

1 CHAIRMAN SCOTT: Moving on to Public Utilities,
2 we will begin today with approval of minutes from
3 prior Commission meetings. Up first are minutes of
4 the January 25 Bench Session. I understand
5 amendments have been forwarded.

6 Is there a motion to amend the
7 minutes?

8 COMMISSIONER ELLIOTT: So moved.

9 CHAIRMAN SCOTT: Is there a second?

10 COMMISSIONER COLGAN: Second.

11 CHAIRMAN SCOTT: It's been moved and seconded.

12 All in favor say aye.

13 COMMISSIONERS: Aye.

14 CHAIRMAN SCOTT: Any opposed?

15 (No response.)

16 The vote is five to nothing, and the
17 amendments are adopted.

18 Is there now a motion to approve the
19 January 25 minutes as amended?

20 COMMISSIONER ELLIOTT: So moved.

21 CHAIRMAN SCOTT: Is there a second?

22 COMMISSIONER COLGAN: Second.

1 CHAIRMAN SCOTT: It's been moved and seconded.

2 All in favor say aye.

3 COMMISSIONERS: Aye.

4 CHAIRMAN SCOTT: Any opposed?

5 (No response.)

6 The vote is five to nothing, and the
7 January 25 Bench Session minutes as amended are
8 approved.

9 Next up are minutes from our January
10 31 Regular Open Meeting. I understand amendments
11 have been forwarded. Is there a motion to amend the
12 minutes?

13 COMMISSIONER ELLIOTT: So moved.

14 CHAIRMAN SCOTT: Is there a second?

15 COMMISSIONER COLGAN: Second.

16 CHAIRMAN SCOTT: It's been moved and seconded.

17 All in favor say aye.

18 COMMISSIONERS: Aye.

19 CHAIRMAN SCOTT: Any opposed?

20 (No response.)

21 The vote is five to nothing, and the
22 amendments are adopted.

1 Is there now a motion to approve the
2 January 31 minutes as amended?

3 COMMISSIONER COLGAN: So moved.

4 CHAIRMAN SCOTT: Is there a second?

5 COMMISSIONER ELLIOTT: Second.

6 CHAIRMAN SCOTT: It's been moved and seconded.

7 All in favor say aye.

8 COMMISSIONERS: Aye.

9 CHAIRMAN SCOTT: Any opposed?

10 (No response.)

11 The vote is five to nothing, and the
12 January 31 Regular Open Meeting minutes as amended
13 are approved.

14 Turning next to the Electric portion
15 of today's agenda, Item E-1 (12-0132) concerns the
16 initiation of a proceeding for the evaluation of
17 MidAmerican's energy efficiency programs pursuant to
18 Section 8-408(d) of the Public Utilities Act. Staff
19 recommends entry of an Order initiating the
20 proceeding.

21 Is there any discussion?

22 (No response.)

1 Is there a motion to enter the Order?

2 COMMISSIONER ELLIOTT: So moved.

3 CHAIRMAN SCOTT: Is there a second?

4 COMMISSIONER COLGAN: Second.

5 CHAIRMAN SCOTT: It's been moved and seconded.

6 All in favor say aye.

7 COMMISSIONERS: Aye.

8 CHAIRMAN SCOTT: Any opposed?

9 (No response.)

10 The vote is five to nothing, and the
11 Order is entered.

12 We will use this five to nothing vote
13 for the remainder of the Public Utility agenda unless
14 otherwise noted.

15 Item E-2 concerns a filing by
16 MidAmerican seeking changes related to its
17 Interruptible Service and Curtailment Service riders.
18 Staff recommends that the Commission grant the
19 company's request by not suspending the filing.

20 Is there any discussion?

21 (No response.)

22 Any objections?

1 (No response.)

2 Hearing none, the filing will not be
3 suspended.

4 Item E-3 concerns a filing by ComEd
5 seeking revisions to its Rider UF regarding supply
6 base uncollectible cost factors. Staff recommends
7 that the Commission grant the company's request by
8 not suspending the filing.

9 Is there any discussion?

10 (No response.)

11 Any objections?

12 (No response.)

