

1 BEFORE THE
2 ILLINOIS COMMERCE COMMISSION

3
4 BENCH SESSION

5
6
7 Springfield, Illinois
8 Wednesday, August 19, 2009

9
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. CHARLES E. BOX, Chairman

16 MS. LULA M. FORD, Commissioner

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

18 MR. SHERMAN J. ELLIOTT, Commissioner

19
20
21 SULLIVAN REPORTING COMPANY, by
22 Carla J. Boehl, Reporter
 CSR #084-002710

1 PROCEEDINGS

2 CHAIRMAN BOX: Pursuant to the provisions of
3 the Illinois Open Meetings Act, I now convene a
4 regularly scheduled bench session of the Illinois
5 Commerce Commission. With me in Springfield are
6 Commissioners Ford, O'Connell-Diaz, Elliott. I am
7 Chairman Box, and we have a quorum.

8 Before moving into the agenda, this is
9 the time we allow the members of the public to
10 address the Commission. Members of the public
11 wishing to address the Commission must notify the
12 Chief Clerk's office at least 24 hours prior to the
13 bench session. According to the Chief Clerk's office
14 there are no requests to speak.

15 We will begin with the transportation
16 agenda. First we have minutes to approve from the
17 July 29, 2009, bench session. Is there a motion to
18 approve the minutes?

19 COMMISSIONER O'CONNELL-DIAZ: So moved.

20 CHAIRMAN BOX: Is there a second?

21 COMMISSIONER ELLIOTT: Second.

22 CHAIRMAN BOX: Been moved and seconded. All in

1 favor say aye.

2 COMMISSIONERS: Aye.

3 CHAIRMAN BOX: Any opposed?

4 The vote is 4-0 approving the minutes.

5 Turning to the railroad agenda, Items
6 RR-1 through RR-3 will be taken together. These
7 matters are stipulated agreements to improve public
8 safety at highway-rail grade crossings. \$226,631 in
9 Grade Crossing Protection Funds will be used. Staff
10 recommends entering the orders. Is there a motion to
11 enter the orders?

12 COMMISSIONER ELLIOTT: So moved.

13 CHAIRMAN BOX: Is there a second?

14 COMMISSIONER O'CONNELL-DIAZ: Second.

15 CHAIRMAN BOX: It's been moved and seconded.

16 All in favor say aye.

17 COMMISSIONERS: Aye.

18 CHAIRMAN BOX: Any opposed?

19 The vote is 4-0. The orders are
20 entered.

21 We will use this 4-0 roll call vote
22 for the remainder of the transportation agenda,

1 unless otherwise noted.

2 RR-4 is Docket T09-0043. The Illinois
3 Department of Transportation submits this petition
4 for eminent domain authority to acquire property for
5 the purposes of improving the Southwest Highway over
6 the Baltimore & Ohio Chicago Terminal Railroad.
7 Administrative Law Judge Jackson recommends entering
8 the order granting IDOT's petition to pursue eminent
9 domain. Is there any discussion? Any objections?
10 Hearing none, the order is entered granting the
11 petition.

12 Item RR-5 is Docket T09-0055. This is
13 a petition for authority to reconstruct the 35th
14 Street Bridge over Metra Electric and Canadian
15 National Railroad submitted by the City of Chicago.
16 No Grade Crossing Protection Funds will be used.
17 Administrative Law Judge Jackson recommends entering
18 the order granting the petition. Is there any
19 discussion? Any objections? Hearing none, the order
20 is entered granting the petition.

21 Item RR-6 is Docket T07-0027. This is
22 a petition to reconstruct an existing overhead

1 highway grade separation structure submitted by the
2 Massac County Unit Road District. No Grade Crossing
3 Protection Funds were used or requested.
4 Administrative Law Judge Jackson recommends entering
5 the order granting the petition. Is there any
6 discussion? Any objections? Hearing none, the order
7 is entered.

8 Item RR-7 is Docket T07-0027. This is
9 a stipulated agreement for an extension of time to
10 complete a safety improvement project. Staff
11 recommends entering the fifth supplemental order. Is
12 there any discussion? Any objections? Hearing none,
13 the fifth supplemental order is entered.

14 This concludes the railroad portion of
15 today's agenda.

16 Moving to the motor carriers, Item
17 MC-1 is a stipulated settlement agreement concerning
18 alleged violations of the Illinois Commercial
19 Transportation Law between A&A Trucking and Auto,
20 Inc., and the Commission. Staff recommends entering
21 the order. Is there any discussion? Any objections?
22 Hearing none, the order is entered.

1 Items MC-2 and MC-3 are petitions for
2 a commercial relocater's license. Administrative Law
3 Judge O'Brien recommends entering the orders granting
4 the Applicant a commercial relocater's license. Is
5 there any discussion? Any objections? Hearing none,
6 the orders are entered.

7 Items MC-4 and MC-7 through MC-9 are
8 applications for an operator's employment permits.
9 Administrative Law Judge Jackson recommends
10 dismissing the applications without prejudice for the
11 lack of a sponsoring employer and for failure to
12 appear for the hearing. Is there any discussion?
13 Any objections? Hearing none, the applications are
14 dismissed without prejudice.

