

1 BEFORE THE
2 ILLINOIS COMMERCE COMMISSION

3
4 BENCH SESSION
5 (PUBLIC UTILITY)
6

7
8 Springfield, Illinois
9 Wednesday, July 28, 2010

10 Met, pursuant to notice, at 10:30 a.m. in
11 Hearing Room A, First Floor, Leland Building, 527
12 East Capitol Avenue, Springfield, Illinois.
13

14 PRESENT:

15 MR. MANUEL FLORES, Acting Chairman

16 MS. LULA M. FORD, Commissioner

17 MS. ERIN M. O'CONNELL-DIAZ, Commissioner
18 (Via teleconference)

19 MR. SHERMAN J. ELLIOTT, Commissioner

20 MR. JOHN COLGAN, Acting Commissioner

21 SULLIVAN REPORTING COMPANY, by
22 Carla J. Boehl, Reporter
 CSR #084-002710

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

PROCEEDINGS

ACTING CHAIRMAN FLORES: Good morning.
Pursuant to the provisions of the Illinois Open Meetings Act, I now convene a regularly scheduled Bench session of the Illinois Commerce Commission. With me in Springfield are Commissioners Ford, Elliott and Acting Commissioner Colgan. With us in Chicago is Commissioner O'Connell-Diaz. Good morning, Commissioner.

COMMISSIONER O'CONNELL-DIAZ: Good morning.

ACTING CHAIRMAN FLORES: I am Acting Chairman Flores. We have a quorum.

Before moving into the agenda, according to Section 1700.10 of the Illinois Administrative Code, this is the time we allow members of the public to address the Commission. Members of the public wishing to address the Commission must notify the Chief Clerk's Office at least 24 hours prior to the Bench session. According to the Chief Clerk's Office we have no requests to speak today.

1 (The Transportation
2 portion of the proceedings
3 was held at this time and
4 is contained in a separate
5 transcript.)

6 ACTING CHAIRMAN FLORES: Turning now to the
7 Public Utilities agenda, we have minutes to approve
8 from the June 29 regular open meeting. Is there a
9 motion to approve the minutes?

10 COMMISSIONER ELLIOTT: So move.

11 ACTING CHAIRMAN FLORES: I second it. It's
12 been moved and seconded. All in favor say aye.

13 COMMISSIONERS: Aye.

14 ACTING CHAIRMAN FLORES: Any opposed?

15 The vote is 5-0 approving the minutes
16 for June 29.

17 We will begin with the Electric
18 agenda. Items E-1 through E-3 can be taken together.
19 These items concern filings made by Central Illinois
20 Light Company, Central Illinois Public Service
21 Company and the Illinois Power Company regarding
22 modifications to their Rider EF. Staff recommends

1 that the Commission allow the proposals by not
2 suspending the filings.

3 Is there a motion to not suspend the
4 filings?

5 ACTING COMMISSIONER COLGAN: So move.

6 ACTING CHAIRMAN FLORES: I will second it.
7 It's been moved and seconded. All in favor say aye.

8 COMMISSIONERS: Aye.

9 ACTING CHAIRMAN FLORES: Any opposed?

10 The vote is 5-0, and the filings will
11 not be suspended.

12 We will use this 5-0 vote for the rest
13 of the Public Utility agenda unless otherwise noted.

14 Item E-4 (10-0467) concerns recent
15 filings by ComEd for tariffs to increase rates for
16 electric service to revise certain riders and to
17 revise a portion of its general terms and conditions.
18 In order to determine the reasonableness of the
19 proposed increased rates, Staff recommends entering
20 an Order suspending the filings.

21 Is there any discussion? Any
22 objections? Hearing none, the Suspension Order is

1 entered, and the filings are suspended.

2 Item E-5 concerns MidAmerican Energy
3 Company's recent filing of tariffs to revise standard
4 rates pertaining to the purchase of electricity from
5 co-generation and small power production facilities.
6 Staff recommends that the Commission allow the
7 Company's proposals by not suspending the filings.

8 Is there any discussion? Any
9 objections? Hearing none, the filings will not be
10 suspended.

11 Item E-6 is Docket Number 10-0301.
12 This concerns Michael Partalis' complaint as to
13 billing charges against ComEd. Administrative Law
14 Judge Gilbert recommends entry of an Order dismissing
15 the complaint without prejudice for want of
16 prosecution.

17 Is there any discussion? Any
18 objections? Hearing none, the complaint is
19 dismissed.

20 Item E-7 is Docket Number 10-0337.
21 This concerns American Energy Analysis' application
22 for license as an Agent, Broker and Consultant under

1 Section 16-115C of the Public Utilities Act.
2 Administrative Law Judge Yoder recommends entry of an
3 Order granting the requested Certificate of Service
4 Authority.

5 Is there any discussion? Any
6 objections? Hearing none, the Order is entered and
7 the Certificate is granted.

8 Item E-8 is Docket Number 10-0378.
9 This concerns Cost Containment International's
10 Petition for Confidential Treatment of its 2009
11 Recertification Report. Administrative Law Judge
12 Albers recommends entry of an Order granting the
13 requested relief for a period of two years.

14 Is there any discussion? Any
15 objections? Hearing none, the Order is entered.

16 Item E-9 is Docket Number 10-0390.
17 This is Edison Mission Solutions' application for
18 certification as an alternative retail electric
19 supplier under Section 16-115 of the Public Utilities
20 Act. Administrative Law Judge Sainsot recommends
21 entry of an Order granting the requested Certificate
22 of Service Authority.

1 Is there any discussion? Any
2 objections? Hearing none, the Order is entered and
3 the certificate is granted.

4 Item E-10 is Docket Number 10-0394.
5 This is Rely Energy's application for licensure as an
6 Agent, Broker and Consultant under Section 16-115C of
7 the Public Utilities Act. Administrative Law Judge
8 Yoder recommends entry of an Order granting the
9 requested Certificate of Service Authority.