13 Hearing none, the filing will not be
14 suspended.

15 Item E-4 is Docket Number 07-0566.

16 This is ComEd's 2007 rate case on remand from the
17 Appellate Court. ALJ Haynes recommends entry of an
18 Order on Remand finding that the Commission does not
19 have authority to order a refund consistent with the
20 Appellate Court's opinion.

21 I have circulated some revisions on
22 this item. My revisions adopt the position of Staff

1 and other Intervenors in concluding that the
2 Appellate Court's decision does vest the Commission
3 with authority to order a refund consistent with the
4 Commission's recalculation of rate base. The
5 revisions conclude that the Appellate Court's
6 decision to remand the matter to the Commission for
7 "further proceedings consistent with its opinion"
8 envision the Commission giving actual effect to the
9 Appellate Court's opinion in accordance with the
10 recalculation, thus resulting in a refund of \$36.7
11 million previously charged to consumers under
12 unlawful rates.

13 I move for adoption of these
14 revisions.

15 COMMISSIONER ELLIOTT: Second.

16 CHAIRMAN SCOTT: It's been moved and seconded.
17 Are there further discussions on these revisions?

18 COMMISSIONER O'CONNELL-DIAZ: Chairman?

19 CHAIRMAN SCOTT: Yes.

20 COMMISSIONER O'CONNELL-DIAZ: Well, I guess you
21 are going to vote on your revisions, but I just have
22 a couple comments.

1 CHAIRMAN SCOTT: Sure.

2 COMMISSIONER O'CONNELL-DIAZ: First of all, I
3 would like to thank Judge Haynes for, was it back in
4 November, we got the Order that we have before us and
5 I think it was very well thought out, a very complete
6 Order. And it wasn't until this Tuesday at about
7 four o'clock that I saw the revisions that the
8 Chairman has put before us, and they are different
9 obviously than what Judge Haynes has put before us.

10 We have also -- I have also had the
11 Office of General Counsel look at this issue. I
12 think it is very important for this body to act
13 within its authority. In fact, I think it is quite
14 telling when we have a resolution from the General
15 Assembly that's telling us that we are a body that is
16 an administrative agency that was created by statutes
17 and we kind of need to stay within our boundaries.

18 So with that I think that, you know, I
19 appreciate the work that your office has done in
20 regard to these revisions. I think, as we have been
21 advised by counsel, that -- he didn't use the term
22 "slippery slope" but that there is two ways of

1 looking at this issue.

2 It is my understanding the majority is
3 in favor of going with your revisions. I find it
4 problematic, but I do in the spirit of collegiality
5 go along with the majority. But I think that we need
6 to be very careful when we are kind of going out, I
7 think, somewhat on a limb and implying words that the
8 Appellate Court did not use in their remand. And I
9 think, as Judge Haynes said, that that could be
10 thought of as the easier way to go as opposed to the
11 more difficult way.

12 And I do understand that the
13 Commission is a body of limited jurisdiction, and so
14 for me it is a tough call and there is murky waters
15 on both sides. And I appreciate that the Chairman's
16 office worked on this, and it is just a difficult
17 issue.

18 Thank you.

19 CHAIRMAN SCOTT: Thank you, Commissioner
20 O'Connell-Diaz.

21 Further discussion? Commissioner
22 Colgan?

1 COMMISSIONER COLGAN: I fully understand your
2 comments, Commissioner, and I think that this is a
3 decision that caused some, you know, deliberation in
4 terms of which way this should go. And I came down
5 on the side of I didn't think that the argument that
6 we didn't have the authority was convincing, and
7 decided to move forward on the basis that it appears
8 to me that we do have the authority. If it is not
9 actually stated, it is, I think, clearly implied that
10 the Court intended for us to do this. So that's my
11 comment.

12 COMMISSIONER ELLIOTT: Yeah, I would agree. I
13 think -- you know, I would like to thank John
14 Kelliher for getting a quick turnaround of a very
15 informative memo sort of outlying the murky waters
16 that we are in. But I thought that memo was helpful
17 as well.

18 COMMISSIONER FORD: I certainly try to think
19 that I can analyze, synthesize and evaluate
20 information. And I always when I was a principal
21 said I like to err on the side of the child. And
22 this time if I err, it would be on the side of the

1 ratepayers. So I think that I am in the right field
2 this time.

