better and for the good of
9 the people.

10 So that's my comments.

11 CHAIRMAN BOX: Further discussion?

12 (No response.)

13 The vote on the proposed amendment,
14 all in favor say "aye."

15 COMMISSIONER O'CONNELL-DIAZ: Aye.

16 COMMISSIONER COLGAN: Aye.

17 (Chorus of ayes.)

18 Opposed?

19 COMMISSIONER ELLIOTT: No.

20 CHAIRMAN BOX: The amendment passes, 3-1.

21 Is there a motion to accept the
22 order as amended with the three amendments?

1 COMMISSIONER O'CONNELL-DIAZ: So moved.

2 CHAIRMAN BOX: Is there a second?

3 COMMISSIONER COLGAN: Second.

4 CHAIRMAN BOX: It's been moved and seconded to
5 accept the order as amended with the three
6 amendments. All in favor say "aye."

7 (Chorus of ayes.)

8 Opposed?

9 COMMISSIONER ELLIOTT: No. And I'll probably
10 file a dissenting opinion.

11 CHAIRMAN BOX: The vote is 3 to 1 and the order
12 is passed. The order as amended is passed.

13 Once again, hopefully, this will bring
14 this particular round to a close. I think everything
15 has been said by all the parties. I have to
16 reinforce the concern of Commission Elliott who
17 looked at the language, a lot of my assistants and
18 the other -- the language on the proposed workshops
19 with a lot of his work that he had, so this is not
20 our people just being at odds. I think we all wanted
21 the same thing, but we all had different comfort
22 levels as to where we are and how important this

1 first draft was and the impact on the
2 competitiveness, the impact on future people going
3 into business. Once again, this workshop process, we
4 hope the parties will take seriously, hopefully it
5 will clear up some of those issues.

6 COMMISSIONER COLGAN: Mr. Chairman, I just want
7 to comment that I appreciate you retaining that
8 language. I just -- my comfort level, just to allow
9 it to go forward without that process occurring
10 beforehand, was -- I just -- it just seemed a -- cart
11 before the horse. So...

12 CHAIRMAN BOX: I understand.

13 Before concluding, I'd like to
14 recognize that several of our colleagues are moving
15 on to other endeavors.

16 Is Bill Voss available in Springfield?

17 A VOICE: He is not in the room. He is
18 listening, though. I understand that he is listening
19 in.

20 CHAIRMAN BOX: Well, if he's here, I need to
21 ask him to please approach the table; if he's
22 listening in his office, he's --

1 MR. GENE BEYER: As a proxy, Gene Beyer will
2 approach the table.

3 CHAIRMAN BOX: Bill began his career at the ICC
4 in March of 1989, and has worked 20-plus years in the
5 Accounting Department as a technical assistant to the
6 Financial Analysis Division director.

7 During those years, he has worked on
8 many cases and special projects, and has been an
9 excellent source of information and analysis not only
10 for the ICC, but also the Governor's Office, the
11 Senate and House staffers, the Attorney General's
12 Office and other state agencies including Revenue and
13 the IEPA. Bill has consistently provided
14 high-quality work products, and has been a valuable
15 assistant to the Administrative Law Judges and
16 Commissioners over the years. His attention to
17 quality in his testimony, in reports to the General
18 Assembly, and his reviews of legislation and all
19 other projects --

20 COMMISSIONER FORD: This is Commissioner Ford.

21 CHAIRMAN BOX: Welcome. First of all, we'd
22 like to express our condolences to you and your

1 family on the passing of your mother.

2 COMMISSIONER FORD: Thank you so much.

3 CHAIRMAN BOX: We didn't know if you were
4 joining us. We've just concluded that part of our
5 meeting.

6 COMMISSIONER FORD: Oh, that's fine. I'm
7 sorry. I was delayed on business.

8 CHAIRMAN BOX: I fully understand.

9 COMMISSIONER FORD: I'm sorry.

10 CHAIRMAN BOX: Bye.

11 -- attention to the quality in his
12 testimony, in reports to the General Assembly, in his
13 reviews of legislation and all other projects in
14 which he played a role is second to none.
15 Congratulations to Bill, he will be missed; but Gene,
16 you are going to be there and we will see you
17 tomorrow.