10 Is there any discussion? Any
11 objections? Hearing none, the Order is entered and
12 the certificate is granted.

13 Item E-11 is Docket Number 10-0409.
14 This items concerns a joint petition by Corn Belt
15 Energy Corporation and AmerenIP for approval of a
16 residential customer release. Administrative Law
17 Judge Jones recommends entry of an Order granting the
18 parties' Joint Petition.

19 Is there any discussion? Any
20 objections? Hearing none, the Order is entered and
21 the residential customer release is approved.

22 Turning to Gas, Items G-1 through G-3

1 can be taken together. These items concern filings
2 made by Central Illinois Light Company, Central
3 Illinois Public Service Company and Illinois Power
4 Company regarding modifications to the Rider EF.
5 Staff recommends the Commission allow the proposals
6 by not suspending the filings.

7 Is there any discussion? Any
8 objection? Hearing none, the findings will not be
9 suspended.

10 Item G-4 is Docket Number 10-0319.
11 This item concerns a petition by the Ameren Illinois
12 Utilities concerning an amendment to an Ameren
13 Illinois Utility Agreement. The Commission initially
14 entered an Order in this case on June 23 and there
15 were apparently a few dates listed incorrectly in the
16 characterization of Staff's filings. Administrative
17 Law Judge Tapia recommends the Commission enter an
18 Amendatory Order making those minor corrections.

19 Is there any discussion? Any
20 objections? Hearing none, the Amendatory Order is
21 entered.

22 Moving now to Telecommunications, Item

1 T-1 concerns filings made by Frontier Citizens
2 Communications of Illinois surrounding changes to the
3 name used in a portion of its tariff. Staff
4 recommends that the Commission allow the Company's
5 proposal by not suspending the filings.

6 Is there any discussion? Any
7 objections? Hearing none, the filings will not be
8 suspended.

9 Item T-2 is Docket Number 10-0343.
10 This item concerns Zeroll Wireless' application for
11 Certificate of Service Authority to provide
12 commercial mobile radio services in our state.
13 Administrative Law Judge Riley recommends that the
14 Commission enter an Order granting the requested
15 Certificate.

16 Is there any discussion? Any
17 objections? Hearing none, the Order is entered and
18 the certificate is granted.

19 Item T-3 is Docket Number 10-0392.
20 This item concerns an application by CAL
21 Communications for a Certification of Service
22 Authority to operate as a provider of prepaid calling

1 services throughout Illinois. Administrative Law
2 Judge Riley recommends the Commission enter an Order
3 granting the requested certificate.

4 Is there any discussion? Any
5 objections? Hearing none, the Order is entered and
6 the certificate is granted.

7 Item T-4 is Docket Number 10-0011.
8 This items concern an investigation initiated by the
9 Commission in January of this year of whether
10 Illinois Bell Telephone Company's residential service
11 is properly classified as competitive. Staff has
12 moved without objection to dismiss this docket as
13 being statutorily moot due to recent changes in our
14 telecommunications law. Administrative Law Judge
15 Hilliard recommends that we dismiss this docket with
16 prejudice.

17 Is there any discussion? Any
18 objections? Hearing none, Staff's motion is granted,
19 and the docket is dismissed.

20 We now move to Water and Sewer. Item
21 W-1 is Docket Numbers 09-0548 and 09-0549. This is
22 Apple Canyon Utility Company and Lake Wildwood

1 Utilities Corporation's rate case. Before us today
2 is a Petition for Interlocutory Review concerning the
3 issue of whether public comments from public hearings
4 or submissions to the Commission's website constitute
5 part of the record of evidence. Administrative Law
6 Judge Kimbrel recommends the Commission deny the
7 relief requested in the Petition for Interlocutory
8 Review.

9 Is there any discussion on this
10 matter?

11 ACTING COMMISSIONER COLGAN: Mr. Chairman?

12 ACTING CHAIRMAN FLORES: Yes, sir.

13 ACTING COMMISSIONER COLGAN: I am going to
14 support ALJ Kimbrel's recommendation on this, but I
15 think that the Intervenor kind of pointed out some
16 inconsistencies in this. I see that we are -- and I
17 have read through the Public Utilities Act and the
18 other cites that were used in the intervention, and
19 it seems like there is some inconsistencies in this
20 in terms of the Commission being required to review
21 all of these, that we are required to have an 800
22 number, we are required to take comments from the

1 public and then we are supposed to consider those, we
2 are supposed to review those in our process of making
3 a decision, but then clearly it is stated in the
4 Public Utilities Act that we have to have -- we can
5 only use the evidentiary record.

6 So I would just suggest that all the
7 interested parties in this issue maybe request some
8 clarification on this. I would appreciate a
9 clarification on it. I am not sure how you review
10 all of these public comments and then somehow dismiss
11 those in terms of having any impact on your
12 decision-making process. So it is just a comment
13 that I felt like I wanted to make on this case.

14 ACTING CHAIRMAN FLORES: Thank you,
15 Commissioner Colgan. Are there any further
16 discussion on this matter?

17 I just -- I would like to add that the
18 Commission obviously values all the comments and
19 encourages public comment through the various efforts
20 and platforms that Commissioner Colgan just
21 referenced in his remarks. It appears as if there
22 may be some ambiguity and the need for some

1 clarification on the part of the -- perhaps on the
2 part of the Legislature to clarify what kind of
3 weight should be given to comments that are made in
4 public meetings or other public forums where
5 individuals have not been put under oath and where
6 there may not be opportunity for cross examination.

7 As all of you know, the PUA requires
8 us here at the Commission to make our decisions based
9 on the evidentiary record, and that speaks to the
10 need for people to offer testimony under oath.