15 Items MC-5 and MC-6 are requests for
16 renewal or a request for renewal and an application
17 for an operator's employment permit. Administrative
18 Law Judge Kirkland-Montague recommends entering the
19 orders approving the renewal and granting the
20 application. Is there any discussion? Any
21 objections? Hearing none, the orders are entered.

22 Items MC-10 and MC-11 are applications

1 for renewal of commercial relocation towing licenses.
2 Staff recommends granting the renewals. Is there any
3 discussion? Any objections? Hearing none, the
4 renewals are granted.

5 That concludes the motor carriers
6 portion of today's agenda.

7 We have one administrative matter.
8 AM-1 is Docket T07-0093. This is a Petition for
9 Interlocutory Review submitted by Toledo, Peoria and
10 Western Railway Corporation for the purposes of
11 reviewing the Commission's jurisdiction.
12 Administrative Law Judge Kirkland-Montaque recommends
13 denying the corporation's Petition for Interlocutory
14 Review.

15 Administrative Law Judge
16 Kirkland-Montaque, would you please brief the
17 Commission on this matter?

18 JUDGE KIRKLAND-MONTAQUE: Sure. Can you hear
19 me?

20 CHAIRMAN BOX: Yes.

21 JUDGE KIRKLAND-MONTAQUE: Okay. This was a
22 petition filed by the City of Chenoa to turn an

1 abandoned lane of Old Route 66 into a pedestrian
2 bicycle crossing at grade of the Toledo, Peoria and
3 Western Railroad Corporation's track. The case had
4 gone on for a long time and then the railroad filed a
5 Motion to Dismiss for lack of subject matter
6 jurisdiction, arguing that the Commission does not
7 have jurisdiction over a stand-alone bicycle
8 pedestrian crossing. And, indeed, the statute does
9 not give the Commission jurisdiction over that type
10 of crossing.

11 However, this is unique in that the
12 crossing was once a highway that was abandoned, is no
13 longer used by vehicles. But given the definitions
14 of highway and roadway, I felt that, although it is
15 not used by vehicles, the road still meets the
16 definition of a highway and roadway and, therefore,
17 the Commission does have jurisdiction over the road.
18 So that was the basis of my recommendation to deny
19 the Petition for Interlocutory Review.

20 CHAIRMAN BOX: Any questions to the Judge?

21 COMMISSIONER O'CONNELL-DIAZ: Judge, with
22 regard to these abandoned lanes, your contention is

1 because they have been used as a roadway in prior
2 years and they were improved and designed for such
3 use, that that's how the Commission's jurisdiction
4 still rests, is that a correct understanding of your
5 ruling?

6 JUDGE KIRKLAND-MONTAQUE: Correct.

7 CHAIRMAN BOX: Any further questions? And your
8 recommendation is to deny the Petition for
9 Interlocutory Review?

10 JUDGE KIRKLAND-MONTAQUE: Pardon me?

11 CHAIRMAN BOX: Is your recommendation to deny
12 the petition?

13 JUDGE KIRKLAND-MONTAQUE: Correct, that is my
14 recommendation.

15 CHAIRMAN BOX: Is there a motion to deny the
16 Petition for Interlocutory Review?

17 COMMISSIONER O'CONNELL-DIAZ: So moved.

18 CHAIRMAN BOX: Is there a second?

19 COMMISSIONER FORD: Second.

20 CHAIRMAN BOX: It's been moved and seconded.

21 All in favor say aye.

22 COMMISSIONERS: Aye.

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CHAIRMAN BOX: Any opposed?

The vote is 4-0. The Petition for Interlocutory Review is denied. Thank you, Judge.

Mr. Jackson, is there anything else to come before us today?

JUDGE JACKSON: No, Chairman. Thank you.

CHAIRMAN BOX: You don't have any speeches for us today?

JUDGE JACKSON: No, State Fair, going to the State Fair.

COMMISSIONER FORD: As long as you pay.

(Whereupon the meeting concluded matters pertaining to Transportation.)

1 (Whereupon the meeting
2 turned to Public Utility
3 matters.)

4 CHAIRMAN BOX: Before we begin with the public
5 utility's portion of today's agenda we have minutes
6 to approve from the July 29, 2009, bench session. Is
7 there a motion to approve the minutes?

8 COMMISSIONER O'CONNELL-DIAZ: So moved.

9 CHAIRMAN BOX: Is there a second?

10 COMMISSIONER ELLIOTT: Second.

11 CHAIRMAN BOX: It's been moved and seconded.

12 All in favor say aye.

13 COMMISSIONERS: Aye.

14 CHAIRMAN BOX: Any opposed?

15 The vote is 4-0. The minutes are
16 approved.

17 Item E-1 (09-0378) is an initiation of
18 the reconciliation proceedings for revenues collected
19 under the Energy Efficiency and Demand Response
20 Rider, a/k/a Rider EDA. Staff recommends entering
21 the order commencing the reconciliation proceeding
22 for Commonwealth Edison's Rider EDA. Is there a

1 motion to enter the order to initiate reconciliation
2 proceedings for Rider EDA?

