

1 BEFORE THE
2 ILLINOIS COMMERCE COMMISSION

3 BENCH SESSION
4 (PUBLIC UTILITY)

5
6 Springfield, Illinois

7 Wednesday, August 15, 2012

8
9 Met, pursuant to notice, at 10:30 a.m.

10 in Hearing Room A, First Floor, Leland Building, 527

11 East Capitol Avenue, Springfield, Illinois.

12 PRESENT:

13 MR. DOUGLAS P. SCOTT, Chairman

14 MS. LULA M. FORD, Commissioner

15 MS. ERIN M. O'CONNELL-DIAZ, Commissioner

16 MR. JOHN T. COLGAN, Commissioner

17 MS. ANN McCABE, Commissioner

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21 By: Lisa K. Hahn, Reporter
22 CSR #084-002149

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

5 CHAIRMAN SCOTT: We will now move to the Public
6 Utility agenda, starting with the Electric portion.

7 Item E-1 is Docket Number 12-0455.
8 This is a petition filed by ComEd seeking special
9 permission to correct a formula error for its
10 delivery services' pricing and performance rate.
11 Staff recommends that special permission for this
12 change be granted.

13 Is there any discussion?

14 (No response.)

15 Is there a motion to grant special
16 permission?

17 COMMISSIONER O'CONNELL-DIAZ: So moved.

18 COMMISSIONER McCABE: Second.

19 CHAIRMAN SCOTT: Moved by Commissioner
20 O'Connell-Diaz. Seconded by Commissioner McCabe.
21 Moved and seconded. All in favor say aye.

22 COMMISSIONERS: Aye.

1 CHAIRMAN SCOTT: Any opposed?

2 (No response.)

3 The vote is five to nothing. Special
4 permission is granted.

5 We will use this five to nothing vote
6 for the remainder of the Public Utility agenda,
7 unless otherwise noted.

8 Item E-2 is Docket Numbers 10-0272
9 through 10-0274. It's Ameren's reconciliation case
10 for revenues collected under power procurement riders
11 for June 2008 through May 2009. ALJ Jones
12 recommends entry of an Order approving the
13 reconciliation.

14 Is there any discussion?

15 (No response.)

16 Any objections?

17 (No response.)

18 Hearing none, the Order is entered.

19 Item E-3 is Docket Number 10-0537.
20 This item will be held for disposition at a future
21 Commission proceeding.

22 Item E-4 is Docket Number 11-0669.

1 This is Ameren's reconciliation case for revenues
2 collected under Power Smart Pricing Rider for 2007
3 through 2010. ALJ Yoder recommends entry of an Order
4 approving the reconciliation.

5 Is there any discussion?

6 (No response.)

7 Are there any objections?

8 (No response.)

9 Hearing none, the Order is entered.

10 Items E-5 through E-10 (09-0594,
11 11-0409, 11-0534, 11-0735, 11-0751, 12-0229) can be
12 taken together. These items are customer complaints
13 against ComEd. In each case, the parties apparently
14 settled their differences and have brought a Joint
15 Motion to Dismiss the ALJ recommends we grant.

16 Is there any discussion?

17 (No response.)

18 Any objections?

19 (No response.)

20 Hearing none, the Joint Motions to
21 Dismiss are granted.

22 Item E-11 is Docket Number 11-0728.

1 This is Lakecia Cole's complaint against Ameren. ALJ
2 Yoder recommends entry of an Order dismissing this
3 matter without prejudice for want of prosecution.

4 Is there any discussion?

5 (No response.)

6 Any objections?

7 (No response.)

8 Hearing none, the Order is entered and
9 the matter is dismissed.

10 Item E-12 is Docket Number 12-0075.

11 This is Brian Bolan's complaint against ComEd. ALJ
12 Haynes recommends entry of an Order granting the
13 Complaint.

14 Is there any discussion?

15 (No response.)

16 Any objections?

17 (No response.)

18 Hearing none, the Order is entered.

19 Item E-13 is Docket Number 12-0080.

20 This is Ameren's petition for authority to construct
21 and operate a new transmission line in Champaign
22 County. ALJ Von Qualen recommends entry of an Order

1 granting the company a certificate for the project.

2 Is there any discussion?

3 (No response.)