3 COMMISSIONER O'CONNELL-DIAZ: Well, and I think
4 there is solace in that if we are not doing the right
5 thing, that there would be an appeal process that
6 will go forward. So we will get knocked back into
7 our spot if we have overstepped our boundaries.

8 CHAIRMAN SCOTT: The revisions have been moved
9 and seconded. Is there further discussion?

10 (No response.)

11 All in favor say aye.

12 COMMISSIONERS: Aye.

13 CHAIRMAN SCOTT: Any opposed?

14 (No response.)

15 The vote is five to nothing, and the
16 revisions are adopted.

17 Is there further discussion on this
18 matter?

19 (No response.)

20 I will move to adopt the Order on
21 Remand as revised. Is there a second?

22 COMMISSIONER ELLIOTT: Second.

1 CHAIRMAN SCOTT: It's been moved and seconded.

2 All in favor say aye.

3 COMMISSIONERS: Aye.

4 CHAIRMAN SCOTT: Any opposed?

5 (No response.)

6 The vote is five to nothing, and the
7 Order on Remand as revised is entered.

8 And I would like to join the other
9 Commissioners who have already spoken on this but,
10 first of all, I thank Judge Haynes for her work on
11 this. She put a lot of work on this, and especially
12 for her patience and the parties' patience. As
13 Commissioner O'Connell-Diaz pointed out, it has been
14 quite awhile since the Order was entered and it's
15 just been in front of us for quite a while, and I
16 appreciate her patience and the parties' patience.
17 And also Attorney Kelliher for, as Commissioner
18 Elliott mentioned, a very quick turnaround on those
19 issues. So I really appreciate John's work on that
20 as well.

21 Item E-5 is Docket Number 11-0144.

22 This is Peter Fletcher's complaint against ComEd.

1 This item will be held for disposition at a future
2 Commission proceeding.

3 Item E-6 is Docket Number 11-0438.
4 This is Carmen Rosa Pellarieta's complaint against
5 ComEd. The parties have apparently settled their
6 differences and brought a Joint Motion to Dismiss
7 which ALJ Benn recommends we grant.

8 Is there any discussion?

9 (No response.)

10 Any objections?

11 (No response.)

12 Hearing none, the Motion to Dismiss is
13 granted.

14 Item E-7 is Docket Number 11-0609.

15 This is ComEd's Rider UF uncollectibles cost
16 reconciliation case. ALJ Wallace recommends entry of
17 an Order approving the reconciliation.

18 Is there any discussion?

19 (No response.)

20 Any objections?

21 (No response.)

22 Hearing none, the Order is entered.

1 Item E-8 is Docket Number 12-0031.
2 This is Ameren's petition for the approval of the
3 purchase and sale of property in Princeton. The
4 company has moved to withdraw its petition, and ALJ
5 Yoder recommends granting the withdrawal.

6 Is there any discussion?

7 (No response.)

8 Any objections?

9 (No response.)

10 Hearing none, the petition is
11 withdrawn.

12 Item E-9 is Docket Number 12-0058.

13 This is Starion Energy PA's application for a
14 Certificate of Service Authority to operate as an
15 alternative retail electric supplier. ALJ Yoder
16 recommends entry of an Order granting the requested
17 certificate.

18 Is there any discussion?

19 (No response.)

20 Any objections?

21 (No response.)

22 Hearing none, the Order is entered.

1 Item E-10 is Docket Number 12-0059.
2 This is ComEd's application for authorization to
3 issue \$1.319 billion in securities for purposes of
4 refinancing. ALJ Kimbrel recommends entry of an
5 Order granting the requested relief.

6 Is there any discussion?

7 (No response.)

8 Any objections?

9 (No response.)

10 Hearing none, the Order is entered.

11 Item E-11 is Docket Number 12-0080.

12 This is Ameren's petition seeking authorization for
13 the construction of a transmission line in Champaign
14 County. Before us today is a Motion to Extend the
15 deadline for Commission action in this case, and ALJ
16 Von Qualen recommends granting the motion.

17 Is there any discussion?

18 (No response.)

19 Any objections?

20 (No response.)

