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BEFORE THE
ILLINOIS COMMERCE COMMISSION
REGULAR OPEN MEETING
(PUBLIC UTILITY)
Chicago, Illinois
Tuesday, April 9, 2013

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

PRESENT:

- MR. DOUGLAS P. SCOTT, Chairman
- MR. JOHN T. COLGAN, Commissioner (by phone)
- MS. ANN McCABE, Commissioner
- MR. MIGUEL del VALLE, Acting Commissioner
- MS. SHERINA E. MAYE, Acting Commissioner

L.A. COURT REPORTERS by
Kari Wiedenhaupt, Reporter
CSR# 084-004725

1 CHAIRMAN SCOTT: Is everything ready in
2 Springfield?

3 JUDGE WALLACE: Yes, Chairman. We are good to
4 go here.

5 CHAIRMAN SCOTT: All right. Good. Thanks.
6 Pursuant to the provisions of the Open Meetings Act I
7 now convene a Regular Open Meeting of the Illinois
8 Commerce Commission. With me in Chicago are
9 Commissioner McCabe, Acting Commissioner delValle and
10 Acting Commissioner Maye. We have -- I am Chairman
11 Scott. We have a quorum.

12 We need to allow -- because we can't
13 see Commissioner Colgan, we are going to vote to
14 allow him to participate by phone.

15 So I would move that we allow
16 Commissioner Colgan to participate by phone. Is
17 there a second?

18 COMMISSIONER MCCABE: Second.

19 CHAIRMAN SCOTT: All in favor, say aye.

20 (Chorus of ayes.)

21 CHAIRMAN SCOTT: Any opposed?

22

1 (No response.)

2 CHAIRMAN SCOTT: The vote is four to nothing.

3 Commissioner Colgan can now join us by phone.

4 Welcome, Commissioner.

5 COMMISSIONER COLGAN: Thank you.

6 CHAIRMAN SCOTT: Before moving into the agenda,
7 according to Section 1700.10 of Title 2 of the
8 Administrative Code, this is the time we allow
9 members of the public to address the Commission.
10 Members of the public wishing to address the
11 Commission must notify the Chief Clerk's Office at
12 least 24 hours prior to the Commission meetings.
13 According to the Chief Clerk's Office, we had one
14 request to speak at today's meeting; however, no
15 requests have been granted.

16 Moving on to the agenda for today.
17 Item 1 concerns initiating a proceeding to
18 investigate ComEd's progress in implementing its
19 Advanced Metering Infrastructure Deployment Plan,
20 pursuant to Section 16-108.6(e) of the Public
21 Utilities Act. Staff recommends entry of an Order
22 initiating the proceeding.

1 Is there any discussion?

2 (No response.)

3 CHAIRMAN SCOTT: Is there a motion to enter the
4 Order?

5 COMMISSIONER MCCABE: So moved.

6 CHAIRMAN SCOTT: Is there a second?

7 ACTING COMMISSIONER DEL VALLE: Second.

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

9 All in favor, say aye.

10 (Chorus of ayes.)

11 CHAIRMAN SCOTT: Any opposed?

12 (No response.)

13 CHAIRMAN SCOTT: The vote is five to nothing,
14 and the Order is entered. We will use this five to
15 nothing vote for the remainder of today's Regular
16 Open Meeting unless otherwise noted.

17 Item 2 is Docket No. 12-0499. This is
18 HIKO Energy's application for certification as an
19 alternative retail electric supplier. This matter is
20 on rehearing before the Commission, and ALJ VonQualen
21 recommends entry of an Order on Rehearing granting
22 the requested certificate subject to conditions

1 recommended by Staff. There are some revisions to be
2 proposed.

3 Commissioner Colgan?

4 COMMISSIONER COLGAN: Thank you, Chairman. In
5 conjunction with you and Commissioner McCabe, I am
6 proposing amendments to the Commission Conclusion
7 section of the HIKO Order on Rehearing. Our joint
8 edits change the Commission's decision from approving
9 to denying HIKO's request to expand its ARES
10 certificate to allow it to offer the sale of
11 electricity and power to eligible residential and
12 nonresidential customers in the entire state of
13 Illinois.

14 As you will recall, the Commission
15 denied HIKO's request to amend its certificate
16 without prejudice in the initial phase of this docket
17 in October of 2012. And at that time the Commission
18 was concerned about the number of complaints HIKO had
19 received from customers in New York and in ComEd's
20 service territory in Illinois. The Commission
21 subsequently granted rehearing, which we are deciding
22 here today.

1 While our edits acknowledge the very
2 recent customer service improvements implemented by
3 HIKO, we continue to be concerned about complaints
4 about HIKO's improper marketing, HIKO's failure to
5 access all sales records for review when there are
6 allegations of improper marketing and HIKO's ability
7 to identify issues in its third-party verification
8 process.