4 Any objections?

5 (No response.)

6 Hearing none, the Order is entered.

7 Items E-14 and E-15 (12-0407, 12-0444)
8 can be taken together. These items are applications
9 by Santanna Energy Services and AP Gas & Electric for
10 licensure as an alternative retail electric supplier.
11 In each case, ALJ Yoder recommends the entry of an
12 Order granting the requested certificate.

13 Is there any discussion?

14 COMMISSIONER COLGAN: Mr. Chairman.

15 CHAIRMAN SCOTT: Commissioner Colgan?

16 COMMISSIONER COLGAN: On E-14, this is
17 Santanna's second request or attempt to obtain an
18 ARES certificate. They previously applied for this
19 certificate under Docket 12-0217 but withdrew its
20 application when it received the ALJ's proposed Order
21 denying that certificate. That proposed Order
22 language cited that Santanna's history of customer

1 complaints, their prior declaration and force
2 majeure, bankruptcy, and Santanna's contingency
3 planning and overall strategy for product pricing and
4 Santanna's overall performance in the area of
5 customer service.

6 Because it appears that this company
7 has now adequately addressed these problems in the
8 present docket, I'm not voting against this, granting
9 this certificate. There remains concern based on
10 Santanna's history of complaints as an Illinois AGS,
11 and as I have noted previously, I believe that this
12 Commission must ensure and protect the competitive
13 market from bad actors.

14 So as I vote to allow this company to
15 enter the ARES market, I encourage them to closely
16 monitor their outreach and marketing activities and
17 make customer service their highest priority.

18 CHAIRMAN SCOTT: Thank you, Commissioner
19 Colgan. Further discussion? Commissioner
20 O'Connell-Diaz?

21 COMMISSIONER O'CONNELL-DIAZ: Mr. Chairman, I
22 would concur with Commissioner Colgan's comments.

1 Having been on the Commission when this company was
2 not in line with the Commission rules and everything
3 that fell out of that situation, when I saw the
4 company's name on our roster of cases to look at, I
5 too, went and really went through the record, as I
6 know all of our colleagues did, as well as the ALJ,
7 the extensive information in this record that would
8 show that this is a company that has hopefully put
9 the past behind them, has put forward the appropriate
10 evidence in this record to ensure that customers are
11 going to be treated in the manner that our laws
12 provide for.

13 With that said, I would also concur
14 with Commissioner Colgan that the -- we will be
15 mindful and watchful of this company and any type of
16 complaint activity that we see as they go forward,
17 and it is because of the situation that we have had
18 with them, but I believe that the record is clear
19 that they have taken all the steps that they need to
20 to be a credible supplier of alternative services,
21 but we will be looking over their shoulders a lot, so
22 they need to be mindful and make sure that they're

1 giving the highest standard to our ratepayers and
2 customers throughout the state. Thank you.

3 CHAIRMAN SCOTT: Any further discussion?

4 (No response.)

5 Are there any objections to entry of
6 these Orders?

7 (No response.)

8 Hearing none, the Orders are entered.

9 Items E-16 and E-17 (12-0412, 12-0417)
10 can be taken together. These items are applications
11 for licensure as an Agent, Broker and Consultant
12 filed under Section 16-115C of the Public Utilities
13 Act. In each case, ALJ Albers recommends entry of an
14 Order granting the certificate.

15 Is there any discussion?

16 (No response.)

17 Are there any objections?

18 (No response.)

19 Hearing none, the Orders are entered.

20 Items E-18 through E-23 (12-0124,
21 12-0198, 12-0260, 12-0302, 12-0360, 12-0369) can be
22 taken together. These are petitions for confidential

1 and/or proprietary treatment of Petitioner's reports.
2 In each case, the ALJ recommends entry an Order
3 granting the requested relief.

4 Is there any discussion?

5 (No response.)

6 Are there any objections?

7 (No response.)

8 Hearing none, the Orders are entered.

9 Item E-24 is Docket Number 12-0342.

10 This is AEP Retail Energy Partners' petition to
11 withdraw its alternative retail electric supplier's
12 certificate previously issued by the Commission. ALJ
13 Baker recommends entry of an Order granting
14 withdrawal.