21 Hearing none, the Motion to Extend the
22 deadline is granted.

1 Turning now to Natural Gas, Item G-1
2 is Docket Number 11-0604. This is Nicor's
3 reconciliation proceeding for revenues collected
4 under its Rider 26 regarding previous years'
5 uncollectible costs. ALJ Wallace recommends entry of
6 an Order approving the reconciliation.

7 Is there any discussion?

8 (No response.)

9 Any objections?

10 (No response.)

11 Hearing none, the Order is entered.

12 Item G-2 is Docket Number 11-0615.

13 This is April Hudson's complaint against Nicor. ALJ
14 Teague recommends entry of an Order dismissing this
15 matter without prejudice for want of prosecution.

16 Is there any discussion?

17 (No response.)

18 Any objections?

19 (No response.)

20 Hearing none, the Order is entered.

21 Items G-3 and G-4 (12-0074, 12-0081)

22 can be taken together. These items are petitions for

1 confidential and/or proprietary treatment of the
2 petitioners' AGS compliance reports. In each case
3 ALJ Albers recommends entry of an Order granting the
4 requested treatment.

5 Is there any discussion?

6 (No response.)

7 Any objections?

8 (No response.)

9 Hearing none, the Orders are entered.

10 On to Telecommunications, Items T-1
11 and T-2 can be taken together. These items are
12 filings by Frontier affiliates seeking tariff changes
13 introducing new bundles for business and residential
14 customers. In each case Staff recommends granting
15 the company's request by not suspending the filing.

16 Is there any discussion?

17 (No response.)

18 Any objections?

19 (No response.)

20 Hearing none, the filings will not be
21 suspended.

22 Item T-3 is Docket Number 11-0712.

1 This is Madison River Long Distance Solution's
2 Petition to Withdraw Certificates of Service
3 Authority previously issued to it in Docket Number
4 10-0121. ALJ Baker recommends entry of an Order
5 granting withdrawal.

6 Is there any discussion?

7 (No response.)

8 Any objections?

9 (No response.)

10 Hearing none, the Order is entered.

11 Item T-4 is Docket Number 11-0777.

12 This is INdigital Telecom's application for a
13 Certificate of Service Authority under Sections
14 13-403 through 13-405 of the Public Utilities Act.
15 ALJ Riley recommends entry of an Order granting the
16 requested certificates.

17 Is there any discussion?

18 (No response.)

19 COMMISSIONER COLGAN: Yeah, I would like to ask
20 Judge Riley a question if I could.

21 JUDGE RILEY: Certainly, yes.

22 COMMISSIONER COLGAN: I mean, I see that AT&T

1 filed to intervene in the case and stated that they
2 didn't want -- that they wanted language that
3 included whether the offering meets the definition of
4 a telephone exchange service or exchange access under
5 the federal law. And I see all the parties had no
6 objection to that, but I am not exactly sure what
7 that meant.

8 JUDGE RILEY: Well, what I have for you is pure
9 conjecture. But we think it is a situation where
10 Illinois Bell anticipates a subsequent filing in this
11 matter where the applicant may possibly try to assert
12 that it meets the definition of telephone exchange
13 service or exchange access service, thereby possibly
14 requiring AT&T to allow to interconnect with them.

15 And what AT&T wants to foreclose is --
16 I don't know if that's the right way to put it. What
17 they want to make sure is that, by the issuance of
18 the certificate in this Order, there is no finding of
19 possibility that the applicant can assert that it is
20 also -- therefore meets the definition of telephone
21 exchange service or exchange access service. They
22 are just hedging their bets as much as they can, and

1 they simply wanted language in this Order saying that
2 there is no definition by the Commission. It is pure
3 speculation.

4 COMMISSIONER COLGAN: Okay. So it seems like
5 it is just a placeholder for, if these future filings
6 were to come through, that they don't want to be on
7 record as having agreed to something in this case
8 that they might not agree to in a future case.

9 JUDGE RILE: That's it precisely. They just
10 want to preserve their objection for whatever may
11 occur down the road, if anything.

12 COMMISSIONER COLGAN: Okay. Thank you.

13 CHAIRMAN SCOTT: Any further discussion on this
14 matter?

15 (No response.)

16 Are there any objections to entering
17 an Order granting the certificates?

18 (No response.)