11 I do want to add, however, that this
12 Commission does more work than simply just beyond the
13 cases that we decide on, cases that are filed before
14 the Commission, and that we have various policy
15 committees at the ICC. We also have Staff that is
16 always working and analyzing issues and helping shape
17 policy, and that comments from the public can help
18 and provide instruction and can help shape and frame
19 certain issues outside of the specific cases.

20 And I say that because I think, in my
21 opinion, in my own personal view, it is important
22 that we express the value of the public comments that

1 are currently made to the ICC, and certainly would
2 not want anyone to be under the impression that the
3 comments don't have any value. They do. They
4 provide a lot of value.

5 However, as Commissioner Colgan
6 indicated, there may be some ambiguity as to how
7 these comments should be treated in specific
8 instances, in particular, cases that are being
9 litigated before the ICC whereby the ICC, again, has
10 to make decisions based on an evidentiary record
11 where witnesses are placed under oath when they
12 provide testimony for us to then weigh in making our
13 final decisions.

14 Are there any other comments?

15 COMMISSIONER O'CONNELL-DIAZ: Yes, Commissioner
16 O'Connell-Diaz. I would agree with the comments that
17 Chairman Flores just noted with regard to the various
18 matters upon which the Commission takes in comments
19 from the public with our public forums prior to our
20 meetings. But this was a legislative dictate. And
21 when we get to the hearing phase of this, we must be
22 conscious that there are due process rights that are

1 involved, that, you know, we are in effect a judicial
2 body so we take those very seriously, too.

3 So while there is ambiguity, just as
4 Chairman Flores noted, there are very many avenues
5 for the public to make comments in the public forums.
6 Those are not under oath, and that is the difference
7 between a hearing and those type of comments. But
8 those do become part of the record and the
9 Commissioners do look at all of those methodologies
10 of communication with us.

11 So while it seems that there is a
12 disconnect, I think you must look at the totality of
13 the record that has the public comments, as well as
14 the evidence in the record, and with the back-up of
15 the due process requirement that we must have in
16 order to accomplish the mandate from the Legislature
17 pursuant to the Public Utilities Act.

18 Thank you.

19 ACTING CHAIRMAN FLORES: Thank you,
20 Commissioner. Any further discussion on this matter?

21 JUDGE KIMBREL: Mr. Chairman, can I make a
22 comment? This is ALJ Kimbrel.

1 ACTING CHAIRMAN FLORES: Yes, sir.

2 JUDGE KIMBREL: I would just like to note that
3 the Intervenors did in fact offer testimony of the
4 residents of Lake Wildwood. So it is not as if they
5 didn't know the proper avenue to take.

6 COMMISSIONER O'CONNELL-DIAZ: That's part of
7 the record.

8 JUDGE KIMBREL: Right.

9 COMMISSIONER O'CONNELL-DIAZ: And that is an
10 important part because I do believe that in many of
11 -- that is an excellent point, Judge Kimbrel -- in
12 many of our cases that we have, our transmission line
13 cases that are really of, I shouldn't say greater
14 interest to the public, but you see the public come
15 out. There are always participants in those
16 proceedings which do submit, one, testimony and then
17 maybe working with Intervenors or they construct
18 their own groups so there is a very vibrant
19 participation in many of our dockets.

20 So I think that Judge Kimbrel raises
21 an important point and that that was part of the
22 record in this case. So thank you.

1 ACTING COMMISSIONER COLGAN: I do support Judge
2 Kimbrel's recommendation in this, and I was just
3 pointing out that I think that there are some
4 ambiguities in terms of, you know, the Intervenors
5 want us to make a decision based on -- to go in a
6 direction that I don't think the body of law will
7 allow us to go. So my suggestion is that maybe they
8 seek clarification on that somewhere else. It's a
9 clarification that I would appreciate.

10 ACTING CHAIRMAN FLORES: Any further
11 discussion?

12 At this time I will make the motion to
13 amend the Petition. Is there a second?

14 COMMISSIONER ELLIOTT: Second.

15 ACTING CHAIRMAN FLORES: It's been moved and
16 seconded. All in favor say aye.

17 COMMISSIONERS: Aye.

18 ACTING CHAIRMAN FLORES: The vote is 5-0 and
19 the Petition is denied.

20 Items W-2 and W-3 (10-0280, 10-0298)
21 can be taken together. These both concern
22 Resuspension Orders in water and sewer rates. The

1 cases were filed in March of this year, and in both
2 cases Staff recommends entry of a Resuspension Order.

3 Is there any discussion? Any
4 objections? Hearing none, the Resuspension Orders
5 are entered.

6 Our first Miscellaneous Item concerns
7 the Taylorville Energy Center Facility Cost Report
8 that Staff prepared for analysis. The Commission is
9 required to vote to send an analysis of this project
10 to the General Assembly by September 2, and we have
11 Staff here today to give us a briefing on the initial
12 report.

13 We do have here today, we have some
14 Staff, and if you could give us a briefing on this
15 now.

16 MR. BEYER: Good morning. This is Gene Beyer.
17 Today's meeting is one step in the process of Staff
18 and Commissioner interaction, with the goal being to
19 produce a Final Report to the General Assembly by
20 September 2. It is Staff's plan to work with you to
21 address any comments, questions or direction you have
22 regarding the draft report. We will attempt to

1 answer any questions you have today and will follow
2 up on matters that require us to gather information
3 or conduct additional analyses.

4 The Taylorville Energy Center is
5 designed to operate as a hybrid integrated
6 gasification combined cycle facility. Let me explain
7 that a little bit. Combined cycle refers to the fuel
8 that is burned to generate electricity and the waste
9 heat from that process that is used to generate
10 additional electricity. Integrated gasification
11 refers to an additional feature of the plant whereby
12 coal is converted into a gas that can be used to
13 produce electricity. And, lastly, the term "hybrid"
14 refers to the process that converts that gas derived
15 from the coal into the equivalent of natural gas, and
16 either burns that natural gas to produce electricity
17 or sells it.