15 Is there any discussion?

16 (No response.)

17 Are there any objections?

18 (No response.)

19 Hearing none, the Order is entered.

20 Item E-25 is Docket Number 12-0399.

21 This is a petition by the Illinois Department of
22 Transportation seeking approval to acquire property

1 in Cook County by eminent domain for an intersection
2 improvement project. ALJ Hilliard recommends entry
3 of an Order granting the petition.

4 Is there any discussion?

5 (No response.)

6 Are there any objections?

7 (No response.)

8 Hearing none, the Order is entered.

9 Turning now to Natural Gas, Item G-1
10 is Docket Number 11-0633. This is George Fehringer's
11 complaint against Nicor. ALJ Baker recommends entry
12 of an Order dismissing this docket without prejudice
13 for want of prosecution.

14 Is there any discussion?

15 (No response.)

16 Are there any objections?

17 (No response.)

18 Hearing none, the Order is entered.

19 Item G-2 is Docket Number 12-0300.

20 This is a petition by Integrys Energy Services
21 seeking a confidential and/or proprietary treatment
22 of its AGS compliance report. ALJ Baker recommends

1 entry of an Order granting the requested relief.

2 Is there any discussion?

3 (No response.)

4 Are there any objections?

5 (No response.)

6 Hearing none, the Order is entered.

7 Item G-3 is Docket Number 12-0395.

8 This is Palmco Energy's application for a certificate
9 to operate as an alternative gas supplier. ALJ Von
10 Qualen recommends entry of an Order granting the
11 certificate.

12 Is there any discussion?

13 (No objection.)

14 Are there any objections?

15 (No objection.)

16 Hearing none, the Order is entered.

17 Moving on to Telecommunications, Item

18 T-1 is Docket Number 12-0303. This is Orbitel's
19 application for a certificate of prepaid calling
20 service authority under Section 13-404 of the Public
21 Utilities Act. ALJ Riley recommends entry of an
22 Order granting the certificate.

1 Is there any discussion?

2 (No response.)

3 Are there any objections?

4 (No response.)

5 Hearing none, the Order is entered.

6 Items T-2 through T-4 (12-0432,
7 12-0433, 12-0434) can be taken together. These are
8 petitions seeking modification of 9-1-1 services in
9 Lake County. In each case, ALJ Haynes recommends
10 entry of an Order granting the Petition.

11 Is there any discussion?

12 (No response.)

13 Any objections?

14 (No response.)

15 Hearing none, the Orders are entered.

16 Items T-5 and T-6 (12-0393, 12-0360)
17 can be taken together. These are joint petitions
18 seeking amendment for interconnection or traffic
19 termination agreement between telecommunications
20 carriers. In each case, ALJ Baker recommends entry
21 of an Order approving amendment.

22 Is there any discussion?

1 (No response.)

2 Any objections?

3 (No response.)

4 Hearing none, the Orders are entered.

5 Item T-7 concerns an issue in a
6 rulemaking proceeding for Title 83, Part 757, of the
7 Administrative Code regarding federal telephone
8 assistant program reform. Staff recommended an
9 initiating Order to begin the rulemaking proceeding.

10 Is there any discussion?

11 (No response.)

12 Is there any objections?

13 (No response.)

14 Item T-8 is Docket Number 11-0623.

15 This is a rulemaking proceeding for Title 83, Part
16 732, of the Administrative Code concerning its
17 customer credits issued by telecommunications
18 carriers. ALJ Benn recommends entry of a Second
19 Notice Order authorizing submission of the proposed
20 amendments to JCAR.

21 Is there any discussion?

22 (No response.)

1 Are there any objections?

2 (No response.)

3 Hearing none, the Order is entered.

4 Items T-9 and T-10 (12-0204, 12-0385)

5 can be taken together. These items are petitions for
6 the confidential and/or proprietary treatment of the
7 petitioner's Annual Reports. In each case, the ALJ
8 recommends entry of an Order granting the requested
9 protective treatment.

10 Is there any discussion?

11 (No response.)

12 Any objections?

13 (No response.)