19 Hearing none, the Order is entered.

20 Items T-5 through T-7 (11-0748,
21 11-0752, 11-0775) can be taken together. These items
22 are joint petitions by telecommunication carriers for

1 approval of their Interconnection Agreements. In
2 each case ALJ Baker recommends entry of an Order
3 approving the agreement.

4 Is there any discussion?

5 (No response.)

6 Any objections?

7 (No response.)

8 Hearing none, the Orders are entered.

9 Item T-8 (12-0133) concerns initiating
10 a citation proceeding against Affordable Voice
11 Communications for failure to maintain its corporate
12 status. Staff recommends entry of an Order
13 initiating the proceeding.

14 Is there any discussion?

15 (No response.)

16 Any objections?

17 (No response.)

18 Hearing none, the Order is entered.

19 Item T-9 is Docket Number 11-0552.

20 This is Verizon South's petition for cancellation of
21 its Certificate of Interexchange Service Authority.

22 Before us today is an Amendatory Order making

1 corrections in the Order we entered on October 5,
2 2011, and ALJ Baker recommends entry of that
3 Amendatory Order.

4 Is there any discussion?

5 (No response.)

6 Any objections?

7 (No response.)

8 Hearing none, the Amendatory Order is
9 entered.

10 Item T-10 is Docket Number 11-0622.

11 This is a rulemaking proceeding regarding Title 83
12 Part 730 of the Administrative Code. Before us today
13 are a proposed Second Notice Order authorizing the
14 submission of proposed amendments to JCAR and a
15 request for oral argument in this matter brought by
16 the Cable Television and Communication Association of
17 Illinois. ALJ Albers recommends denying oral
18 argument and entering the Second Notice Order.

19 Is there any discussion?

20 (No response.)

21 Any objections?

22 (No response.)

1 Hearing none, the Order is entered,
2 and the oral argument request is denied.

3 Item T-11 is Docket Number 11-0627.
4 This is a rulemaking proceeding regarding Title 83
5 Part 756 of the Administrative Code. ALJ Albers
6 recommends entry of a Second Notice Order authorizing
7 the submission of the proposed amendments to JCAR.

8 Is there any discussion?

9 (No response.)

10 Any objections?

11 (No response.)

12 Hearing none, the Order is entered.

13 Items T-12 through T-18 (11-0781,
14 11-0782, 11-0809, 12-0008, 12-0015, 12-0053, 12-0078)
15 can be taken together. These items are petitions for
16 the confidential and/or proprietary treatment of
17 petitioners' Annual Reports. In each case the ALJ
18 recommends entry of an Order granting the requested
19 protective treatment.

20 Is there any discussion?

21 (No response.)

22 Any objections?

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(No response.)

Hearing none, the Orders are entered.

We have three Petitions for Rehearing today. Item PR-1 is Docket Numbers 11-0280 and 11-0281 Consolidated. This is the Peoples and North Shore Gas rate case, and before us today are Petitions for Rehearing received from the utilities, the Attorney General's Office, the Consumer and Governmental Intervenors, and Interstate Gas Supply of Illinois. ALJs Hilliard and Kimbrel recommend denying all rehearing requests, although they do recommend an Amendatory Order on one issue and seek clarification on another.

Are the ALJs available?

JUDGE HILLIARD: Yes.

JUDGE KIMBREL: Yes.

CHAIRMAN SCOTT: Gentlemen, could you describe for us what you are looking for in terms of the Amendatory Order and the clarification?

JUDGE HILLIARD: This had to do with the Rider VBA, and the companies noted that on page 164 of the Order of the last line of the section regarding VBA,

1 the last sentence says, "As presenting such over- or
2 under-recovery is the essential attribute of
3 decoupling, the Commission supports taking reasonable
4 steps to avoid the results, and the companies'
5 proposal is reasonable is hereby approved." The
6 companies suggest that perhaps the words "is
7 reasonable" should be removed from the Order or, it
8 occurs to me, that inserting the word "and" after "is
9 reasonable" would also make it more readable, I
10 guess. And that's about all there is to that.

11 CHAIRMAN SCOTT: Comments from any of the
12 Commissioners?

13 All you are looking for then is a
14 direction to place an Amendatory Order on the agenda?

15 JUDGE HILLIARD: On the agenda whenever it is
16 convenient for the Commission, yeah, and then what
17 the language is, whether you want words removed or
18 one word added.