9 In order to address these substantial
10 concerns, the Commission maintains that HIKO should
11 not only continue the customer service improvements
12 it has recently implemented, but also comply with the
13 conditions recommended by Staff and agreed to by HIKO
14 and incorporated into its marketing, training and
15 quality assurance program. I believe it is incumbent
16 upon the Commission and its consumer services
17 division to make sure that these improvements are
18 consistently and continuously implemented.

19 In denying HIKO's amended certificate
20 without prejudice, we are allowing HIKO to repetition
21 the Commission at a future time. However, HIKO's
22 re-filing cannot occur sooner than six months from

1 today, and must contain an additional six months of
2 complaint data from both the ComEd service territory
3 in Illinois and the other states in which it operates
4 and an update regarding its implementation of its
5 training and quality assurance program.

6 This will provide the Commission with
7 the opportunity to determine the effectiveness of
8 HIKO's recent customer service improvements and
9 conditions agreed to in this docket based on data
10 accumulated over a more substantial timeframe.

11 Illinois has established a legal framework designed
12 to incent a competitive marketplace for electricity.
13 In ensuring that this objective is met, however, the
14 Commission must ensure that consumers are adequately
15 protected from potential bad actors.

16 I believe that denying HIKO's request
17 to expand its ARES certificate without prejudice is
18 the appropriate manner in which to meet the objective
19 of fostering a competitive marketplace while at the
20 same time protecting consumers. And I would also
21 like to thank Judge VonQualen for her efforts in this
22 docket and thank Staff for its thoughtful suggestions

1 in dealing with these important issues.

2 With that, fellow Commissioners, we
3 request your support for these edits, and I move that
4 they be approved.

5 CHAIRMAN SCOTT: The revisions have been moved.
6 Is there a second?

7 COMMISSIONER MCCABE: Second.

8 CHAIRMAN SCOTT: It's been moved and seconded.
9 Any further discussion on the revisions themselves?

10 (No response.)

11 CHAIRMAN SCOTT: All in favor of the revisions,
12 say aye.

13 (Chorus of ayes.)

14 CHAIRMAN SCOTT: Any opposed?

15 (No response.)

16 CHAIRMAN SCOTT: The vote is five to nothing,
17 and the revisions are adopted.

18 Is there any further discussion on
19 this matter?

20 (No response.)

21 CHAIRMAN SCOTT: I will then move for the
22 adoption of the Order as revised.

1 Is there a second?

2 COMMISSIONER COLGAN: Second.

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

4 Any further discussion?

5 (No response.)

6 CHAIRMAN SCOTT: All in favor, say aye.

7 (Chorus of ayes.)

8 CHAIRMAN SCOTT: Any opposed?

9 (No response.)

10 CHAIRMAN SCOTT: The vote is five to nothing,
11 and the Order as revised is adopted. Thank you,
12 Commissioner Colgan and Commissioner McCabe for your
13 work on those revisions. Thank you very much.

14 Item 3 is Docket No. 12-0620. This is
15 Bonnie and Mike Nichols' complaint against ComEd.
16 The parties have apparently settled their differences
17 and have brought a Joint Motion to Dismiss, which ALJ
18 Kimbrel recommends we grant.

19 Is there any discussion?

20 (No response.)

21 CHAIRMAN SCOTT: Is there any objections?

22 (No response.)

1 CHAIRMAN SCOTT: Hearing none, the Joint Motion
2 to Dismiss is granted.

3 Items 4 and 5 can be taken together.
4 These items concern applications for licensure as an
5 agent, broker and consultant under Section 16-115C of
6 the Public Utilities Act. In each case, the ALJ
7 recommends entry of an Order granting the
8 certificate.

9 Is there any discussion?

10 (No response.)

11 CHAIRMAN SCOTT: Are there any objections?

12 (No response.)

13 CHAIRMAN SCOTT: Hearing none, the Orders are
14 entered.

15 Item 6 is Docket No. 13-0197. This is
16 Caterpillar's application for a certificate to
17 operate as an alternative retail electric supplier in
18 Illinois, pursuant to Section 16-115 of the Public
19 Utilities Act. ALJ VonQualen recommends entry of an
20 Order granting the requested certificate.

21 Is there any discussion?

22 (No response.)

1 CHAIRMAN SCOTT: Are there any objections?

2 (No response.)

3 CHAIRMAN SCOTT: Hearing none, the Order is
4 entered.

5 Item 7 is Docket No. 13-0154. This is
6 Best Power's Motion to Withdraw its amended
7 application for licensure as an agent, broker and
8 consultant under Section 16-115C of the Public
9 Utilities Act. ALJ Kimbrel recommends we grant the
10 company's motion.

