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BEFORE THE
ILLINOIS COMMERCE COMMISSION

BENCH SESSION
(PUBLIC UTILITIES)

Springfield, Illinois

Wednesday, August 14, 2013

Met, pursuant to notice, at 10:30 a.m., Illinois
Commerce Commission, 527 East Capitol Avenue, First
Floor, Springfield, Illinois.

PRESENT:

MR. DOUGLAS P. SCOTT, Chairman
MS. ANN McCABE, Commissioner
MS. SHERINA MAYE, Acting Commissioner
(Via videoconference)
MR. MIGUEL DEL VALLE, Acting Commissioner
(Via videoconference)

MIDWEST LITIGATION SERVICES
By: Rhonda Rhodes Bentley, Reporter
License No. 084-002706

1 CHAIRMAN SCOTT: Pursuant to the provisions
2 of the Open Meetings Act, I now convene a regularly
3 scheduled Bench session of the Illinois Commerce
4 Commission. With me in Springfield is Commissioner
5 McCabe. With us in Chicago are Acting Commissioner
6 Del Valle and Acting Commissioner Maye. I am Chairman
7 Scott. We have a quorum.

8 Before moving into the agenda,
9 according to Section 1700.10 of Title 2 of the
10 Administrative Code, this is the time we allow members
11 of the public to address the Commission. Members of
12 the public wishing to address the Commission must
13 notify the Chief Clerk's office at least 24 hours
14 prior to Commission meetings. According to the Chief
15 Clerk's office, we have no requests to speak at
16 today's Bench session.

17 Moving on to the Public Utility
18 agenda, we'll begin with Item E-1, which is
19 MidAmerican's annual filing to modify its Rate No. 57
20 for Cogeneration and Small Power Production
21 Facilities. Staff recommends that we approve the new
22 rate by not suspending the filing.

23 Is there any discussion?

24 (No response.)

1 Is there a motion to not suspend the
2 filing?

3 COMMISSIONER McCABE: So moved.

4 CHAIRMAN SCOTT: Is there a second?

5 ACTING COMMISSIONER MAYE: Second.

6 CHAIRMAN SCOTT: It's been moved and
7 seconded. All in favor say aye.

8 (A chorus of ayes.)

9 Any opposed?

10 (No response.)

11 The vote is four to nothing, and the
12 filing is not suspended. We will use this four to
13 nothing vote for the remainder of today's Public
14 Utilities Agenda unless otherwise noted.

15 Item E-2 is MidAmerican's filing to
16 modify Rider 4, Interruptible Service, and Rider 14,
17 Curtailment Service. Staff recommends that we approve
18 the modification by not suspending the filing.

19 Is there any discussion?

20 (No response.)

21 Any objections?

22 (No response.)

23 Hearing none, the filing is not
24 suspended.

1 Item E-3 is Ameren's filing
2 proposing revenue neutral tariff changes, pursuant to
3 Section 16-108.5(e). Staff recommends that we enter
4 an Order suspending the filing and setting the matter
5 for hearing.

6 Is there any discussion?

7 (No response.)

8 Any objections?

9 (No response.)

10 Hearing none, the Order is entered,
11 and the filing is suspended.

12 Item E-4 is ComEd's filing to revise
13 its Rider PORCB by changing the definition of
14 uncollectible factor and establishing a cost recovery
15 amount. Staff recommends that we approve this
16 revision by not suspending the filing.

17 Is there any discussion?

18 (No response.)

19 Any objection?

20 (No response.)

21 Hearing none, the filing is not
22 suspended.

23 Item E-5 is Docket No. 11-0672.

24 This is our investigation into MidAmerican's

1 compliance with Section 8-101 of the Public Utilities
2 Act. ALJ Jones recommends entry of a Post Exceptions
3 Order adopting three of Staff's recommendations.

4 I believe Commissioner McCabe has
5 some proposed edits here. Commissioner.

6 COMMISSIONER McCABE: Yes. The edits I am
7 proposing adopts Staff recommendation to have the
8 company conduct their own investigation of accidents
9 regardless of whether they involve a contract employee
10 or direct employee.

11 In its reply brief, MidAmerican
12 conceded that it currently does its own review and
13 determination of circumstances surrounding an accident
14 involving its contractors.

15 As Staff points out, these edits
16 simply insure that MEC has the ultimate responsibility
17 for monitoring and conducting investigations of
18 accidents at their facilities. This will enable the
19 company to identify and implement safety measures and
20 will insure the company meets its burden under Section
21 8-101 of the Public Utilities Act.

