

1 PROCEEDINGS

2 CHAIRMAN SCOTT: Pursuant to the provisions of
3 the Illinois Open Meetings Act, I now convene a
4 Regular Open Meeting of the Illinois Commerce
5 Commission. With me in Springfield is Commissioner
6 Colgan and with us in Chicago are Commissioners Ford
7 and O'Connell-Diaz and Acting Commissioner McCabe. I
8 am Chairman Scott. We have a quorum.

9 Before moving into the agenda,
10 according to Section 1700.10 of Title II of the
11 Administrative Code, this is the time we allow
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 our Commission meeting.

16 According to the Chief Clerk's Office,
17 we have no requests to speak at today's Regular Open
18 Meeting.

19 Moving on to our agenda for today,
20 Item 1 is Docket Number 11-0689. This item concerns
21 evaluation of our state's On-Bill Financing Programs.
22 Before us today is a motion by Staff regarding

1 start-up dates related to an Evaluation Report due to
2 the General Assembly. ALJ Haynes recommends adoption
3 of Staff's Option 1 resulting in a single Evaluation
4 Report being submitted to the General Assembly.

5 Is there any discussion?

6 (No response.)

7 Is there a motion to confirm adoption
8 of Staff's Option 1?

9 COMMISSIONER COLGAN: So moved.

10 CHAIRMAN SCOTT: Is there a second?

11 COMMISSIONER O'CONNELL-DIAZ: Second.

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

13 All in favor say aye.

14 COMMISSIONERS: Aye.

15 CHAIRMAN SCOTT: Any opposed?

16 (No response.)

17 The vote is five to nothing, and
18 Staff's Option 1 regarding the start-up dates for the
19 Evaluation is adopted.

20 We will use this five to nothing vote
21 for the remainder of today's agenda, unless otherwise
22 noted.

1 Item 2 is Docket Number 11-0661. This
2 is American Transmission Company's petition for a
3 certificate to construct, operate and maintain a new
4 transmission line in Lake County. ALJ Teague
5 recommends entry of an Order granting the requested
6 certificate authorizing the project.

7 Is there any discussion?

8 (No response.)

9 Any objections?

10 (No response.)

11 Hearing none, the Order is entered.

12 Item 3 is Docket Number 12-0180. This
13 is HIKO Energy's application for a Certificate of
14 Service Authority to operate as an alternative retail
15 electric supplier. ALJ Albers recommends entry of an
16 Order granting the requested certificate.

17 Is there any discussion?

18 (No response.)

19 Any objections?

20 (No response.)

21 Hearing none, the Order is entered.

22 Item 4 was Docket Number 12-0203.

1 This item has since been withdrawn.

2 Item 5 is Docket Number 12-0205. This
3 is IDT Energy's application for a Certificate of
4 Service Authority to operate as an alternative retail
5 electric supplier. The applicant now seeks to
6 withdraw its application, and ALJ Albers recommends
7 dismissing this matter without prejudice.

8 Is there any discussion?

9 (No response.)

10 Any objections?

11 (No response.)

12 Hearing none, this matter is dismissed
13 without prejudice.

14 Item 6 is Docket Number 10-0690. This
15 is Mt. Carmel's reconciliation case concerning
16 revenues collected under gas adjustment charges. ALJ
17 Jones recommends entry of an Order approving the
18 reconciliation, subject to adjustments proposed by
19 Staff.

20 Is there any discussion?

21 (No response.)

22 Any objections?

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(No response.)

Hearing none, the Order is entered.

Item 7 is Docket Number 11-0710. This is Chicago Clean Energy's sourcing agreement matter on rehearing. Before us today is a Petition for Interlocutory Review filed by CCE and EDI regarding denial of their Motion in Limine.

Is there any discussion?

COMMISSIONER O'CONNELL-DIAZ: Mr. Chairman?

CHAIRMAN SCOTT: Yes, Commissioner

O'Connell-Diaz?

COMMISSIONER O'CONNELL-DIAZ: I would just note that I think the Commission was very clear in suggesting that we needed to have a full record. Commissioner Colgan was very erudite with regard to that. And due to the compressed schedule that we were presented with, we didn't have that. And so the petition was granted and now it appears that the party in this case is suggesting that there should be some other expedited treatment that in fact would deny due process to everyone that is not in agreement with their position.

1 As we stated, or I stated, I would be
2 watching the procedural aspects of this case, and it
3 is clear from the Commission's statement from the
4 bench that we want a clear and complete record with
5 regard to these important issues. And so I was quite
6 surprised as I read through the petitions that were
7 filed in this matter, and I would just suggest that
8 counsel should think about things before they file
9 them as being according to our rules, and I find that
10 there is nothing in this Petition for Rehearing that
11 would support where they would like the Commission to
12 go.

13 We want to have a full record. We
14 want to have that before us, and Judge Wallace has
15 created a schedule pursuant to our expressed intent,
16 and I think that's where the Commission wants to go.

17 So, you know, again I will be watching
18 the procedural aspects of this case and all the
19 filings of the lawyers, as I am sure all of the other
20 Commissioners will be doing. But I would suggest
21 that some of the language and styling of certain
22 arguments were specious at best.

1 So I just wanted to say that for the
2 record.

3 CHAIRMAN SCOTT: Commissioner Colgan?

4 COMMISSIONER COLGAN: Yeah. I voted no on the
5 Commission's final sourcing agreement and I
6 encouraged the parties to seek rehearing on this
7 case.