14 Hearing none, the Orders are entered.

15 On to Water and Sewer, Item Number W-1
16 is Docket Number 11-0436. This is the Aqua Illinois
17 rate case on rehearing, and we'll be holding it aside
18 for disposition at our August 21st Regular Open
19 Meeting. We do, however, have a few questions for
20 ALJ Jones. Is the Judge available?

21 JUDGE JONES: Yes, sir.

22 CHAIRMAN SCOTT: Please come forward, sir.

1 Thank you, Judge. If you could maybe just set forth
2 by giving us an explanation of how you got to the
3 12 1/2 percent that you did in the decision.

4 JUDGE JONES: Thank you, Mr. Chairman. This is
5 Larry Jones.

6 I guess the real challenge in coming
7 up with the appropriate rate increase in this
8 situation is in trying to strike that balance of
9 finding a rate that will give Viscofan the incentive
10 to stay connected to the Aqua Systems, while not
11 shifting any more of a revenue shortfall that occurs
12 from that as possible to the other customers. So the
13 12.5 is really the result of that effort.

14 Just to explain it a little bit, I
15 guess, it is somewhere near the middle of the current
16 rate increase that was granted in the grade Order of
17 20 percent and the 4.9 percent that Viscofan has
18 recommended. It's also fairly close to the overall
19 increase that was granted to the division in which
20 Viscofan is a part. That is the consolidated
21 division that includes not only Danville, but the
22 rest of five other systems, and it's also somewhat

1 close to what Aqua recommended initially and is at
2 least in the range of some of the alternatives that
3 Staff was suggesting for consideration, although
4 Staff is recommending sticking with the 20 percent.

5 As the Commission is aware, Viscofan
6 did enter into a four-year contract with Aqua in
7 April, so that looms there. It does commit them to
8 purchasing at least most of their water from Aqua
9 over the next three, three and a half years or so.
10 So that comes into play a little bit, too, I suppose.
11 I mean, at least it's hard to overlook that, and that
12 was essentially the thought process, for better or
13 worse.

14 CHAIRMAN SCOTT: Questions anybody?

15 Is there anything -- is there anything
16 in the record that you can point to? I was looking
17 myself. Is there anything in the record you can
18 point to that would say that at any particular rate,
19 Viscofan even, you know, commits long term to being
20 there? Because I understand the concern about not
21 ending up with shortfalls from claimed revenue that
22 isn't there and that ends up with the other

1 customers, but it didn't seem like there was anything
2 that was there that would say, oh, at this rate
3 Viscofan agrees to stay.

4 JUDGE JONES: Mr. Chairman, I think that's
5 true. Viscofan stopped just short of actually
6 committing to that rate. They say in various places
7 that they have determined that to be an economic
8 rate. They support the rate. They run their various
9 analyses and their process at the corporate level and
10 have determined that is within the range of the
11 acceptable payback periods that they use in their
12 corporate forecasting and decision making, but I
13 would say they have stopped short of actually totally
14 committing to stay on the system at that rate.

15 CHAIRMAN SCOTT: Just two more quick questions.
16 Obviously, they entered into a contract with --
17 Viscofan entered into a contract with the company, so
18 there's nothing to prevent them from doing that -- no
19 matter what the rate is, nothing to prevent them from
20 being able to do that going forward beyond the three
21 and a half years.

22 JUDGE JONES: That is true. Neither Aqua nor

1 Viscofan supported the AG's proposal that this whole
2 thing essentially be handled through longer term
3 contracts, but they are certainly free to negotiate
4 additional contracts under the tariff which relies,
5 as you're aware, on the Commission-approved rate case
6 rate, or they could enter a negotiated rate under a
7 different section of Article 9 that is not limited to
8 four years.

9 CHAIRMAN SCOTT: And Aqua's position, just to
10 clarify, has been?

11 JUDGE JONES: The Aqua position is that the
12 rate needs to be set at a place that will give
13 Viscofan an incentive to stay on the system because
14 they do provide a lot of cost support for the rest of
15 the system that would be lost if they jumped the
16 system.

17 There are a lot of variable -- or
18 there are a lot of costs beyond variable costs that
19 do help pull down the rates of the remaining
20 customers, so Aqua has certainly made that point a
21 number of times, and then they -- in the original
22 case, they recommended a rate increase that was not

1 as low as what Aqua wanted but was lower than the
2 overall increase.