3 COMMISSIONER ELLIOTT: So moved.

4 CHAIRMAN BOX: Is there a second?

5 COMMISSIONER FORD: Second.

6 CHAIRMAN BOX: It's been moved and seconded.

7 All in favor say aye.

8 COMMISSIONERS: Aye.

9 CHAIRMAN BOX: Any opposed?

10 The vote is 4-0 to enter the order
11 initiating the reconciliation proceeding for Rider
12 EDA.

13 We will use this 4-0 roll call for the
14 remainder of the public utility agenda, unless
15 otherwise noted.

16 Items E-2 (09-0379) and E-3 (09-0380)
17 will be taken together. These are reliability
18 performance reports of Commonwealth Edison Company
19 and MidAmerican Company. Staff recommends entering
20 the orders adopting the reports.

21 Is it possible for Staff to give us a
22 very short briefing on these reports?

1 MR. LINKENBACK: Good morning. Ron Linkenback
2 and John Stutsman. I prepared the summary Staff
3 report that summarized both MidAmerican and ComEd's
4 individual status reports, and those highlighted the
5 recommendations and the findings of the individual
6 reports.

7 The main conclusion for both of those
8 utilities were that the companies were alluding to
9 that the amount of storms that occurred during 2007
10 was a contributing factor to the high or the poor
11 reliability. Staff found other reasons also that
12 contributed to the poor performance, and those are
13 highlighted in my individual caption and John is
14 going to highlight on the specific ones for ComEd.
15 If you have any questions on MidAmerican, I will be
16 happy to answer those.

17 CHAIRMAN BOX: Mr. Stutsman?

18 MR. STUTSMAN: Hi, my name is John Stutsman.
19 And starting on page 2 of Staff's memo or report to
20 the Commission, we highlighted the seven of the eight
21 issues or findings from the executive summary. And I
22 don't think it is necessary to read through all

1 these, but overall it showed that customers
2 experiencing large number of interruptions were up in
3 2007 and system average interruption frequency or
4 safety was at its highest since 1998. And it was the
5 worst of the four largest electric utilities in
6 Illinois.

7 And as Ron mentioned, ComEd as well as
8 other utilities have pointed out that they felt a
9 large part of it was attributed to storms during that
10 period, which Staff recognizes storms do contribute
11 to variations or fluctuations in reliability from
12 year to year. And within the report Staff had noted
13 several times that the important thing is to look at
14 the trends over a multi-year period which will dampen
15 out the effects of individual year variations in the
16 storms. And if you look at those trends as Staff
17 has, Staff has noted that some of those trends were
18 starting to look like things were worsening. But
19 Staff hadn't reached a conclusion yet, waiting to see
20 what the next year trends would be.

21 So probably the only other thing
22 important to highlight that was in Staff's findings

1 was the total ComEd employees/contractors, the total
2 taken together as an aggregate had declined by 15
3 percent since 1999 which could be an issue in the
4 future if this continues.

5 COMMISSIONER O'CONNELL-DIAZ: So, Mr. Stutsman,
6 what you are saying is we want to look at next year
7 because we have the high degree of storms that have
8 occurred. And so based on Staff's review, that next
9 year will really be the -- assuming we don't have a
10 high level of storms as we had in this past year --
11 that that would give us a better indication as to
12 where the utility performance zone was?

13 MR. STUTSMAN: You can look at the -- and that
14 is correct. I mean, there are storms that occur
15 every year. And if there is a year of unusually high
16 storms, you will see a blip in the numbers. And
17 before coming down I did look at some preliminary
18 numbers or I took a preliminary look at the actual
19 numbers for the next year. And on a system-wide
20 basis you do see a slight decrease for, like, safety
21 and KD numbers. Decrease is down but it is still
22 higher than what we saw on a system-wide basis in

1 2001 and 2005. So, I mean, that indicates we need to
2 look more at it. But you do see that variation from
3 2007 down a little bit in 2008.

4 CHAIRMAN BOX: Would it be beneficial for us to
5 have an electric policy meeting on vegetation
6 management and other topics between now and the end
7 of the year to really take a look at this?

8 MR. LINKENBACK: For the two utilities we are
9 discussing right here, the vegetation management
10 wasn't the main concern of the Staff assessments.
11 They are still an issue and again those always
12 contribute a lot to outages. And again I will voice
13 the utility's side that a lot of the tree route
14 interruptions were a result of the storms. Now,
15 sometimes the crew that was doing the assessment of
16 the cause indicated it was a storm. Sometimes they
17 would indicate that it was a tree limb that fell on
18 because of the storm, a result of it.

19 So I would parrot what John said, at
20 this point I don't think from my opinion that the
21 tree trimming is much worse than previous years and
22 the funding doesn't appear that they are reducing

1 that.

2 CHAIRMAN BOX: Didn't both reports indicate
3 that they cut back on employees and they were not
4 really supervising their contractors as they should
5 have been to review their performance?

6 MR. LINKENBACK: Repeat that, please.

7 CHAIRMAN BOX: In the reports they talked about
8 the lack of supervision, they contracted out more
9 work and they didn't have the personnel to go out and
10 look at and review the work of those contractors. Is
11 that a big issue?