18 In addition to generating electricity
19 using coal as a feedstock, the plant will rely on
20 purchased natural gas to produce maximum electricity
21 output. A key feature of the Tenaska proposal is its
22 plan to burn coal and captures and sequester carbon

1 emissions at the levels specified in the law.

2 Let me review some recent steps in the
3 process. On March 2 the Commission received and
4 posted to its website a Facility Cost Report and
5 related documents as submitted by Tenaska for the
6 Taylorville Energy Center. As you know, the
7 applicable law, called the Clean Coal Portfolio
8 Center Law, requires the owner of the state's initial
9 clean coal facility to submit these documents for
10 review and analysis. The Commission is then to
11 submit a report to the General Assembly setting forth
12 its analysis of the Facility Cost Report. The law
13 further provides that the project will commence if
14 the General Assembly, based on its review, enacts
15 authorizing legislation.

16 The law requires the Commission's
17 report be submitted within six months following
18 receipt of the Tenaska document. So those were
19 received on March 2, so we have set September 2 as
20 the deadline for getting the Commission's report to
21 the General Assembly.

22 The Commission's consultants, who

1 began working on this project several months earlier,
2 began their review of the Tenaska Facility Cost
3 Report and related documents. The consultants'
4 independent evaluation was presented to the
5 Commission Staff on June 8, approximately three
6 months after receipt of Tenaska's documents, leaving
7 about three months for the Commission to prepare and
8 deliver its report to the General Assembly. The
9 Commission also invited public comments, and during
10 the 45-day comment period 27 entries were posted to
11 the Commission's website.

12 On or before September 2 the
13 Commission will submit its report to which will be
14 attached the independent consultants' report as well
15 as the public comments.

16 Staff is available to you during the
17 next several weeks to respond to any questions or
18 provide additional analyses as you may require. With
19 me today are several Staff members who have
20 contributed to this review, and that concludes my
21 opening remarks.

22 ACTING CHAIRMAN FLORES: I will leave it open

1 now for the Commission to comment. Any discussion?

2 COMMISSIONER ELLIOTT: I have a couple of
3 questions I would like answered. Referring to the
4 report, page 17 of Staff's draft, there is a graph of
5 some alternative scenarios and, in particular, I note
6 that the megawatt hour cap that's been identified is
7 \$2.32 a megawatt hour. But under one of the
8 alternative scenarios, the megawatt hour cap is
9 exceeded under a low natural gas scenario, low
10 natural gas price. And what I was wondering was what
11 are those low natural gas prices. I couldn't see
12 where they were identified. And how do they compare
13 with today's natural gas prices. Are they
14 substantially lower, are they somewhere in the
15 vicinity.

16 MR. BEYER: We can check that out. The
17 analysis that was presented to us looked at various
18 scenarios, a low, a base case and a high natural gas
19 price, three scenarios there, and we could provide
20 those. This is a summary of some of that, and we
21 will point you to those analyses.

22 COMMISSIONER ELLIOTT: And sticking on that

1 same page and getting to sort of the base-base level
2 of demand utilized in the forecast, the load over the
3 30-year life of the plan, according to the narrative
4 following that draft, the forecasted demand levels
5 don't take into account apparently the two percent
6 annual energy efficiency reductions required by the
7 2007 state law which will begin in 2015 and
8 identifies as a shortcoming that, if the energy
9 efficiency goals required by the law are met and
10 maintained over the life of the plant, that the cap
11 is exceeded even in the base case. I just wanted to
12 make sure that that was correct.

13 Is there a way that we can estimate
14 the demand forecast or factor in the two percent
15 energy reduction into the forecast so that we can
16 determine what levels the cap would be exceeded under
17 all these scenarios? That would be the analysis that
18 I would like to see if we could perform.

19 MR. BEYER: Okay.

20 COMMISSIONER ELLIOTT: And one last question
21 here, not to belabor this, but I think in our last
22 competitive report to the General Assembly it was

1 noted that over 50 percent of the load, electricity,
2 in this state is served by alternative providers at
3 this particular point in time. And as I understand
4 the law, the cap only applies to energy that's served
5 by the utility, in other words, not competitively
6 served, and there is no cap for it.

7 And given some of these implications,
8 particularly under the alternative scenarios and
9 under the energy efficiency scenarios, if we are
10 starting out from a case where we were already
11 exceeding the cap, I am just wondering, you know,
12 what is the implication for the competitive
13 marketplace if there is no cap, the cost overrun. It
14 seems like this is a cost plus world that's being
15 just laid on to a competitive marketplace.

16 And I note that the report does
17 indicate that we are as a Commission tasked with
18 assisting the development of a competitive market.
19 So it seems in direct conflict with that, that we
20 would cap only one segment of the marketplace and not
21 the rest. So I just wanted to bring that out.
22 That's all the questions I have at this time.

1 COMMISSIONER FORD: Mr. Chairman?

2 ACTING CHAIRMAN FLORES: Yes, Commissioner.

3 COMMISSIONER FORD: I certainly concur with
4 Sherman on those costs. Because if we are to build
5 retail competition, and that is what our legislative
6 mandate is that we do, we would be pricing them out
7 of business.

8 Also, I guess I have some issues with
9 the capital costs --

10 COMMISSIONER O'CONNELL-DIAZ: Commissioner
11 Ford, we are having a hard time hearing you. The mic
12 is not working.

13 COMMISSIONER FORD: Okay. I wasn't talking
14 into it, I guess.

15 The capital cost estimate, because in
16 this capital cost there is no cost in there for
17 Carbon C sequestration, and I think that that is
18 certainly going to be a big cost.

19 And another issue that I had is the
20 fact that all of this seemed to be rate based and
21 that none of this is being borne by the investors.
22 Everything seems to be coming from our taxpayers, and

1 those are issues that I have especially when we have
2 so many people unemployed. And I know that they are
3 saying jobs, but I don't want this to reach into --
4 and this is a 30-year project, and I certainly don't
5 want it to end up being like what's happening now
6 with that Prairie State project where it is already
7 two times what it was initially supposed to cost and
8 they have not even finished.