22 I thank the Chairman for his input
23 and fellow Commissioners for their support, and I move
24 for adoption of the edits.

1 CHAIRMAN SCOTT: Commissioner McCabe has
2 moved for the adoption of the edits. Is there a
3 second?

4 ACTING COMMISSIONER MAYE: Second.

5 CHAIRMAN SCOTT: It's been moved and
6 seconded. Any further discussion on the revisions?

7 (No response.)

8 All in favor of the revisions say
9 aye.

10 (A chorus of ayes.)

11 Any opposed?

12 (No response.)

13 The vote is four to nothing, and the
14 revisions are adopted.

15 Any other discussion on this matter?

16 (No response.)

17 Is there now a motion to enter the
18 Order as amended?

19 COMMISSIONER McCABE: So moved.

20 CHAIRMAN SCOTT: Is there a second?

21 ACTING COMMISSIONER DEL VALLE: Second.

22 CHAIRMAN SCOTT: It's been moved and
23 seconded. All in favor say aye.

24 (A chorus of ayes.)

1 Any opposed?

2 (No response.)

3 The vote is four to nothing, and the
4 Order as amended is ordered.

5 Items E-6 through E-8 can be taken
6 together. These are complaints against ComEd as to
7 billing or charges. In each case it appears that the
8 parties have settled their differences and have filed
9 a Joint Motion to Dismiss, which ALJ Benn recommends
10 we grant.

11 Is there any discussion?

12 (No response.)

13 Any objections?

14 (No response.)

15 Hearing none, the Joint Motions to
16 Dismiss are granted.

17 Items E-9 through E-11 can be taken
18 together. These are complaints against ComEd as to
19 billing or charges. In each case the ALJ recommends
20 entry of an Order dismissing the complaint without
21 prejudice.

22 Is there any discussion?

23 (No response.)

24 Any objections?

1 (No response.)

2 Hearing none, the Orders are
3 entered.

4 Item E-12 is Chet DeKing's complaint
5 against ComEd regarding the removal of trees from his
6 property. This matter will be held for disposition at
7 a future Commission meeting.

8 Item E-13 is Docket No. 13-0030.
9 This is ComEd's reconciliation of revenues collected
10 under coal tar riders with prudent costs associated
11 with coal tar clean-up expenditures.

12 We lost Chicago.

13 (WHEREIN, a discussion was held off
14 the record.)

15 CHAIRMAN SCOTT: We'll go back on the
16 record now. I don't know if this got on before we got
17 knocked off the air, but Item E-12 is Chet DeKing's
18 complaint against ComEd regarding removal of trees
19 from his property. This matter will be held for
20 disposition at a future Commission meeting.

21 Item E-13 is Docket No. 13-0030.
22 This is ComEd's reconciliation of revenues collected
23 under coal tar riders with prudent costs associated
24 with coal tar clean-up expenditures. ALJ Hilliard

1 recommends entry of an Order approving the
2 reconciliation.

3 Is there any discussion?

4 (No response.)

5 Any objections?

6 (No response.)

7 Hearing none, the Order is entered.

8 Item E-14 is Docket No. 13-0042.

9 This is our Citation of U.S. Sun Energy for its
10 failure to file its ABC Compliance Recertification
11 report as required by 83 Ill. Adm. Code 454.110. ALJ
12 Jorgenson recommends entry of an Order suspending
13 Respondent's Certificate of Authority for a period of
14 90 days.

15 Is there any discussion?

16 (No response.)

17 Any objections?

18 (No response.)

19 Hearing none, the Order is entered.

20 Item E-15 is Docket No. 13-0436.

21 This is IDOT'S Petition for Authorization for the
22 taking of a portion of ComEd's property in Winnebago
23 County by eminent domain authority. ALJ Riley
24 recommends entry of an Order granting the requested

1 authority.

2 Is there any discussion?

3 (No response.)

4 Any objections?

5 (No response.)

6 Hearing none, the Order is entered.

7 Item E-16 is Docket No. 13-0444.

8 This is Ameren and Menard Electric Co-op's Joint
9 Petition for approval of a partial service area
10 agreement. ALJ Jones recommends entry of an Order
11 granting the Joint Petition.

12 Is there any discussion?

13 (No response.)

14 Any objections?

15 (No response.)