12 MR. STUTSMAN: There were concerns in that area
13 and utilities say that they are addressing those. In
14 the report -- one of the things that we had noted in
15 the ComEd report was a statement by national
16 organizations that the vegetation management was
17 probably the largest contributor as far as overall
18 reliability that end users experience. So it is an
19 important issue. And it even affects then the impact
20 of storms, what impact storms will have. Because if
21 things are well trimmed, even though you might have a
22 severe storm and you have outages, you are not going

1 to have as severe outages as you would have had if
2 things weren't adequately trimmed. So it tends to
3 moderate the impact of storms.

4 CHAIRMAN BOX: So your recommendation, you said
5 earlier, would be just to wait to see what the
6 numbers look like after this year, after this season,
7 and then make a determination if we see it is going
8 in the right direction or '09 was a blip?

9 MR. STUTSMAN: I think it can't hurt to talk
10 about it. As far as whether or not you wish to have
11 a meeting discussing it, you know, talking about it
12 and educating yourselves about what's going on out
13 there can't hurt.

14 COMMISSIONER FORD: It seems the major issue
15 was, what you were trying to allude to, Chairman, was
16 the transmission line 2102 where we had all of that
17 vegetation grow up and the contractors were not able
18 to see that and the person who was investigating it,
19 was seeing to it, was overwhelmed with his
20 responsibilities. And I think that the problem goes
21 back to the contractor and the monitoring of the
22 contractors, and I think that's an issue that we can

1 raise with ComEd and why those programs failed.

2 I happen to have been in Arkansas in a
3 wooded area last month and I had to call my sister in
4 Chicago while I was in Arkansas because the nearest
5 house to me was one mile. And I woke up and the
6 house was darker than a hundred midnights in a
7 cypress swamp and I am very scared of the dark. So I
8 fumbled around and found a candle. And when we
9 called the utility, they said the lights would be
10 back on at 1:20. They actually came on at 7:20. So
11 I said, oh, Chicago is not known for having this
12 problem. But it was a substation problem. So they
13 did get to the root of that.

14 I did call my fellow commissioner in
15 Arkansas to tell her what was going on. But they
16 said it was a storm, too. So it was certainly dark.
17 I don't want to go to that woods any more.

18 COMMISSIONER O'CONNELL-DIAZ: Mr. Stutsman, you
19 stated that the contractor issue has been brought up
20 to the company's attention. Have they given you any
21 format for remedying that situation or the program
22 that they are going to seek to address the problem?

1 MR. STUTSMAN: That gets to my question, which
2 is what's the process for determining compliance with
3 Staff's recommendations. I know you have made
4 several recommendations, particularly in the AMC
5 case, but I didn't see anything in the order about
6 complying with Staff's recommendations or following
7 up. What's the process?

8 MR. LINKENBACK: I will speak for MidAmerican.
9 For MidAmerican Staff recommended that they improve
10 or shorten their inspection period, they improve
11 their animal guards, which causes outages.
12 Compliance would be that MidAmerican acknowledge our
13 request and either provides some improvement or tells
14 us why they don't think that's reasonable, either
15 because it is not cost effective or something. And
16 then next year when we go on our inspections, we
17 would expect to see in new construction more animal
18 guards, where there is trees in the area more animal
19 guards, and increase the frequency of inspections.
20 So we would inspect some response or some respect for
21 what we are asking for.

22 CHAIRMAN BOX: Doesn't MidAmerican have a name

1 when the animal protection doesn't work? Is that
2 animal interruption?

3 MR. LINKENBACK: Yeah, yeah, yeah, the cause is
4 animal, yeah.

5 CHAIRMAN BOX: I just wondered if all the
6 companies used the same terminology. I was always
7 told in Rockford near my house when it went out, it
8 was animal interruptions. I never heard of it.
9 MidAmerican calls it that, too?

10 MR. LINKENBACK: Yeah.

11 COMMISSIONER FORD: Mr. Stutsman, in your
12 appendices you have some solutions and that
13 electronic documentation, the GPS system. Would that
14 mitigate some of those responses to -- I mean, about
15 the contractors?

16 MR. STUTSMAN: Those were -- you are referring
17 to some recommendations that ComEd had referred to as
18 part of their solutions to fix the problem.

19 COMMISSIONER FORD: Uh-huh.

20 MR. STUTSMAN: And to refer to an earlier
21 question, ComEd had indicated through responses to
22 DRs and also in their latest filing for the 2008

1 reliability report that they are or they have added
2 additional ComEd people and having ComEd people doing
3 inspections, more inspections and more audits.

4 The way, though, that we assure
5 ourselves that that's actually getting done is when
6 we go out in the field and we do our own visual
7 inspections. And we try to look for things or look
8 for indications that people are doing things.

9 But to get back to the earlier
10 question, we have gotten responses to DRs that they
11 have added additional people and they are doing
12 additional inspections with ComEd personnel verifying
13 that more work is getting done.