9 So I am very concerned about these
10 costs, and I certainly want the Legislature to know.
11 So I would like to recommend to Chairman Flores that
12 we have a joint committee on the gas and electricity
13 committee, air this out, bring all the questions,
14 bring our people in, some of the people who have
15 intervened, Gene, Mr. Beyer rather, and have them
16 participate in a discussion, Chairman Flores, and see
17 how we could better understand some of these issues
18 and ask the Tenaska people to come in maybe and
19 answer some of the questions that we have and
20 especially some of the Intervenors like the people
21 that compete in that group. Those are just some of
22 my --.

1 ACTING CHAIRMAN FLORES: Thank you,
2 Commissioner Ford. Commissioner O'Connell-Diaz?

3 COMMISSIONER O'CONNELL-DIAZ: Yeah, I would
4 echo the concerns that Commissioner Elliott touched
5 on, as well as the points that were succinctly raised
6 by Commissioner Ford. We have been many years
7 developing the marketplace that now exists in this
8 state pursuant to the mandate by the Legislature. We
9 just got done talking about disconnect between
10 legislation and our job with respect to the Public
11 Utilities Act. And in answer to -- I don't think
12 Mr. Beyer would say -- but it would kill our
13 competitive marketplace if this is where we are going
14 to go.

15 Additionally, we have a situation
16 where we have an out of state company that is a
17 billion dollar company, and our ratepayers and our
18 taxpayers are paying for this. There are so many
19 ways one could look at this, but in my mind as I look
20 at it -- I guess I won't use the word that I have to
21 say about what I think about this project and
22 proposal.

1 So I think it would be important for
2 us to be able to have a public discussion, and I
3 think a committee hearing would be an appropriate
4 place for us to really kind of get the facts out
5 there about what this really means dollars and cents.
6 We are looking at locking our ratepayers in for a
7 30-year subsidy, killing our competitive market that
8 we have spent so much time making a success, that our
9 competitive market is a success.

10 The ARES that are here, we were just
11 all at a conference last week encouraging people to
12 come in here, employ people in our state, pay taxes
13 and be part of the economy. So I think it is
14 critical that we get this right and we get the right
15 information.

16 So I would second Commissioner Ford's
17 proposal to have such a joint committee meeting and
18 thank her for thinking about it.

19 ACTING CHAIRMAN FLORES: Commissioner Colgan?

20 ACTING COMMISSIONER COLGAN: Yeah, I am just
21 looking at this whole project kind of in a big
22 perspective of balance between risk and benefit. It

1 seems like there is a lot of risk involved, like a
2 lot of things have changed since the time the General
3 Assembly put this legislation into place and asked
4 for a proposal similar to this. And I think that,
5 you know, it's a development of a new technology
6 which I think some would argue is an important task
7 on the part of society in general.

8 The concern I have is that the risk
9 seems to be balanced almost totally on the consumer,
10 that those who stand to benefit from the outcome of
11 this don't have, what you might call, a lot of skin
12 in the game, and I have a concern as to that this
13 proportionate risk that the consumer is asked to
14 shoulder here, I echo the concern about the ARES
15 market, problems that this could create.

16 At the end of the day I realize that
17 this is not our decision but the General Assembly's
18 decision. But I am just -- you know, I just wonder
19 about the cost of this and what we stand to gain in
20 the long run. You know, it is a new technology and I
21 think that we are going to have to pay attention to
22 the challenges of our energy future. But, you know,

1 we don't have a clear energy future policy in this
2 country, and last week it became obvious again that
3 Congress is not ready to do that, especially in the
4 time of what we are calling the recovery from the
5 great recession. I think people are concerned about
6 the cost of these things, of things.

7 At the same time I know a lot of
8 people have put a lot of work into this and have some
9 pretty seriously high expectations that we are going
10 to move forward. That's not our decision, and I
11 think that your Staff report, Staff analysis, kind of
12 squares some of those things up. Certainly, I saw
13 those arguments coming through in the Staff analysis.
14 And, you know, I appreciate you coming here today,
15 Mr. Beyers, willing to answer questions or brief us
16 on this matter.

17 That's pretty much my comments.

18 ACTING CHAIRMAN FLORES: Commission, additional
19 comments? Commissioner Elliott?

20 COMMISSIONER ELLIOTT: Yeah, Chairman, I would
21 echo the concern raised by Commissioner Ford and
22 O'Connell-Diaz that I also would like to see a policy

1 meeting. Considering the fact that greater than half
2 of the load in this state is served by competitive
3 suppliers, I would be interested in hearing in a
4 public forum their perspective on the Tenaska Report.

5 In addition, following up some of the
6 points that have been raised, I would just note that
7 a lot of the information is inherently fraught with
8 risk. Any forecast about outcomes are. But I think
9 even in the reasonable base case scenario, we are
10 talking about power that is priced four and a half
11 times the level of on-peak power that was purchased
12 in 2010, four and a half times the cost. And that
13 seems to be somewhat staggering to me in this
14 environment.

15 So with that note, back to you.

16 ACTING CHAIRMAN FLORES: I want to thank all
17 the Commissioners for their comments.

18 I have a couple of the comments that I
19 would like to make here. First of all, I know that
20 recently it's been announced that the federal
21 government has extended some tax credits and loan
22 guarantees to the project. That may affect the cost

1 analysis, given that, it is my understanding, that
2 these federal benefits would require a higher level
3 of carbon sequestration from the amount that was
4 originally proposed. I think it is up to more than
5 15 percent, if memory serves me right, 15 out of 65
6 percent.