11 Is there any discussion?

12 (No response.)

13 CHAIRMAN SCOTT: Are there any objections?

14 (No response.)

15 CHAIRMAN SCOTT: Hearing none, the Motion is
16 granted.

17 Item 8 is Docket No. 13-0241. This is
18 Constellation NewEnergy's petition for emergency
19 relief requesting the confidential and/or proprietary
20 treatment of its 2012 Net Metering Report. ALJ
21 VonQualen recommends entry of an Order granting the
22 requested treatment.

1 Is there any discussion?

2 (No response.)

3 CHAIRMAN SCOTT: Are there any objections?

4 (No response.)

5 CHAIRMAN SCOTT: Hearing none, the Order is
6 entered.

7 Item 9 is Docket No. 11-0762. This is
8 Mt. Carmel's reconciliation of revenues collected
9 under its gas adjustment charges with actual costs
10 prudently incurred. ALJ Jones recommends entry of an
11 Order approving the reconciliation.

12 Is there any discussion?

13 (No response.)

14 CHAIRMAN SCOTT: Any objections?

15 (No response.)

16 CHAIRMAN SCOTT: Hearing none, the Order is
17 entered.

18 Item 10 is Docket No. 12-0506. This
19 is Nicor's petition for approval of their Rider 26
20 Reconciliation Statement. ALJ Jorgenson recommends
21 entry of an Order approving the reconciliation.

22 Is there any discussion?

1 (No response.)

2 CHAIRMAN SCOTT: Any objections?

3 (No response.)

4 CHAIRMAN SCOTT: Hearing none, the Order is
5 entered.

6 Item 11 is Docket No. 12-0594. This
7 is Glorietta Jones' complaint against Peoples Gas.
8 The parties have apparently settled their differences
9 and have brought a Joint Motion to Dismiss, which ALJ
10 Kimbrel recommends we grant.

11 Is there any discussion?

12 (No response.)

13 CHAIRMAN SCOTT: Any objections?

14 (No response.)

15 CHAIRMAN SCOTT: Hearing none, the Joint Motion
16 to Dismiss is granted.

17 Items 12 and 13 can be taken together.
18 These items are complaints against Consolidated
19 Communications regarding telephone service at Logan
20 Correctional Center. In each case, ALJ VonQualen
21 recommends entry of an Order dismissing the complaint
22 with prejudice.

1 Is there any discussion?

2 (No response.)

3 CHAIRMAN SCOTT: I had a couple comments to
4 make on these cases. First of all, I think -- I am
5 going to support the Orders in both cases, but -- and
6 while I understand that the contractual issue
7 controls here -- I think that's very clear -- and I
8 also understand that the complainants may not be the
9 most sympathetic of all the complainants that come
10 before the Commission, but I do have to say that I
11 was troubled by the response of the company in these
12 cases and not only setting up behind the legal
13 argument -- that's their right to do that. I
14 understand that, but on the substantive issue of
15 whether or not the service actually works, they
16 basically say that it's not their fault. It's the
17 DOC's or the individual prison's fault, and anyway,
18 the prisoners have no rights here because they are
19 not paying for the calls, which that legally may be
20 true, but in terms of service providing is a fairly
21 cold answer.

22 With any service we have a

1 responsibility to see that the service being paid for
2 is being delivered, and it's clear here at least from
3 the record in these two cases that it isn't in all
4 cases. If this were a water case and every time
5 someone turned on a faucet at Logan Correction Center
6 and some sort of green slime came out instead of
7 water, that would also be an issue for us. It's no
8 less of an issue because the service provided here is
9 a phone service.

10 I think it's incumbent on us as a
11 Commission to continue to monitor this. I would like
12 our Staff to work with the DOC and the provider on
13 this and other issues that are raised through these
14 and a later case and let us know the progress. I
15 think it's in everyone's interest in a high pressure
16 environment like a correctional facility that
17 services work when they are supposed to, and while
18 legally the company is correct here, their responses
19 left me wanting a little bit more from them in terms
20 of being a service provider.

21 Further discussion? Commissioner
22 delValle?

1 Administrative Code.

2 ALJ VonQualen recommends entry of an
3 Order providing a declaratory ruling that the inmate
4 calling services at issue are operator services under
5 the law.

6 Is there any discussion?

7 (No response.)

8 CHAIRMAN SCOTT: I just want to say that I am
9 going to support the Order. I know it's gotten a lot
10 of attention. I want to congratulate Judge VonQualen
11 for her work. I think the Order is very well done.
12 It's narrowly drawn and very well-reasoned, and I
13 appreciate your work on that, and I am going to
14 support the Order.