14 COMMISSIONER FORD: So they are monitoring.

15 CHAIRMAN BOX: Staff recommendation is to enter
16 the orders adopting the reports?

17 MR. LINKENBACK: Yes, sir.

18 MR. STUTSMAN: Yes.

19 CHAIRMAN BOX: Any further discussion or
20 questions? Any objections? Hearing none, the orders
21 are entered. Thank you very much.

22 COMMISSIONER O'CONNELL-DIAZ: Yeah, these

1 reports are detailed and you could tell there was
2 just a lot of time that you spent and your staff
3 spent and we really appreciate it.

4 CHAIRMAN BOX: I was driving around southern
5 Illinois looking at some of these, or northern
6 Illinois, sorry.

7 COMMISSIONER O'CONNELL-DIAZ: Well, it is kind
8 of scary when you start recognizing things based on
9 reports that we get. And you are kind of, ah, I know
10 what that looks like, I know what a substation looks
11 like.

12 CHAIRMAN BOX: Items E-4 (ERM#130) and E-5
13 (ERM#132) will be taken together. These are tariff
14 filings with Commonwealth Edison to make revisions to
15 its Rider ECR and to general terms and conditions.
16 Staff recommends that the Commission does not suspend
17 the filing. Is there any discussion? Any
18 objections? Hearing none, the filings are not
19 suspended.

20 Item E-6 (ERM#135) is a tariff filing
21 by Illinois Power Company doing business as AmerenIP
22 seeking to cancel its Instrument Funding Charge

1 Rider. Staff recommends that the Commission does not
2 suspend the filing. Is there any discussion? Any
3 objections? Hearing none, the filings are not
4 suspended.

5 Item E-7 is Dockets 08-0619, 08-0620
6 and 08-0621 consolidated. This is the three Ameren
7 Illinois Ameren Utilities' proposal to implement a
8 combined utility consolidation billing and purchase
9 of receivables service. Administrative Law Judge
10 Albers recommends entering the order approving the
11 tariffs.

12 Judge Albers, would you like to brief
13 us on this matter?

14 JUDGE ALBERS: Well, as you said, the order
15 refers to the utilities' consolidated billing and
16 receivables programs that are required by statute for
17 each of the three Ameren utilities. The ECV program
18 in this instance would be for the utility to bill for
19 the RESEs, as detailed. There is already a program
20 in place for the RES to bill on behalf of -- to bill
21 for its own energy and the delivery by the utility,
22 and that's not an issue in this case. The purpose of

1 the receivables program basically allows or requires
2 the utility to purchase at a discount the receivables
3 of the RES.

4 The two more heavily addressed issues,
5 I would say in this case, concern the discount rates
6 or at least a component thereof and the issue of
7 consumer protections. I can go into more detail on
8 those if you would like or if there are other
9 questions you would like me to address, just feel
10 free to point me in that direction.

11 CHAIRMAN BOX: The consumer protections were
12 added into the order?

13 JUDGE ALBERS: Yes.

14 CHAIRMAN BOX: Any questions for the judge?
15 Any discussion?

16 COMMISSIONER ELLIOTT: Well, I would certainly
17 like to compliment the parties involved in this
18 process. I know you have been engaged in this matter
19 on many levels for quite some time. So it is
20 pleasing to see some resolution to this.

21 CHAIRMAN BOX: Any objections? Hearing none,
22 the order is entered approving the tariffs. Thank

1 you, Judge.

2 Items E-8 (09-0126) and E-9 (09-0127)
3 will be taken together. These are orders on
4 rehearing of petitions for confidential treatment of
5 the annual call center reports. The annual call
6 center reports will not be given confidential
7 treatment. Administrative Law Judge Albers
8 recommends entering the orders on rehearing. Is
9 there any discussion? Any objections? Hearing none,
10 the orders on rehearing are entered.

11 Item E-10 is Docket 09-0192. Champion
12 Energy, LLC, seeks confidential treatment of its 2008
13 call center report and 2008 kilowatt hour report for
14 a period of five years. It is recommended that the
15 reports be afforded confidential treatment for a
16 period of two years in keeping consistent with our
17 other similar requests. Administrative Judge Albers
18 recommends entering the order granting the petition.

19 Judge Albers, on this particular one
20 you also granted the call center report two years.
21 That was because they had inadvertently included some
22 confidential information, is that correct?

1 JUDGE ALBERS: The best way to describe it is
2 this is a call center report in name only. The
3 actual information is more akin to what you would
4 find on an annual report or an annual kilowatt hour
5 report.

6 CHAIRMAN BOX: So you granted that protection
7 for two years also?

8 JUDGE ALBERS: Yes.

9 CHAIRMAN BOX: Any discussion? Any objections?
10 Hearing none, the order is entered granting the
11 petition.

12 Item E-11 is Docket 09-0025. Suez
13 Energy Resources NA, Inc., seeks confidential
14 treatment of its 2008 annual kilowatt hour report for
15 a period of five years. The petitioner has made no
16 effort to explain why a five-year period is warranted
17 in this matter. For this reason Administrative Law
18 Judge Albers recommends entering the order denying
19 the petition.