16 Hearing none, the Order is entered.

17 Item E-17 is Docket No. 12-0598.

18 This is Ameren Transmission Company of Illinois'
19 Petition for a Certificate of Convenience and
20 Necessity pursuant to Section 8-406.1 of the Public
21 Utilities Act and an Order pursuant to Section 8-503
22 of the Public Utilities Act to construct, operate and
23 maintain a new high voltage transmission line and
24 related facilities in counties across Illinois. ALJs

1 Albers and Yoder recommend entry of a Post Exceptions
2 Order. While this item will be held for disposition
3 at a future Commission proceeding, I believe
4 Commissioner McCabe had a couple questions of Judge
5 Albers.

6 Do you want to say your name?

7 ALJ ALBERS: John Albers, A-l-b-e-r-s.

8 COMMISSIONER McCABE: If the hearing were
9 granted in the future on some portion of this line,
10 would notice be allowable for landowners?

11 ALJ ALBERS: Yes. We would have to
12 certainly provide notice to the landowners. I suspect
13 that depending on what the Commission does, and if
14 they grant rehearing on -- if there's -- with a
15 totally new route, we would certainly have to identify
16 those landowners and provide notice to them.

17 Given that there's only 150 days for
18 a hearing, it'd be a pretty tight -- all together a
19 pretty tight timeframe for the case, but under the
20 original 406.1, there's only 150 days for that as
21 well. So --

22 COMMISSIONER McCABE: Okay.

23 CHAIRMAN SCOTT: So even if there were new
24 -- new people that hadn't been previously identified

1 because of a new proposed route, they would get notice
2 and would be able to participate in the hearing?

3 ALJ ALBERS: Yes, we would make sure of
4 that. Might not get a lot of time to participate, but
5 they will be notified.

6 CHAIRMAN SCOTT: I understand.

7 COMMISSIONER McCABE: Okay. Thank you.

8 CHAIRMAN SCOTT: Thank you, Judge.

9 Any other questions for the Judge?

10 ACTING COMMISSIONER DEL VALLE: Yes.

11 CHAIRMAN SCOTT: Mr. Del Valle.

12 ACTING COMMISSIONER: Do you feel that the
13 stipulated routes had adequate time for study by those
14 proposing them and all other parties?

15 ALJ ALBERS: My personal view is that given
16 the scope of this project, the time provided under the
17 statute was insufficient, but given that we had to do
18 it with the 225 days provided by law, I think we and
19 other parties have tried to do the best we could. You
20 know, I think, as I mentioned at one point in the
21 Order, you know, there's things that we may not be
22 aware of that exist out there when it comes time to
23 actually put poles in the ground, and had there been
24 time, we might be able to identify those.

1 ACTING COMMISSIONER DEL VALLE: Were all
2 the legal requirements in your opinion met for all
3 routes notice -- legal notice requirements?

4 ALJ ALBERS: I believe that those who
5 actually own the land upon which a route has been
6 proposed got notice. There's one -- one alternative
7 that a group of landowners proposed. When they first
8 proposed it, they gave us a list of landowners along
9 their alternative route, didn't give us any addresses,
10 and then a few days later, they provided the
11 addresses, but we missed that. Later, however, that
12 route was abandoned when the group that offered that
13 alternative agreed to a stipulation with Ameren, and
14 it didn't seem that that would have any effect then.
15 I believe it was in their briefs or one point Staff
16 then suggested -- I'm sorry, I'll defer to Judge Yoder
17 for a moment. At one point Staff --

18 ALJ YODER: I have to find it, but it was
19 Staff, and I think Staff and several other parties
20 then latched on to that proposed route.

21 ALJ ALBERS: Right.

22 ALJ YODER: A lot of acronyms, but it was
23 MSSCLFT, and then they left that route, went with a
24 stipulated route with Ameren, but then two or three

1 other parties wanted to suggest that route, although,
2 in my opinion, there wasn't much further evidence
3 presented to support that route with the initial
4 suggestion.