18 MR. GENE BEYER: I'm also here for Ron
19 Linkenback.

20 CHAIRMAN BOX: Oh, okay.

21 Next is Mr. Ron Linkenback. He's not
22 going to approach the table either. He's worked in

1 the Electrical Engineering Program since
2 September 1998. He began as a senior electrical
3 engineer and later became section supervisor. His
4 career here has varied from engineering analyst, to
5 assistant to Administrative Law Judges, to oversight
6 of outside consultants for many special projects.
7 Ron was involved in countless cases including
8 electric line certificates, rate cases, electric
9 reliability and nuclear decommissioning, ARES
10 reviews, and electric outage investigations. He has
11 always provided high-quality testimony and other work
12 products and has earned great respect from his
13 coworkers. He also will be greatly missed.

14 Last but not least, if we can get our
15 hands on her, she is here, Shauna Kelley, will you
16 approach the table?

17 We also want to recognize Shauna
18 Kelley for her six years of service to the Illinois
19 Commerce Commission and to the People of the State of
20 Illinois. Shauna joined the Commission in 2003,
21 serving as a legal assistant to Commissioner
22 O'Connell-Diaz. In 2006, she was named head of the

1 ICC's Transportation Bureau, overseeing the
2 implementation of rail safety, household goods
3 moving, towing and trucking policies and laws. She
4 worked with her staff to actively promote community
5 education and outreach programs, greater consumer
6 protection in the moving and towing industries and
7 safer highway-rail crossings throughout the state.

8 Thank you from all of us.

9 COMMISSIONER O'CONNELL-DIAZ: Chairman, if I
10 might, I'd just like to thank Shauna. She was my
11 assistant and came here and really came from the
12 private sector to a federal court work. She was like
13 a real lawyer. And when she came and started working
14 in the Energy sector, she immediately dug in and
15 really went to it and it was great to see her move
16 over to the Transportation. And in my role as the
17 chair of the Transportation Committee for the
18 Commission, I'm out there with a lot of our Railroad
19 and Transportation folks talking to them and it's a
20 very, very positive response that I get from the
21 industry as well as our municipalities and every one
22 that has to deal with the Commission in the

1 transportation section and Shauna has really brought
2 a bright light on the good work that our Commission
3 does do in that area and we've also had --
4 legislation that has occurred during Shauna's
5 chairing of that area and she's implemented that and
6 has done a really good job and we are really lucky to
7 have had her.

8 I know she's going to go spend time
9 with her two little kids at home and be a mom for a
10 little bit, which is a real good thing, and she's
11 lucky she can do that. So I wish her the best and I
12 know that you'll pop up somewhere else in a couple
13 years when we don't really -- have you at center
14 stage and we look forward to that.

15 MS. SHAUNA KELLEY: Thank you so much. I
16 appreciate everything. It's been great working here
17 with Erin and the Commissioners and then in the
18 Transportation Bureau and the staff that works for me
19 has just been the best. I mean, they're just very
20 professional and wonderful people at the Commission.
21 It's a hard decision but hoping it's the right one.
22 And thank you very much.

1 CHAIRMAN BOX: Thank you.

2 COMMISSIONER O'CONNELL-DIAZ: Good luck.

3 CHAIRMAN BOX: Judge Wallace, anything else to
4 come before us today?

5 JUDGE WALLACE: No, Mr. Chairman.

6 CHAIRMAN BOX: Okay. I would like to provide
7 notice that the issues for the oral arguments
8 scheduled for January 5th in the Peoples Gas/North
9 Shore rate case are Rider ICR as requested by the
10 Attorney General and the ROE as requested by the
11 utility itself, that will be at, I think,
12 2:00 o'clock on January 5th after the pre-bench.

13 Hearing nothing further, the meeting
14 is adjourned.

15 (Whereupon, the public special open
16 meeting was adjourned.)

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