19 CHAIRMAN SCOTT: We could leave that to the
20 judges. Is there any objection to providing for an
21 Amendatory Order to be placed on the agenda and
22 leaving it to the judges' discretion as to how they

1 will correct that, that issue? Is there any
2 objection to that?

3 COMMISSIONER COLGAN: No.

4 COMMISSIONER O'CONNELL-DIAZ: I would just
5 agree with the recommendation that Judge Hilliard
6 just gave us to insert the word "and."

7 CHAIRMAN SCOTT: Okay. That's fine.

8 COMMISSIONER O'CONNELL-DIAZ: Very simple.

9 CHAIRMAN SCOTT: That's fine then. Without
10 objection then, please place that Amendatory Order on
11 the agenda at your convenience.

12 JUDGE HILLIARD: Thank you.

13 CHAIRMAN SCOTT: Now, is there an issue that we
14 need to clarify the intent on the rate design
15 language?

16 COMMISSIONER ELLIOTT: Well, Mr. Chairman, my
17 office had made those changes. And in reading the
18 companies' application for rehearing, it was clear
19 that they sought clarity that their understanding of
20 the issues was incorrect, and I believe their
21 understanding of it is correct. So I don't believe
22 any clarification is necessary.

1 finally flush this out and finally get the proper,
2 for lack of a better word, formula on how we look at
3 this issue.

4 And so I think that this particular
5 issue really cries out for rehearing, and so I would
6 request that we rehear that issue so that -- I
7 believe Staff is the party that has an argument. I
8 don't believe it is completely developed in this
9 record, and I think we would benefit from having that
10 finally done properly.

11 COMMISSIONER FORD: Is that a motion?

12 COMMISSIONER O'CONNELL-DIAZ: That is a motion.

13 COMMISSIONER FORD: Second.

14 CHAIRMAN SCOTT: Is there further discussion on
15 this issue?

16 (No response.)

17 All in favor say aye.

18 COMMISSIONER FORD: Aye.

19 COMMISSIONER O'CONNELL-DIAZ: Could I just say
20 one more thing?

21 CHAIRMAN SCOTT: Sure.

22 COMMISSIONER O'CONNELL-DIAZ: The Order

1 suggests that the pass-through taxes are not a
2 payment for utility services and, therefore, that's
3 why we determined what we determined in our Order.
4 And, unfortunately, that is incorrect. There are
5 several charges, there are several taxes, that are by
6 law considered to be a charge for utility service
7 such as the Energy Assistance charges and the
8 Renewable Energy and Resources charges.

9 So our Order is incorrect. And I
10 would suggest to my colleagues that I think it is
11 important that our Orders are correct. And as it
12 stands, it isn't. I think the hearing would correct
13 that incorrect statement that is in the Order on page
14 27.

15 COMMISSIONER COLGAN: And how is that statement
16 incorrect again? Could you elaborate on that?

17 COMMISSIONER O'CONNELL-DIAZ: There is the
18 statement in the Order that the pass-through taxes
19 are not a payment for utility service and not
20 recorded as revenue and, therefore, there should be
21 no revenue lag. Unfortunately, the facts are that
22 there are several charges on those taxes, of the

1 various taxes that are collected, that by law, by
2 law, it states should be considered as a charge for
3 public utility service. So that argument just does
4 not hold water. That position does not hold water.
5 And the statutory scheme with regard to those charges
6 is that they are considered utility services charges.

7 Our Order is not square with that. So
8 my point is that we should make sure that our Order
9 comports with what the law is and certainly what the
10 evidence is. And at this juncture there is a
11 disconnect. And this is not the only Order that this
12 has been a problem with. This has been an issue that
13 has gone forward in several, several cases.

14 Now, I believe the majority cited to
15 three particular Orders of late. There are other
16 Orders that are not cited where the Commission
17 determined something different. So my suggestion is
18 that let's get it right. And, you know, if we are so
19 confident in our decision as it stands, what's to
20 be -- what's the harm of having rehearing?