5 CHAIRMAN SCOTT: Would you please just let
6 the court reporter know your name?

7 ALJ YODER: Oh, Judge Yoder, again.

8 ACTING COMMISSIONER DEL VALLE: Thank you.

9 CHAIRMAN SCOTT: And I know in terms of
10 comments that it's not a rate case so you're not
11 required to give us an update on it -- the comments on
12 it, but maybe for next week's meeting if you would --

13 ALJ ALBERS: I can tell you right now. As
14 of this morning it was 243 comments. Many of them
15 were claiming they never received notice, so I just
16 want to mention that in response to Commissioner Dell
17 Valle's question. Of those, I don't know -- we have
18 no way of knowing how many of them would have gotten
19 notice as landowners. Some of them seem to be
20 complaining that they didn't get notice, but they
21 weren't the landowners, so they wouldn't have gotten
22 notice anyway. Some of the comments clearly indicate
23 that they live within a mile or so of the proposed
24 route, and -- well, that may be true, but you wouldn't

1 have gotten notice anyway. So --

2 CHAIRMAN SCOTT: Okay. And those -- Are
3 those comments all posted?

4 ALJ ALBERS: Every comment that we received
5 through E-docket or through the toll-free number at
6 the Consumer Services Division is posted on E-docket.

7 CHAIRMAN SCOTT: Okay. Very good. Thank
8 you, Judge. Anything else?

9 JUDGE WALLACE: Our deadline is next
10 Tuesday.

11 CHAIRMAN SCOTT: The deadline is next
12 Tuesday, a short future for a future Commission
13 disposition.

14 Thank you, Judges.

15 As we said, that will be held until
16 our meeting next -- next Tuesday, the 20th.

17 Turning now to Natural Gas, Item G-1
18 is Docket No. 10-0685. This is Ameren's
19 reconciliation of revenues collected under gas
20 adjustment charges with actual costs prudently
21 incurred. ALJ Albers recommends an Order approving
22 the reconciliation.

23 Is there any discussion?

24 (No response.)

1 Any objections?
2 (No response.)
3 Hearing none, the Order is entered.
4 On to Telecommunications, Item T-1
5 is Docket No. 13-0443. This is AT&T and Sprint's
6 Joint Petition for Approval of an Interconnection
7 Agreement. ALJ Baker recommends entry of an Order
8 approving the agreement.
9 Is there any discussion?
10 (No response.)
11 Any objections?
12 (No response.)
13 Hearing none, the Order is entered.
14 Item T-2 is Docket No. 13-0213.
15 This is Frontier North's Petition for Confidential
16 and/or Proprietary Treatment of its 2012 Part 790.350
17 Report for a period of five years. ALJ Benn
18 recommends entry of an Order granting the requested
19 treatment.
20 Is there any discussion?
21 (No response.)
22 Any objections?
23 (No response.)
24 Hearing none, the Order is entered.

1 Turning now to Water and Sewer, Item
2 W-1 is Docket No. 13-0333. This is Aqua Illinois'
3 Petition for Approval of a proposed qualifying
4 infrastructure plant surcharge rider pursuant to 83
5 Ill. Adm. Code Part 656. Petitioner filed a Motion to
6 Dismiss the proceeding which ALJ Jorgenson recommends
7 we grant.

8 Is there any discussion?

9 (No response.)

10 Any objections?

11 (No response.)

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

14 Item W-2 is Docket No. 13-0073.

15 This is Illinois American Water Company's Petition for
16 a Certificate of Convenience and Necessity to provide
17 water service to the City of Grafton and its environs
18 in Jersey County, and for approval of the purchase of
19 certain assets of the City of Grafton, pursuant to
20 Section 8-406 of the Public Utilities Act. ALJ Von
21 Qualen recommends entry of an Order granting the
22 requested relief.

23 Is there any discussion?

24 (No response.)

1 Any objections?

2 (No response.)

3 Hearing none, the Order is entered.

4 Item W-3 is Docket No. 12-0603 and
5 12-0604 (Consolidated.) This is Apple Canyon and Lake
6 Wildwood's proposed general increase in water service.
7 ALJ Haynes recommends entry of an Order approving the
8 proposed rate increase.

9 In terms of discussion, I believe
10 Commissioner McCabe has some comments.

11 COMMISSIONER McCABE: Yes. I support the
12 proposed Order and acknowledge the work of Staff, the
13 company, and intervenors in this case. Two capital
14 projects are not included in the Order. Had the
15 record been more developed sooner, the Commission
16 would likely have included them.

17 Utilities did not propose the pro
18 forma plant addition adjustments until their rebuttal
19 testimony making it difficult for intervenors to fully
20 consider and rebut the evidence in the record.