15 Further discussion?

16 (No response.)

17 CHAIRMAN SCOTT: Are there any objections to
18 the Order?

19 (No response.)

20 CHAIRMAN SCOTT: Hearing none, the Order is
21 entered.

22 Item 15 is Docket No. 12-0679. This

1 is Frontier Communications' petition to cancel and
2 reissue certificates of service authority previously
3 granted to reflect a change in its corporate form.
4 ALJ Baker recommends entry of an Order granting the
5 requested relief.

6 Is there any discussion?

7 (No response.)

8 CHAIRMAN SCOTT: Any objections?

9 (No response.)

10 CHAIRMAN SCOTT: Hearing none, the Order is
11 entered.

12 Item 16 is Docket No. 13-0126. This
13 is a joint petition for the approval of an amendment
14 to an interconnection agreement between Cellular
15 Properties and Illinois Consolidated Telephone. ALJ
16 Baker recommends entry of an Order approving the
17 amendment.

18 Is there any discussion?

19 (No response.)

20 CHAIRMAN SCOTT: Any objections?

21 (No response.)

22 CHAIRMAN SCOTT: Hearing none, the Order is

1 entered.

2 Items 17 through 19 can be taken
3 together. These are petitions for the confidential
4 and/or proprietary treatment of the petitioner's
5 annual report. In each case, the ALJ recommends
6 entry of an Order granting the requested protective
7 treatment.

8 Is there any discussion?

9 (No response.)

10 CHAIRMAN SCOTT: Any objections?

11 (No response.)

12 CHAIRMAN SCOTT: Hearing none, the Orders are
13 entered.

14 Item 20 is Docket No. 10-0366. This
15 is our management audit of Illinois-American Water
16 Company. ALJ Jones recommends entry of an Order
17 concluding the instant proceeding as requested by the
18 parties, subject to the continuing applicability of
19 provisions set forth in this matter's initiating
20 Order.

21 Is there any discussion? Commissioner
22 McCabe.

1 COMMISSIONER MCCABE: The Commission ordered
2 this audit in Docket No. 09-0319 due to concerns
3 with --

4 COMMISSIONER COLGAN: Chairman, I don't think
5 her microphone is on.

6 CHAIRMAN SCOTT: Thank you.

7 COMMISSIONER MCCABE: Thank you.

8 The Commission ordered this audit on
9 Docket No. 09-0319 due to concerns with
10 Illinois-American Service Company fees. Commission
11 Staff hired Northstar Consulting to perform the
12 management audit, which was completed on
13 January 11th, 2012.

14 In Illinois-American's next rate case,
15 11-0767, the Commission declined to order an
16 investigation of affiliated interest issues largely
17 because of this ongoing docket. Audits are
18 time-consuming and expensive. As we close out this
19 docket, the record includes a 176-page audit report
20 by Northstar Consulting detailing 84 review results.
21 Looking at one audit finding, competitive outsourcing
22 could save an estimated 1.5 to 3.5 million annually,

1 which would more than cover the cost of the audit.
2 So I look forward to continuing to look at these
3 issues in future proceedings. Thank you.

4 CHAIRMAN SCOTT: Thank you, Commissioner.

5 Further comments?

6 (No response.)

7 CHAIRMAN SCOTT: Are there any objections to
8 the Order?

9 (No response.)

10 CHAIRMAN SCOTT: Hearing none, the Order is
11 entered.

12 Item 21 is Docket No. 13-0235. This
13 is a petition by the Illinois Department of
14 Transportation seeking eminent domain authority to
15 acquire certain property owned by Aqua Illinois in
16 Kankakee County. ALJ Hilliard recommends we enter an
17 Order granting the petition.

18 Is there any discussion?

19 (No response.)

20 CHAIRMAN SCOTT: Any objections? Hearing none,
21 the Order is entered.

22 Judge Wallace, are there any other

1 matters to come before the Commission today?

2 MR. FEIPEL: Mr. Chairman, if I may quickly,
3 this is Feipel in Springfield. I wanted to note that
4 on Items 12 and 13, the DOC ISTC issue, Staff will
5 absolutely follow-up and Commissioner delValle, we'll
6 make sure you are included. Thanks.

7 CHAIRMAN SCOTT: Thank you, Mr. Feipel.

8 Judge Wallace?

9 JUDGE WALLACE: That's all there is.

10 CHAIRMAN SCOTT: Okay. Thank you, sir. I
11 apologize for having to shuffle between rooms. That
12 was my fault today, and it wasn't just because I
13 thought we all needed to run laps or anything and so
14 I apologize for that. If there is nothing else
15 coming before the Commission today, this meeting
16 stands adjourned. Thanks, everyone.

17 (END OF PROCEEDINGS.)

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