21 COMMISSIONER COLGAN: So your request is that
22 we would narrowly rehear the issue as to whether or

1 not the utility taxes are appropriately a utility
2 charge and to define which ones are and which ones
3 aren't? Is that --

4 COMMISSIONER O'CONNELL-DIAZ: Well, I think you
5 certainly caught my idea, but I think that the all
6 encompassing -- the timing is an issue. I think that
7 we need to rehear the whole issue so that we have a
8 complete record upon which to make our determination.
9 And certainly what you have suggested is what I am
10 suggesting would be one of the factors that we would
11 rehear. It is not an extensive issue, but as it
12 stands right now I think that our Order could do with
13 rehearing.

14 COMMISSIONER COLGAN: Is that the issue that
15 the companies asked for rehearing on?

16 COMMISSIONER O'CONNELL-DIAZ: Yes.

17 COMMISSIONER COLGAN: Or are they more broadly
18 asking for the lead lag time of zero days and the
19 whole issue?

20 COMMISSIONER O'CONNELL-DIAZ: Well, the problem
21 is, Commissioner, the evidence that is in the record,
22 and the judges -- I believe Judge Kimbrel would best

1 be able to advise us -- there is a lead lag study
2 that shows something different than what the Order is
3 suggesting.

4 CHAIRMAN SCOTT: Is there further discussion on
5 the issue?

6 (No response.)

7 It's been moved and seconded to grant
8 rehearing on the issue as delineated by Commissioner
9 O'Connell-Diaz. All in favor say aye.

10 COMMISSIONER O'CONNELL-DIAZ: Aye.

11 COMMISSIONER FORD: Aye.

12 CHAIRMAN SCOTT: Opposed?

13 COMMISSIONER ELLIOTT: No.

14 COMMISSIONER COLGAN: No.

15 CHAIRMAN SCOTT: No.

16 The vote is two for and three against,
17 and the motion to grant rehearing on that issue is
18 not approved.

19 There are remaining issues in the
20 Petitions for Rehearing. Again, the recommendation
21 from the ALJs is to deny the remaining rehearing
22 requests. Are there any objections to denying the

1 remaining Petitions for Rehearing?

2 (No response.)

3 Hearing none, the remaining Petitions
4 for Rehearing are denied.

5 Item PR-2 is Docket Number 11-0282.
6 This is Ameren's natural gas rate case, and before us
7 today are Petitions for Rehearing received from
8 Ameren and the Citizens Utility Board. ALJs Albers
9 and Yoder recommend denying the applications for
10 rehearing.

11 Is there any discussion?

12 (No response.)

13 Any objections to denying the
14 petitions?

15 (No response.)

16 Hearing none, the applications for
17 rehearing are denied.

18 Item PR-3 is Docket Number 11-0710.

19 This item concerns our approval of a sourcing
20 agreement for the proposed Chicago Clean Energy coal
21 gasification facility. Before us today are Petitions
22 for Rehearing from Nicor, Ameren, Economic

1 Development Intervenors and CCE. ALJ Wallace
2 recommends granting the applications for rehearing
3 filed by Nicor and Ameren, denying the application of
4 the Economic Development Intervenors, and makes no
5 recommendation regarding CCE's application.

6 There are a number of issues in play
7 here. There is some overlap in issues among a couple
8 sets of the entities, but I would entertain a motion
9 or any discussion on this particular issue.

10 COMMISSIONER ELLIOTT: Well, Mr. Chairman.

11 CHAIRMAN SCOTT: Commissioner Elliott.

12 COMMISSIONER ELLIOTT: In the interest of
13 brevity I would make a motion that we grant all
14 requests for rehearing in this case. I think it was
15 clear from the beginning that, with the truncated
16 schedule that we had, there was not a sufficient
17 evidentiary record for all of us to be comfortable
18 with the decision in this case, and I would be
19 interested in hearing all parties' further
20 presentations in developing a better evidentiary
21 record in which to make a decision in this case.

22 COMMISSIONER FORD: I certainly would concur

1 with Commissioner Elliott. I too want to hear that.
2 I am an auditory learner, so I think that if we have
3 rehearing, I can better be able to make the decision
4 on this. So I would like to hear from all
5 intervenors.