20 If I could point out here, I guess,
21 Judge, you are saying it will be afforded no
22 protection whatsoever. They asked for five and gave

1 no explanation. Shouldn't it be pretty clear to the
2 companies now that the rule that says you have to
3 have an explanation is pretty straight forward?

4 JUDGE ALBERS: I think so.

5 CHAIRMAN BOX: My concern is, I agree with your
6 reasoning here, but they will then file a motion for
7 rehearing, then ask to submit the material or they
8 will submit it, we will review it and more than
9 likely we will grant a two-year treatment.

10 JUDGE ALBERS: I wouldn't be surprised.

11 CHAIRMAN BOX: Hopefully, they will get the
12 message that the rules are there to be followed. And
13 we could take care of this easily here, but we won't,
14 and they should follow the rules. Any objections to
15 the judge's order? Hearing none, the order is
16 entered denying the petition.

17 COMMISSIONER O'CONNELL-DIAZ: Chairman, I would
18 just kind of, you raised an important point and I
19 think it is clear what the Commission's position is
20 with regard to the confidential treatment. And,
21 obviously, these companies are represented by
22 hopefully able counsel and this costs our staff extra

1 time to have to refocus on a rehearing petition, if
2 that's in fact what they will file. It's their right
3 to do that. But it would be nice to see them doing
4 it right the first time around. So I think the
5 Chairman raises a very salient point. But our staff
6 is the one that has to look at all this stuff when
7 they are filed and the ball starts rolling, judges
8 and our staff personnel has to look at this. So it
9 would be nice to see if they could just get it right
10 off the bat the first time. Thank you.

11 CHAIRMAN BOX: Item E-12 is Docket 09-0212.
12 This is a joint petition for approval of a
13 territorial agreement between Wayne and White
14 Counties Electric Cooperative and the City of
15 Fairfield, Illinois, that provides exclusive electric
16 service areas in Wayne County. Administrative Law
17 Judge Tapia recommends entering the order and
18 granting the petition. Is there any discussion? Any
19 objections? Hearing none, the order is entered
20 granting the petition.

21 Item E-13 is Docket 09-0221, Integrys
22 Energy Services, Inc. It is a petition for

1 confidential treatment of its financial reporting for
2 not less than two years. Administrative Law Judge
3 Albers recommends entering the order granting the
4 petition. Is there any discussion? Any objections?
5 Hearing none, the order is entered granting the
6 petition.

7 Item E-14 is Docket 09-0258. Mr.
8 Kregg Sanders moves to dismiss his complaint against
9 Illinois Power Company doing business as AmerenIP
10 regarding a billing dispute. Administrative Law
11 Judge Tapia recommends granting the motion to dismiss
12 without prejudice. Is there any discussion? Any
13 objections? Hearing none, the matter is dismissed
14 without prejudice.

15 Item E-15 is Docket 09-0281. This is
16 a verified petition of Illinois Power Company doing
17 business as AmerenIP for approval of a territorial
18 service agreement for the City of Peru for the sale
19 of property. Administrative Law Judge Jones
20 recommends entering the order granting the petition.
21 Is there any discussion? Any objections? Hearing
22 none, the order is entered granting the petition.

1 That concludes the electric portion of
2 today's agenda.

3 Turning to natural gas, Item G-1 is
4 Docket 09-0230. Integrys Energy Services, Inc.,
5 seeks confidential treatment of its financial report
6 for a period of not less than two years.
7 Administrative Law Judge Albers recommends entering
8 the order and granting the petition. Is there any
9 discussion? Any objections? Hearing none, the order
10 is entered granting the petition.

11 Items G-2 (09-0292) and G-3 (09-0293)
12 will be taken together. The parties in these matters
13 have filed a stimulation and joint motion to dismiss
14 stating that all matters have been resolved.
15 Administrative Law Judge Riley recommends that the
16 Commission dismiss their complaints with prejudice.
17 Is there any discussion? Any objections? Hearing
18 none, the complaints are dismissed with prejudice.

19 That concludes the natural gas portion
20 of today's agenda.

21 Under telecommunications, Item T-1
22 (TRM#446, TRM#447) is a filing by Illinois Bell

1 Telephone Company to terminate the "Save the Deal"
2 offer. These filings are classified as competitive
3 for retail and non-competitive wholesale. Staff
4 recommends not investigating or suspending the
5 filings. Is there any discussion? Any objections?
6 Hearing none, the filings will not be investigated or
7 suspended.

8 Item T-2 (TRM#411, TRM#412) is
9 non-competitive filings by Citizens
10 Telecommunications Company of Illinois doing business
11 as Frontier Citizens Communications of Illinois to
12 correct an error in a previous filing and to make
13 other minor changes. Staff recommends not suspending
14 these filings. Is there any discussion? Any
15 objections? Hearing none, the filings will not be
16 suspended.

17 Item T-3 (TRM#423) is a
18 non-competitive filing by Gallatin River
19 Communications, LLC, doing business as CenturyTel of
20 Illinois to add the new services Flexible Savings
21 Bundle, Winback Simple Choice Unlimited and Simple
22 Choice/Business Assist Advantage. Staff recommends

1 that the filing not be suspended. Is there any
2 discussion? Any objections? Hearing none, the
3 filing will not be suspended.