7 Given what I have read in this
8 preliminary draft report provided by Staff, that's
9 going to have a substantial impact on the cost
10 analysis. The concern that I have is, you know, not
11 wanting frankly to submit a report to the State
12 Legislature which wouldn't answer one of the
13 fundamental questions that they have asked us to
14 answer per the statute, and I have it right here, is
15 what are the costs associated with the electricity
16 generated and the rate impact. We are not going to
17 answer, fully answer, that question unless we really
18 know what this additional 15 percent carbon
19 sequestration percentage is going to do to the cost.
20 We don't have that analysis. We need that analysis.
21 That has to be done.

22 I would also like some perspective on

1 what other agencies, state or federal agencies, may
2 have reviewed, applications that may have been
3 submitted by Tenaska and reports or analyses that may
4 have been completed by these agencies if they exist,
5 again, referencing this, the award of these federal
6 tax preferences and loan guarantees, what kind of
7 conclusions did the federal agency reach in extending
8 those federal dollars.

9 I would also encourage Staff to -- and
10 I must commend Staff for the preliminary work that
11 they have done. They have been tracking a lot of
12 this for some time. But I think if we can further
13 flesh out the impact that this project may have on
14 other legislative mandates that speak to, you know,
15 the PUA, whether it be, as indicated, writing this
16 energy efficiency standard and also, obviously, the
17 alternative electric suppliers as well as for gas,
18 what would be the impact on it.

19 And I know that we addressed that, but
20 I would like to see a more thorough analysis done,
21 just so that the Legislature gets a full perspective
22 of how this particular legislation may impact other

1 legislative initiatives that they have promulgated.

2 In reading some of the draft, I think
3 we can also -- I would encourage us to take a look,
4 to the extent that we can, looking at other power
5 plants that we have throughout the state, and to the
6 extent that we can, draw a comparison between what
7 ratepayers are paying for the electricity, if it can
8 be done, generating these other power plants or what
9 the costs associated with those in constructing and
10 building and maintaining those power plants versus
11 this one that we are looking at.

12 So, again, if the Legislator can have
13 a perspective in terms of drawing a comparison and
14 contrast so that they can go back to their
15 constituents when their constituents have questions
16 about this analysis, it could be a lot easier to
17 point to things that already exist, as opposed to
18 some kind of hypothetical comparison to contrast to.

19 I am also very concerned about, you
20 know -- and I don't have to read what we have been
21 charged with, what the ICC has been charged with to
22 analyze. Clearly, we have three very clear mandates,

1 right? We have to look at the comparison of costs
2 associated with electricity generated by the
3 facility, by the clean coal associated with --
4 compared to other costs, with electricity generated
5 by other types of generation facilities, an analysis
6 of the rate impacts, and also the analysis and the
7 likelihood that the initial facility will commence.

8 But there is also an important clause
9 there that reads but not limited to, okay. So while
10 we have to obviously answer those three that I just
11 enumerated, I think there are other questions that
12 are fundamental that also are important in the
13 analysis and also I think related to those other
14 three that I just enumerated. One in particular is
15 the safety of the carbon sequestration process. You
16 know, has there been an analysis done on what kinds
17 of measures have been considered or thought of in the
18 event that there was some kind of cataclysmic event.
19 There was a gap that I came across in terms of not
20 knowing what -- not having an analysis on the
21 infrastructure for the actual carbon sequestration.
22 This project is supposed to be about carbon

1 sequestration, so I don't see how we can conceivably
2 draft a report when we don't know about the carbon
3 sequestration infrastructure. That's supposed to be
4 the crux of the project.

5 So, again, without having that
6 information, I don't see how it is conceivable for us
7 to meet our statutory mandate. But, clearly, safety,
8 what safety issues, considerations, costs, again to
9 the extent that there are other reports that have
10 been generated by other state agencies and other
11 federal agencies, and I am sure that -- my gut tells
12 me that there are other analyses being done, it would
13 be great to incorporate them and to analyze them as
14 we answer some of the questions and prepare our
15 report.

16 Give me a moment. I have something
17 else here about the -- I think that's all I have at
18 this time. I would also -- I welcome the opportunity
19 to conduct a joint committee meeting with
20 Commissioner Ford and the rest of the Commissioners,
21 a committee policy meeting with the gas and electric,
22 to enable this Commission and to enable the Staff of

1 this Commission to gather some of the material and to
2 also answer some of the questions and to address the
3 concerns raised here today and to also enable the
4 various stakeholders an opportunity to also provide
5 answers and to flesh out the issues that were raised
6 here as well.

7 Ultimately, again, our responsibility
8 as laid out by the statute here is to provide a
9 report for the Legislature to make a decision as to
10 whether or not to move forward with this particular
11 project. But I think that for us to do our job and
12 to meet that statutory mandate, we need to have an
13 accurate list of all of the inputs. We cannot do an
14 analysis on information that is incomplete or that is
15 inaccurate.

16 Again, I don't know why we are looking
17 at someone -- well, I am troubled by a presentation
18 made that would call for 50 percent carbon
19 sequestration, yet an application was submitted to
20 another agency whereby that other agency's
21 participation is critical to this project and that
22 other agency says, well, we want 65 percent. Usually

1 in my experience, you know in advance what those
2 requirements are going to be, well in advance.

3 Now, I know that some of the ARRA
4 funding has just come on line and the federal
5 government is moving with a lot of alacrity. So
6 perhaps it was a situation where maybe some of the
7 benchmarks were changed. That being said, we are
8 required again to provide a full analysis, an
9 objective analysis, for our Legislature to reach the
10 right decision.

11 So that being said, I think it is in
12 the best interest, as indicated by Commissioner Ford
13 and all the other Commissioners, that we hold also a
14 policy committee meeting in addition to the good work
15 that our Commission Staff has done so far in
16 analyzing TEC.