6 CHAIRMAN SCOTT: Was that in the form of a
7 motion, Commissioner Elliott?

8 COMMISSIONER ELLIOTT: So moved.

9 CHAIRMAN SCOTT: Is that a second, Commissioner
10 Ford?

11 COMMISSIONER FORD: Yes, it is.

12 CHAIRMAN SCOTT: Is there further discussion on
13 this matter? Commissioner Colgan.

14 COMMISSIONER COLGAN: I agree with what
15 Commissioner Elliott and Commissioner Ford said. I
16 think this is a unique situation and that we need
17 to -- I think we have established procedures for how
18 we handle different things when they come to us and
19 this one didn't fit squarely into the context of how
20 we traditionally handle things. And I think it would
21 be in our best interest to just rehear the case.

22 CHAIRMAN SCOTT: Further discussion?

1 COMMISSIONER O'CONNELL-DIAZ: I would just
2 suggest that I agree with the comments made so far,
3 but I think that when we have -- in picking up on
4 what Commissioner Colgan just suggested, we have
5 proper procedures with regard to handling cases and
6 this we had such a short timeline that the Commission
7 could not do their due diligence. And as we move
8 forward and we get different types of legislation
9 like this, I think there is a lesson to be learned
10 when that schedule is compressed and the Commission
11 is not allowed to afford the due process that is
12 necessary for us to be able to protect the rights of
13 everyone that is bringing the case here and for us to
14 actually make the review of the record on these
15 somewhat complicated matters. So this now will
16 afford us further time.

17 I will suggest, though, that I
18 personally will be taking a look at what's going on
19 in the docketed proceeding. I noticed, as we were
20 getting to the point that we are today, that there
21 were filings in this matter that really pushed the
22 envelope as to whether they are proper filings or

1 not, affidavits and things of that nature attached to
2 pleadings at the end of the case. I would hope that
3 the attorneys that are handling this go back and read
4 the rules of the road with regard to that so that the
5 Commission has the proper evidentiary record upon
6 which to make their determination and that there is
7 not a lot of time spent in motions to strike and
8 things of that nature. Everyone is experienced that
9 are involved here, and I would look forward to that
10 professionalism being evidenced in the conduct of the
11 counsels that are involved in these matters.

12 CHAIRMAN SCOTT: Further discussion?

13 (No response.)

14 It is moved and seconded to grant
15 rehearing on all the issues brought by the
16 participants.

17 All in favor say aye.

18 COMMISSIONERS: Aye.

19 CHAIRMAN SCOTT: Any opposed?

20 (No response.)

21 The vote is five to nothing, and the
22 Petitions for Rehearing are granted.

1 With that, Judge Wallace, thanks for
2 your hard work on this case. I know there has been a
3 lot for you to do in a fairly compressed time, and we
4 just gave you a lot more.

5 JUDGE WALLACE: You just gave me more.

6 CHAIRMAN SCOTT: I wanted to recognize that and
7 both thank you for what you have done and in advance
8 for what you will do on this case.

9 We have a few items of other business
10 up for consideration today. We will begin with the
11 approval of results from the IPA's recent procurement
12 events for Ameren and ComEd concerning the
13 procurement of renewable energy certificates pursuant
14 to Section 16-111.5(k-5) of the Public Utilities Act.

15 Is there any discussion?

16 (No response.)

17 Is there any objection to approving
18 the results consistent with the procurement
19 administrator's recommendation?

20 (No response.)

21 Hearing none, the results are approved
22 for both the Ameren and ComEd REC procurement events.

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CONTINUATION OF PROCEEDINGS

CHAIRMAN SCOTT: In Closed Session the Commission discussed making a filing in FERC Docket Number EL 12-24.

Is there a motion to make a filing with FERC?

COMMISSIONER ELLIOTT: So moved.

CHAIRMAN SCOTT: Is there a second?

COMMISSIONER COLGAN: Second.

CHAIRMAN SCOTT: It's been moved and seconded.

All in favor say aye.

COMMISSIONERS: Aye.

CHAIRMAN SCOTT: Any opposed?

(No response.)

The vote is five to nothing, and the filing will be made with FERC.

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

JUDGE WALLACE: No, that's about it.

CHAIRMAN SCOTT: Thank you, sir. Hearing none, this meeting stands adjourned.

BENCH SESSION ADJOURNED