4 Items T-4 (08-0587) and T-6 through
5 T-10 (09-0211, 09-0266, 09-0297, 09-0321, 09-0328)
6 will be taken together. These are applications for
7 authority to provide various telecommunication
8 services in Illinois. The administrative law judges
9 recommend entering the orders granting the authority.
10 Is there any discussion? Any objections? Hearing
11 none, the orders are entered granting the authority.

12 Item T-5 is Docket 09-0211. CIS
13 Connected, LLC, submits an application for a
14 certificate to become a telecommunications carrier.
15 There were omissions in CIS's application that were
16 unresolved. CIS has failed to amend its application
17 or withdraw its application. For this reason
18 Administrative Law Judge Benn recommends entering the
19 order denying the application for a certificate. Is
20 there any discussion? Any objections? Hearing none,
21 the order is entered denying the application.

22 Items T-11 through T-13 (09-0175,

1 09-0231, 09-0232) will be taken together. These are
2 petitions to withdraw or cancel certificates of
3 authority. Administrative Law Judge Benn recommends
4 entering the orders granting the petitions. Is there
5 any discussion? Any objections? Hearing none, the
6 orders are entered granting the petitions.

7 Items T-14 (09-0265) and T-15
8 (09-0294) will be taken together. These are joint
9 motions to dismiss billing disputes. Administrative
10 Law Judge Tapia recommends granting the joint motions
11 to dismiss. Is there any discussion? Any
12 objections? Hearing none, the motions are granted.

13 Items T-16 through T-20 (09-0272,
14 09-0273, 09-0304, 09-0305, 09-0322) will be taken
15 together. These matters are petitions for
16 modifications of the existing 9-1-1 emergency
17 telephone system. The administrative law judges
18 recommend entering the orders approving the
19 modifications. Is there any discussion? Any
20 objections? Hearing none, the orders are entered
21 approving the modifications.

22 Items T-21 through T-23 (09-0381,

1 09-0382, 09-0383) initiate the rulemaking proceedings
2 for the proposed amendments to the standards of
3 service for local exchange telecommunication
4 carriers. This will commence the first notice
5 period. Staff recommends entering the order
6 initiating a rulemaking to revise Part 730, 732 and
7 792 without having submitted proposed language to go
8 directly to a first notice of proposed amendments.
9 Is there any discussion? Any objections? Hearing
10 none, the order is entered initiating the proceeding.

11 Item T-24 (09-0384) initiates a
12 rulemaking proceeding and authorizes a first notice
13 period to resolve the utility bill date vs. USPS
14 postmark question. Staff recommends entering the
15 order authorizing the first notice period. Is there
16 any discussion? Any objections? Hearing none, the
17 order is entered initiating the first notice period.

18 Item T-25 is Docket 08-0656. This is
19 a motion to dismiss a citation against Global Telecom
20 & Technology Americas, Inc., for failure to maintain
21 corporate status. Administrative Law Judge Haynes
22 recommends dismissing this proceeding. Is there any

1 discussion? Any objections? Hearing none, the
2 motion to dismiss is granted.

3 Item T-26 is Docket 09-0267. NextG
4 Networks of Illinois, Inc., seeks confidential
5 treatment of its 2008 annual report. Administrative
6 Law Judge Benn recommends entering the order granting
7 the petition. Is there any discussion? Any
8 objections? Hearing none, the order is entered
9 granting the petition.

10 Items T-27 and T-28 (09-0295, 09-0296)
11 will be taken together. These are amendments to
12 interconnection agreements between Illinois Bell
13 Telephone Company and various telecommunication
14 providers. Administrative Law Judge Benn recommends
15 entering the amended orders. Is there any
16 discussion? Any objections? Hearing none, the
17 amended orders are entered.

18 That concludes the telecommunications
19 portion of the agenda.

20 Turning to the water and waste water
21 portion, Item W-1 (WRM#018) is a filing by Bahl Water
22 Corporation to increase water rates under the

1 simplified rate case procedures. Staff recommends to
2 not suspend the filing. Is there any discussion?
3 Any objections? Hearing none, the filing is not
4 suspended.

5 Item W-2 is Docket 08-0218. This is
6 Illinois-American Water Company's application for
7 approval of its annual reconciliation of purchased
8 water and purchased sewage treatment surcharges.
9 Administrative Law Judge Riley recommends entering
10 the order approving the water reconciliation. Is
11 there any discussion? Any objections? Hearing none,
12 the order is entering approving the water
13 reconciliation.

14 Item W-3 is Docket 09-0251. This is a
15 Petition for Interlocutory Review by the City of
16 Champaign. Administrative Law Judge Yoder, could you
17 please brief the Commission on this matter? And in
18 all likelihood, unless the Commissioners feel
19 otherwise, we will probably hold this matter over for
20 our next bench. But can you brief us on this?

21 JUDGE YODER: Yes, Chairman. This is an action
22 or tariffs filed by Illinois-American Water Company

1 seeking to implement a qualified infrastructure plan
2 for, I believe it is, six of their districts.
3 Various parties have intervened including the City of
4 Champaign and the Attorney General.