3 Lastly, Aqua has resisted the idea of
4 being directed to replace the existing contract with
5 the possibility of a new longer term contract under
6 the other section of the statute.

7 CHAIRMAN SCOTT: Further questions?
8 Commissioner McCabe?

9 COMMISSIONER McCABE: Aqua supports Viscofan
10 over the long term, assuming the market share of cost
11 of service?

12 JUDGE JONES: Commissioner, Aqua supports
13 the -- a discounted rate that is not tied to cost of
14 service in the same way that Staff would like to tie
15 it to cost of service.

16 COMMISSIONER McCABE: Okay.

17 CHAIRMAN SCOTT: Further questions?

18 (No response.)

19 Thank you very much, Judge. I
20 appreciate it. Thank you.

21 As I said we will hold this item for
22 disposition at our August 21st Regular Open Meeting.

1 We have one Petition for Rehearing
2 before the Commission today. Item PR-1 is Docket
3 Number 10-0711. This is an eminent domain petition
4 filed by the Southern Illinois Power Cooperative in
5 connection construction of transition lines in Saline
6 and Williamson Counties. We have received the
7 petition for rehearing from Fredric and Connie
8 Beasley, as well as a motion seeking to stay the
9 Commission's Order in this matter. ALJ Albers
10 recommends denying both the request for the rehearing
11 and the request for a stay.

12 Is there any discussion?

13 (No response.)

14 Are there any objections to denying
15 the hearing and denying the motion for stay?

16 (No response.)

17 Hearing none, the petition for
18 rehearing is denied and the motion for stay is
19 denied.

20 We have two items of other business
21 for consideration today, and those items concern FERC
22 matters. We will address them in closed session.

1 Is there a motion to go into closed
2 session?

3 COMMISSIONER COLGAN: So moved.

4 CHAIRMAN SCOTT: Moved by Commissioner Colgan.

5 Is there a second?

6 COMMISSIONER FORD: Second.

7 CHAIRMAN SCOTT: Seconded by Commissioner Ford.

8 All in favor say aye.

9 COMMISSIONERS: Aye.

10 CHAIRMAN SCOTT: Any opposed?

11 (No response.)

12 The vote is five to nothing and the
13 Commission will now go into closed session. Please
14 let me know when the room is ready in Chicago.

15 CHICAGO: Chicago's ready.

16 (Whereupon at this point
17 pages 24 - 50 of the
18 proceedings are
19 contained in a separate
20 closed transcript.)

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CONTINUATION OF PROCEEDINGS

CHAIRMAN SCOTT: If you can wait just a second to see if anybody waited out there. Yes, they did.

In Closed Session, the Commission discussed final comments in FERC Docket Number ER12-2302.

Is there a motion to file the comments with FERC?

COMMISSIONER COLGAN: So moved.

CHAIRMAN SCOTT: Moved by Commissioner Colgan. Is there a second?

COMMISSIONER McCABE: Second.

CHAIRMAN SCOTT: Seconded by Commissioner McCabe. It's been moved and seconded. All in favor, say aye.

COMMISSIONERS: Aye.

CHAIRMAN SCOTT: Any opposed?

(No response.)

The vote is five to nothing, and the comments will be filed with FERC.

Also, in Closed Session, the Commission discussed filing comments in FERC docket

1 number AD12-16-000, considering a motion to support
2 the OMS comments to be filed with FERC.

3 COMMISSIONER COLGAN: So moved.

4 CHAIRMAN SCOTT: Moved by Commissioner Colgan.

5 Is there a second?

6 COMMISSIONER FORD: Second.

7 CHAIRMAN SCOTT: Seconded by Commissioner Ford.

8 It's been moved and seconded. All in favor, say aye.

9 COMMISSIONERS: Aye.

10 CHAIRMAN SCOTT: Any opposed?

11 (No response.)

12 The vote is five to nothing, and the
13 comments will be filed -- or the vote to support the
14 comments to be filed with FERC.

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

17 JUDGE WALLACE: I'm Judge Wallace. No, there's
18 not.

19 CHAIRMAN SCOTT: You approve that message.

20 Thank you. The meeting stands adjourned. Thanks,
21 everyone.

22 BENCH SESSION CONCLUDED