21 CHAIRMAN SCOTT: Okay.

22 Further discussion?

23 We need the -- Any public comments
24 if we got them? Is Judge Haynes available?

1 ALJ HAYNES: I am.

2 CHAIRMAN SCOTT: Hi, Judge.

3 ALJ HAYNES: Hello. Good morning.

4 Last time I checked at the end of
5 last week, as -- the same numbers as included in the
6 Order, which was, I think, 60 comments -- hold on.
7 I'll get that number here. 60 public comments for
8 Lake Wildwood and just two for Apple Canyon, and these
9 are the ones filed on E-docket.

10 CHAIRMAN SCOTT: Okay. Very good. Thank
11 you, Judge.

12 ALJ HAYNES: Uh-huh.

13 CHAIRMAN SCOTT: Is there any further
14 discussion on Item W-3?

15 (No response.)

16 Are there any objections to the
17 proposed Order?

18 (No response.)

19 Hearing none, the Order is adopted.

20 We have two Petitions for Rehearing
21 today. Item PR-1 is Docket No. 12-0550. This is
22 Sprint's Petition For Arbitration of its
23 interconnection agreement with AT&T. Both Sprint and
24 AT&T have filed Petitions for Rehearing which ALJs

1 Haynes and Jorgenson recommend we deny.

2 Is there any discussion?

3 (No response.)

4 Any objections?

5 (No response.)

6 Hearing none, both Petitions for
7 Rehearing are denied.

8 Item PR-2 is Docket No. 13-0034.

9 This is our approval of Phase 2 of the Future Gen
10 Clean Coal Facility. ComEd has filed a Petition for
11 Rehearing.

12 I move to deny the Petition for
13 Rehearing. Is there a second?

14 ACTING COMMISSIONER DEL VALLE: Second.

15 CHAIRMAN SCOTT: It's been moved and
16 seconded. Any discussion on the motion?

17 (No response.)

18 All in favor say aye.

19 (A chorus of ayes.)

20 Any opposed?

21 (Nay.)

22 The vote is three to one. The ayes
23 have it, and the Petition for Rehearing is denied.

24 We have two other items of Other

1 Business on today's agenda. The first item is our
2 report to the General Assembly Concerning Coordination
3 between Gas and Electric Utility Energy Efficiency
4 Programs and Spending Limits for Gas Utility Energy
5 Efficiency Programs. This item will be held for
6 disposition at a future Commission meeting.

7 The last item of Other Business
8 today concerns pending litigation, so we'll need to go
9 into closed session to address it.

10 Is there a motion to go into closed
11 session?

12 COMMISSIONER McCABE: So moved.

13 CHAIRMAN SCOTT: Is there a second?

14 ACTING COMMISSIONER DEL VALLE: Second.

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

17 (A chorus of ayes.)

18 Any opposed?

19 (No response.)

20 The vote is four to nothing. The
21 Commission will now go into closed session.

22 Please let me know when the room is
23 ready in Chicago.

24 (Whereupon, a closed session was had

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and is transcribed under a separate
transcript.)

1 (The following proceedings were had
2 in open session:)

3 CHAIRMAN SCOTT: In closed session
4 the Commission discussed the People of the State of
5 Illinois ex rel. Madigan v. Illinois Commerce
6 Commission.

7 I'm going to make a motion that we
8 file to both publish the decision and for rehearing in
9 this matter. Is there a second?

10 (No response.)

11 If not, somebody else take a shot at
12 a motion.

13 ACTING COMMISSIONER MAYE: I move that we
14 file for Petition for Rehearing in this matter.

15 CHAIRMAN SCOTT: Okay.

16 COMMISSIONER McCABE: I second that.

17 CHAIRMAN SCOTT: Okay.

18 Is there any discussion on that
19 motion?

20 (No response.)

21 All in favor say aye.

22 (A chorus of ayes.)

23 Any opposed?

24 (No response.)

1 The vote is four to nothing, and we
2 have moved to file a Petition for Rehearing on this
3 matter. Okay.

4 Okay. Thank you, gentlemen.

5 COMMISSIONER McCABE: Thank you.

6 CHAIRMAN SCOTT: Judge Wallace, are there
7 any other matters to come before the Commission today?

8 JUDGE WALLACE: No, that's all today, Mr.
9 Chairman.

10 CHAIRMAN SCOTT: Seems like enough. Thank
11 you.

12 Hearing none, this meeting stands
13 adjourned.

14 (Which were all the proceedings had
15 for the Public Utilities agenda.)

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