5 On July 7 of this year a motion to
6 consolidate this proceeding with Illinois-American's
7 pending rate case which is Docket 09-0319 was filed
8 by the City of Champaign. They indicate that it
9 would be a better use of resources and more efficient
10 to consolidate the dockets. They are concerned about
11 confusion with various rates going in and out of
12 effect if the dockets are not consolidated.

13 Staff and Illinois-American opposed
14 the consolidation. Illinois-American and the
15 Attorney General -- I am sorry, not
16 Illinois-American, the City of Champaign and the
17 Attorney General support consolidating the two
18 dockets.

19 On July 17 -- I am sorry, July 20 a
20 notice was issued by me denying the motion to
21 consolidate the two dockets. Illinois-American, or I
22 am sorry, the City of Champaign has filed a Petition

1 for Interlocutory Review addressing various issues
2 which they feel support the consolidation.

3 My opinion is that their fear of the
4 double collection of rates that they initially
5 indicated was over stated, and the fact that this
6 docket and the Illinois-American rate case have two
7 separate statutory deadlines argue against
8 consolidating the two dockets. Consolidating them,
9 it appears to me, would accelerate the rate case
10 approximately a month. It has a deadline of April
11 25. This docket has a deadline of March 20. The
12 schedule has been set in the rate case and to
13 consolidate them, I think, would cause confusion and
14 hardship on the parties participating in the rate
15 case.

16 Illinois-American -- or I am sorry,
17 City of Champaign's arguments, I just don't -- to me
18 don't outweigh that. I don't see any reason. These
19 are two separate statutory matters. There is not
20 much in the way of similarity between the two, other
21 than involving Illinois-American.

22 CHAIRMAN BOX: Any questions of the judge? We

1 will hold it for the next bench session. Thank you.

2 JUDGE YODER: Did you want it on the next
3 meeting or --

4 CHAIRMAN BOX: There is no deadline, right? We
5 need to talk to the assistants. I think we will be
6 ready for it on the next meeting which technically is
7 the 25th. But I don't know what is on the agenda, so
8 that meeting might be cancelled. We won't know until
9 tomorrow or Friday. So it might be the meeting after
10 the 25th, the 9th or the 10th.

11 That concludes the water portion, the
12 water and waste water portion of today's agenda.

13 We have one miscellaneous item. Item
14 PR-1 is Docket 07-0446. This is a Petition for
15 Rehearing submitted by Pliura and Turner, intervenors
16 in this matter. They take issue with the financial
17 fitness of the company and the public need for the
18 pipeline. Administrative Law Judge Haynes recommends
19 denying the rehearing.

20 Judge Haynes, are you available?

21 COMMISSIONER ELLIOTT: This is Judge Jones.

22 CHAIRMAN BOX: I am sorry. Judge Jones. Must

1 be a scrivener's error. Judge Jones, I am sorry.

2 JUDGE JONES: Thank you. Mr. Chairman, would
3 you like me to give a short briefing on this?

4 CHAIRMAN BOX: Yes.

5 JUDGE JONES: Thank you. As the Chairman
6 noted, the order was entered on July 8. It did two
7 things. It granted a certificate under the Common
8 Carrier by Pipeline Law authorizing construction of
9 the segment of pipeline under consideration in that
10 docket which was a 170-mile segment. And then,
11 secondly, the order denied the request to proceed
12 with eminent domain authority, at least at this time.

13 The order granting the certificate
14 found that the applicant is fit, willing and able to
15 provide this service, that a public need exists for
16 the pipeline and that the proposed route should be
17 approved subject to certain conditions.

18 As the Commission is well aware, there
19 were a number of intervenors and groups of
20 intervenors in the case. Two of those filed a
21 Petition for Rehearing primarily on the public need
22 issue, to some extent also on the financial fitness

1 issue. The rehearing petitions do not seek an
2 opportunity to present additional evidence. They
3 essentially are arguing that the Commission should
4 reverse its earlier determinations on those issues.

5 The 20-day deadlines for Commission
6 action are August 24 and August 27, since the two
7 petitions were filed a few days apart. Thank you.

8 CHAIRMAN BOX: Is your recommendation to deny
9 the request for rehearing?

10 JUDGE JONES: Yes, sir.

11 CHAIRMAN BOX: Is there a motion to deny the
12 Petition for Rehearing?

13 COMMISSIONER FORD: So moved.

14 CHAIRMAN BOX: Is there a second?

15 COMMISSIONER ELLIOTT: Second.

16 CHAIRMAN BOX: It's been moved and seconded.

17 All in favor say aye.

18 COMMISSIONERS: Aye.

19 CHAIRMAN BOX: Any Opposed? The Petition for
20 Rehearing is denied. Thank you, Judge.

21 JUDGE JONES: Thank you, Mr. Chairman.

22 CHAIRMAN BOX: Judge Wallace is not here today.

1 Judge Dolan, anything else that you have before us
2 today?

3 JUDGE DOLAN: No, sir.

4 CHAIRMAN BOX: No, okay. Thank you. Hearing
5 none, the meeting stands adjourned.

6 COMMISSION BENCH SESSION ADJOURNED

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