8 I had concerns that the Commission may
9 be over-reaching its statutory authority and the
10 legislative intent of the General Assembly, and I had
11 these concerns because the statute to me, despite
12 strong opinions to the contrary, is not clear in
13 several ways. And a couple of respected legislators
14 were raising concerns, and the General Assembly, as
15 we all know, has passed resolutions on this case,
16 which seemed to me to be a unique situation, so.

17 I also expressed that I had an
18 interest in this case because I am interested in
19 commercial-scale CO2 capture and sequestration, and
20 that's part of this project. But there were other
21 comments, and I think I made comments about this,
22 too, that this is really novel territory for us. And

1 we really -- the constraint in timelines that we had
2 to operate within had to put a lot of pressure on
3 everybody involved.

4 So I actually agree with Commissioner
5 O'Connell-Diaz that I asked for a rehearing because I
6 wanted to hear the arguments on this case.

7 I also think it is important to point
8 out that the schedule that the parties have agreed to
9 in this case has cut the time frame from 150 days to
10 basically in half. So in that regard I think to try
11 to give everybody a little bit of time to think
12 through and respond and then respond to other
13 people's comments, I think that that's -- you know,
14 we are trying to expedite this.

15 And, finally, I just wanted to say
16 that I think we are trying to do our best here with
17 this issue, and I believe that Chief ALJ Wallace is
18 doing his very best, as he always does, to be fair
19 and transparent and impartial. But, you know,
20 regardless of what the Chief ALJ recommends, the
21 Commission has the final say in this case and, you
22 know, I think we have it cued up and it is moving

1 through and, you know, where it all comes out, we
2 still have to see all the discussion. So, you know,
3 I actually don't --

4 COMMISSIONER FORD: I certainly concur with
5 you. I also voted no with you, Commissioner Colgan,
6 and for those same reasons, that I wanted it to be
7 fair, impartial and certainly transparent.

8 I would hope that with this new
9 hearing that we are going to have -- and this time
10 certainly has been expedited from 150 days or
11 whatever, to half the time. So I am looking forward
12 to hearing all the evidence that's going to be
13 presented in this case so that we can make a
14 decision. Even though we are creatures of the
15 legislature and we do listen to -- we have to go by
16 law, but they certainly have sent resolutions over
17 here to influence us. But I am glad that we are
18 still an independent agency.

19 CHAIRMAN SCOTT: Commissioner McCabe?

20 COMMISSIONER McCABE: I am going to abstain as
21 this is still early in my tenure here.

22 CHAIRMAN SCOTT: Very good. All right. I just

1 want to add, I agree with the comments that have been
2 said so I won't reiterate them. Although I do want
3 to say that I think Judge Wallace has gone to great
4 lengths and steps to get the information out that we
5 said we wanted through the rehearing and to do that
6 in a timely fashion and to do it in a way that is
7 fair to all of the parties, and I think that this
8 motion circumvents that.

9 In the year I have been here, to me
10 this is the most disappointing motion that I have
11 seen because what it does is, it is not an academic
12 exercise. It might be interesting to talk about if
13 we were just talking about these things
14 theoretically. These are real motions that require a
15 lot of parties to use resources to talk about them,
16 as well as Staff time and Commission time. It just
17 goes against what, as the other Commissioners
18 eloquently stated, we were looking for when we did
19 the rehearing in the first place.

20 So I agree with the comments that have
21 been stated, and we will obviously not be supporting
22 the motion.

1 Are there any objections to denying
2 the Petition for Interlocutory Review?

3 (No response.)

4 Hearing none, the petition is denied
5 by a four to nothing vote.

6 Item 8 is Docket Number 12-0082. This
7 is Direct Energy Service's petition seeking
8 confidential and/or proprietary treatment of its
9 compliance report. ALJ Von Qualen recommends entry
10 of an Order granting the requested protective
11 treatment.

12 Is there any discussion?

13 (No response.)

14 Any objections?

15 (No response.)

16 Hearing none, the Order is entered.

17 Item 9 was Docket Number 12-0145.

18 This item has been withdrawn.

19 Item 10 is Docket Number 12-0224.

20 This is YMax Communications' petition seeking
21 confidential and/or proprietary treatment of its
22 Annual Report. ALJ Von Qualen recommends entry of an

1 Order granting the requested protective treatment.

2 Is there any discussion?

3 (No response.)

4 Any objections?

5 (No response.)

6 Hearing none, the Order is entered.

7 Item 11 is Docket Number 07-0566.

8 This is ComEd's 2007 rate case on remand from the
9 Appellate Court, and before us today is a rehearing
10 request filed by CUB and the AG. ALJ Haynes
11 recommends denying the rehearing request.

12 Is there any discussion?

13 COMMISSIONER McCABE: Mr. Chairman, I am going
14 to abstain on this one, also.

15 CHAIRMAN SCOTT: Thank you, Commissioner
16 McCabe.

17 Are there any objections to denying
18 the rehearing application?

19 (No response.)

20 Hearing none, the rehearing is denied
21 by a four to nothing vote.

22 Judge Wallace, are there any other

1 matters to come before the Commission today as far as
2 this agenda?

3 JUDGE WALLACE: No, Mr. Chairman.

4 CHAIRMAN SCOTT: Thank you. Hearing none, this
5 meeting stands adjourned. We will commence our
6 Emergency Special Open Meeting to address a
7 procurement issue shortly.

8 MEETING ADJOURNED

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