17 COMMISSIONER ELLIOTT: Just to follow up, you
18 made an excellent point about the relationship of
19 other affected parties that may have implications on
20 costs and other issues here. I was just wondering, I
21 don't recall a discussion of the transmission
22 arrangements, interconnection agreements with MISO,

1 whether there were any engineering studies done to
2 analyze the cost of impact on the transmission system
3 of the addition of this capacity to the system and
4 whether the transmission upgrades and investment in
5 infrastructure is captured in the cost analysis and,
6 in addition, whether the implications of the timeline
7 for any transmission upgrades or interconnection
8 agreements, engineering studies, etc., were captured
9 in the ability to meet the 2015 bus bar deadline. So
10 if you can parse that information out for me if
11 that's available, I would appreciate it.

12 MR. BEYERS: Sure, we will add that to the
13 list.

14 ACTING CHAIRMAN FLORES: And I know the report
15 does make reference to that as an issue. But to
16 Commissioner Elliott's point, if you can further
17 elaborate to provide at least some projected costs so
18 that again that the policy maker, the Legislator,
19 will have an understanding of what those costs will
20 really be, as our understanding.

21 So I would --

22 COMMISSIONER O'CONNELL-DIAZ: Chairman, if I

1 might?

2 ACTING CHAIRMAN FLORES: Yes, Commissioner
3 O'Connell-Diaz.

4 COMMISSIONER O'CONNELL-DIAZ: Did I interrupt
5 you? I can't see you, so --

6 ACTING CHAIRMAN FLORES: No.

7 COMMISSIONER O'CONNELL-DIAZ: I appreciate your
8 comments and Commissioner Elliott's comments with
9 regard to the, you know, we have many agencies that
10 are working in the information stream, so it is
11 important to encapsulate that all in our judicious
12 review of this. However, you did mention about the
13 tax credits and, you know, I think at least from my
14 position, when we talk about tax credits, when we
15 talk about ARRA money, when we talk about all of
16 these different subsidies, these are subsidies,
17 subsidies, subsidies. And in this economic time --
18 and I am all for moving forward with a new energy
19 picture, but in this economic time when we talk about
20 subsidies and tax credits and things of that nature,
21 they are coming from the same pocket. They are
22 coming from our ratepayer and they are coming from

1 our taxpayer, whether it be federal or state. And I
2 am very, very conscious of that as I look at these
3 dollar amounts that are contained in this particular
4 project and the impact that it will have on people
5 within our state, the businesses that will possibly
6 leave our state because of these potential huge
7 increases in the rate structure that we now have to
8 subsidize this plant.

9 So I think, you know, all of these
10 stimulus moneys are wonderful, but they are coming
11 from -- in my mind they are coming from the same
12 pocketbook. They are coming from all of our
13 pocketbooks or pockets for men. I hope you are not
14 carrying pocketbooks. And, again, this is a private
15 company that is proposing this, and the risk is going
16 to be borne by the taxpayer and the ratepayers, the
17 taxpayer and the ratepayer. And so I think that
18 there is a lot of questions that I think we can flesh
19 out in the meetings that we have.

20 I also would like to thank Staff for
21 their excellent report. You know, it gave us a real
22 in-depth understanding and so I look forward to

1 fleshing out all of those segments that the
2 Commissioners have raised and also further issues
3 that we will have when we have these presentations.

4 ACTING CHAIRMAN FLORES: And you make a very
5 good point, and I would just like to point to the
6 fact that, as by way of example to add to your
7 comments, my understanding is that there is \$50
8 million of Illinois Coal Revival Grant funds
9 potentially going to this project. We have \$500
10 million in IFA funds and then you have \$2.5 billion
11 in federal loan guarantees. You know, these are
12 subsidies allocated by our governments, both Illinois
13 and the federal government. At the end of the day,
14 these are dollars that the taxpayers are providing.

15 Again, I think everyone appreciates
16 the need for our government to play the role of a
17 facilitator in expanding our economy and to keep us
18 competitive in this new world economy that we are in,
19 in particular in the area of energy. But at the same
20 time I think we have to be judicious and we have to
21 be thoughtful about the way that we allocate our
22 funding so as to insure that the kinds of projects

1 that we support are the ones that indeed will help
2 expand our economy, not only in the short term but
3 also in the long term with all of the various
4 interests that have been articulated by the
5 Commission today.

6 So I would like to again ask that the
7 Commissioners through their Staff come up with a date
8 for the purposes of convening this meeting, given
9 that we are dealing with a very short time frame,
10 that we will have to conduct this meeting in short
11 order. And I also believe that in hosting this
12 meeting, it can also be helpful to our Staff in
13 better fleshing these issues out. So to our
14 wonderful Commissioner Staff, if we can please start
15 moving forward and gathering some of those dates,
16 that would be great.

17 So at this time I would also like to
18 just thank our Staff. Thank you, Mr. Beyer, for your
19 presentation. Judge, thank you. And let's move
20 forward on this. So thank you.

21 Our last item that we have on the
22 agenda today is a FERC matter that requires us to go

1 into closed session. I would like to make a motion
2 to go into closed session. Is there a second?

3 COMMISSIONER FORD: Second.

4 ACTING CHAIRMAN FLORES: It's been moved and
5 seconded. All in favor say aye.

6 COMMISSIONERS: Aye.

7 ACTING CHAIRMAN FLORES: Any opposed? The vote
8 is 5-0 to go into closed session. Please let me know
9 when the room is clear in Chicago.

10 COMMISSIONER O'CONNELL-DIAZ: I think we are
11 clear.

12 (Whereupon at this point
13 pages 45 - 57 of the
14 proceedings are
15 contained in a separate
16 closed transcript.)

17

18

19

20

21

22

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

CONTINUATION OF PROCEEDINGS

ACTING CHAIRMAN FLORES: Very well. In closed session the Commission discussed filing comments in FERC Docket Number ER09-1063-004. These comments concern PJM's June 18 shortage pricing filing. I would like to make a motion to file the comments with FERC. Is there a second.

COMMISSIONER ELLIOTT: Second.

ACTING CHAIRMAN FLORES: It's been moved and seconded. All in favor say aye.

COMMISSIONERS: Aye.

ACTING CHAIRMAN FLORES: Any opposed?

The vote is 5-0. The comments will be filed with FERC again. Team, thank you very much for your outstanding work.

I believe that there is one additional matter. Commissioner Colgan?

COMMISSIONER COLGAN: Thank you, sir. I sent out some notice to the rest of my colleague Commissioners about NARUC and their promotion of Lifeline Awareness Week. It is a project participation by NASUCA, NARUC and FCC, so I have

1 been huddling up with Staff, talking about ways that
2 we can promote that here in Illinois.

3 We do have in our possession a
4 proclamation from Governor Quinn saying that
5 September 12 through the 18th will be Lifeline
6 Awareness Week in the state of Illinois. We have
7 some ongoing meetings and discussions. We have been
8 -- coming together in these meetings have been the
9 telecom staff, the IT staff, the consumer services
10 staff, my assistant Linda Wagner and myself, and just
11 talking through all these issues and trying to see
12 how we can better promote this vital service for
13 people in the state of Illinois.

14 So we are working also with the
15 Department of Commerce and Economic Opportunity, the
16 Department of Human Services, the Governor's office
17 and us, all trying to come together, some other
18 stakeholders out there that are interest groups that
19 also may come on board with this project.

20 But I just wanted to report that we do
21 have the proclamation from the Governor and we are
22 moving forward. And we will probably have some event

1 like a news conference to announce this and hopefully
2 be able to get the word out there and update some web
3 sites, this agency's and other agencies', for how
4 people can hook up to this service.

5 COMMISSIONER FORD: One of the things I would
6 like to comment, two years ago Marty Cohen and I went
7 to the Chicago public schools and they put it on the
8 bottom of their free lunch application and that's how
9 the city of Chicago began to hear about it. And they
10 automatically send out fliers to the city, but Marty
11 Cohen, we did go to meet with Arnie Duncan on this
12 issue and he is very supportive. So you can always
13 use the schools because they are free lunch
14 application. They are eligible.

15 COMMISSIONER COLGAN: Right. I will probably
16 call on you to see if we can do something similar to
17 that this year.

18 ACTING CHAIRMAN FLORES: I think it is a great
19 recommendation, Commissioner Ford, and I would just
20 ask that we not only reach out to the city of Chicago
21 but that we reach out to all of the school districts
22 throughout the state. And so it may require us to

1 also meet with folks from the Illinois Board of
2 Education to inquire about how we can collaborate on
3 this effort.

4 Any other comments by the other
5 Commissioners?

6 COMMISSIONER ELLIOTT: I would just note that
7 with the most recent rewrite of the Telecom Act and
8 the changing landscape of the competitive
9 telecommunication services, I think it is more and
10 more important that the Commission get involved in
11 areas like this and issues of this nature to raise
12 the awareness to the degree that we can, not only
13 just for the week of September 12 through the 18th
14 but throughout the year.

15 COMMISSIONER O'CONNELL-DIAZ: If I might chime
16 in just having come from the NARUC meeting where this
17 was really, really talked about a lot in our
18 committee meetings and Commissioner Boyle from
19 Nebraska heading this up and all the work that NASUCA
20 and other parties have done on it to provide all
21 state commissions with kind of like the structure and
22 then, you know, as Commissioner Colgan is doing is,

1 you know, kind of charging out there with it. And it
2 shows the value of us really working together with
3 our other colleagues in other states to develop
4 modalities to help all of our citizens. And I think
5 it is great that NARUC got behind us and that
6 Commissioner Colgan in his role as our consumer
7 affairs is leading the charge.

8 So we need to do more of these things,
9 and I know that NARUC is looking to do more of these
10 things, you know, on a national scale. So we don't
11 have to reinvent the wheel, but we can design it for
12 our own state. So it is really a great collaborative
13 process, and every year we can get better. So it is
14 just a real good -- a good thing for our Commission
15 to be joining in this effort.

16 ACTING CHAIRMAN FLORES: Thank you.

17 COMMISSIONER COLGAN: That pretty much
18 concludes my report. Thank you for your comments,
19 and anybody is welcome to come to the meetings. I
20 will send out a notice when they are. I think the
21 next meeting is a couple of weeks from now.

22 ACTING CHAIRMAN FLORES: Thank you,

1 Commissioner. I also in closing just want to thank
2 you for your leadership on this issue. It is great
3 that we are also collaborating with sister agencies
4 here in the state of Illinois and doing it in a way
5 where we are integrating the various policies that
6 all of us are connected to and trying to advance.

7 And again at the risk of repeating
8 here some of the observations here, I do believe that
9 this is an opportunity also for our telecommunication
10 staff, Jim Zolnierek and his great team, to further
11 educate the consumer about what the implications of
12 the telecommunications rewrite is going to hold. In
13 a press conference that was held recently in which
14 the Governor signed into law, there were a number of
15 questions that were made by the press, and I think
16 some of those questions frankly still linger.

17 And so to the extent that we can use
18 this initiative as a vehicle to better inform, I
19 think it is a great idea and I think it will be an
20 effective tool to get the word out to the everyday
21 consumer throughout the state of Illinois, not just
22 in the Chicagoland area or in other more populated

1 areas but also to the rural communities in which I
2 know they have probably a lot of questions about what
3 these changes mean to them in insuring that they have
4 quality of service and also insuring that families of
5 modest means are also considered in these
6 initiatives.

7 So I would just ask if also, Jim, we
8 can stay on top of this initiative and provide
9 whatever assistance we can provide in meeting, that
10 would be great. So thank you, Commissioner Colgan,
11 for your leadership in this matter.

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

14 JUDGE WALLACE: That's all there is.

15 ACTING CHAIRMAN FLORES: Your Honor, thank you
16 very much. Hearing none, this meeting stands
17 adjourned.

18 MEETING ADJOURNED

19

20

21

22