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BEFORE THE
ILLINOIS COMMERCE COMMISSION
BENCH (OPEN) SESSION
(PUBLIC UTILITY)
Tuesday, August 25, 2015
Chicago, Illinois

Met, pursuant to notice, at 10:30 A.M.,
at 160 North La Salle Street, Chicago, Illinois.

- PRESENT:
- BRIEN J. SHEAHAN, Chairman
 - ANN MCCABE, Commissioner
 - SHERINA E. MAYE, Commissioner
 - MIGUEL DEL VALLE, Commissioner
 - JOHN R. ROSALES, Commissioner
- SULLIVAN REPORTING COMPANY, by
PATRICIA WESLEY
CSR NO. 084-002170

1 CHAIRMAN SHEAHAN: Are we ready to proceed in
2 Springfield?

3 MR. MATRISCH: Yes, we are.

4 CHAIRMAN SHEAHAN: Pursuant to the Open Meetings
5 Act, I call the August 25, 2015 Bench Session of the
6 Illinois Commerce Commission to order.

7 Commissioners McCabe, del Valle, Maye
8 and Rosales are present with me in Chicago. We have
9 a quorum.

10 Moving onto our Public Utilities
11 Agenda, we have no minutes so we will move into our
12 formal agenda. Our consideration of Item E-1 will
13 be postponed to a future meeting.

14 COMMISSIONER MAYE: Mr. Chairman --

15 CHAIRMAN SHEAHAN: Commissioner Maye.

16 COMMISSIONER MAYE: -- I was struggling in trying
17 to understand the procedural history here, so I
18 wonder if the ALJ could just perhaps walk me through
19 the procedure.

20 The complaint was originally filed in
21 May of 2009, and it's now August of 2015. I was
22 wondering what happened in-between.

1 JUDGE DOLAN: There was an Interim Order entered
2 by the Commission dismissing Counts 1 and 2 of the
3 complaint and then that was delayed. There was
4 almost a year for that final Order to get entered,
5 and after that the parties had asked me to give them
6 time to resolve it prior to getting it written up.
7 Once they reached a point where they said they were
8 not going to be able to get it resolved, I worked on
9 the Order.

10 COMMISSIONER MAYE: Well, so the reason that the
11 case is being held today is because the parties
12 wanted time to stipulate a settlement, right?

13 JUDGE DOLAN: Right. Again, they're entering
14 into a settlement negotiation again.

15 COMMISSIONER MAYE: So I think that the resources
16 that we use in each and every case I think that -- I
17 don't know that it's necessarily wise to allow
18 parties six, seven years --

19 COMMISSIONER DOLAN: I understand.

20 COMMISSIONER MAYE: -- to settle on a case.

21 Just in reading the original
22 complaint, I know a portion of it wasn't dismissed.

1 There was a previous section where they were
2 concerned about the Statute of Limitation.

3 I mean, any time you have a time issue
4 and then you are allowing seven years to resolve a
5 case, there's a conflict there, so I just wasn't
6 really sure about the procedural history, but
7 hopefully we'll get this wrapped up soon.

8 JUDGE DOLAN: Yes. I apologize for the delay.

9 COMMISSIONER MAYE: Thank you.

10 CHAIRMAN SHEAHAN: Any other questions concerning
11 Item E-1?

12 (No response.)

13 Item E-2 concerns Amcor's complaint
14 filed against ComEd pursuant to Sections 9-250 and
15 10-108 of the Public Utilities Act. We have two
16 sort of sub-items to deal with. One is a request
17 for Oral Argument and then there's an Order on
18 Remand.

19 Is there any objection to denying
20 Amcor's request for Oral Argument?

21 (No response.)

22 Hearing none --

1 COMMISSIONER ROSALES: So moved.

2 CHAIRMAN SHEAHAN: Hold on.

3 Commissioner del Valle.

4 COMMISSIONER del VALLE: Mr. Chairman, I think it
5 is obvious that ComEd destroyed crucial evidence
6 after it was aware of the possibility of litigation,
7 so I will be voting no and also be filing a
8 dissenting opinion.

9 CHAIRMAN SHEAHAN: Okay. With respect to the
10 request for Oral Argument, is there an objection to
11 denying the request for Oral Argument?

12 COMMISSIONER del VALLE: Yes.

13 CHAIRMAN SHEAHAN: Okay. So I would move that we
14 deny Oral Argument.

15 Is there a second?

16 COMMISSIONER ROSALES: Seconded.

17 CHAIRMAN SHEAHAN: Is there any discussion?

18 (No response.)

19 All those in favor of denying Oral
20 Argument, say aye.

21 COMMISSIONER McCABLE: Aye.

22 CHAIRMAN SHEAHAN: Aye.

1 COMMISSIONER MAYE: Aye.

2 COMMISSIONER ROSALES: Aye.

3 CHAIRMAN SHEAHAN: Opposed, say nay.

4 COMMISSIONER del VALLE: No.

5 CHAIRMAN SHEAHAN: The vote is 4 to 1 and the
6 request for Oral Argument is denied.

7 The second item is a Motion to Approve
8 the Order on Remand as proposed.

9 Is there a second?

10 COMMISSIONER ROSALES: Seconded.

11 CHAIRMAN SHEAHAN: It's been moved and seconded
12 that we approve the Order on Remand.

13 Is there any discussion?

14 COMMISSIONER McCABE: I have a few questions for
15 the ALJ.

16 Is there any statutory provision or
17 Commission rule barring utilities from disposing of
18 evidence before a formal complaint is filed but
19 after an informal complaint is filed?

20 JUDGE TEAGUE-KINGSLEY: There's several rules
21 governing a utility's obligation to retain certain
22 information and records, such as meter records or

1 billing data, but there is no rule that governs or
2 limits how long we have to keep a meter.

3 However, there is a Section 14-192 in
4 the case of electric and 500.230B which states if a
5 consumer files a request for re-testing that the
6 utility cannot disturb the meter.

7 CHAIRMAN SHEAHAN: How long was the meter in the
8 possession of the company after it was replaced?

9 JUDGE TEAGUE-KINGSLEY: It was about 13 months.

10 CHAIRMAN SHEAHAN: And during that time, no such
11 request was --

12 JUDGE TEAGUE-KINGSLEY: No request was ever made
13 about the meter.

14 COMMISSIONER McCABE: Are you aware of any
15 previous Commission decision where the utility
16 disposed of evidence the day after an informal
17 complaint was closed?

18 JUDGE TEAGUE-KINGSLEY: No, I'm not.

19 COMMISSIONER McCABE: Since the Statute of
20 Limitations on consumer complaints is two years and
21 ComEd's policy of retaining meters is to keep them
22 for one year, is it possible that ComEd could

1 destroy a meter even if it is the subject of a
2 dispute?

3 JUDGE TEAGUE-KINGSLEY: When you say "subject of
4 a dispute," do you mean there's actually been a
5 formal complaint filed or before that?

6 COMMISSIONER McCABE: I guess both.

7 JUDGE TEAGUE-KINGSLEY: There is a possibility
8 that the meter could be discarded since there's no
9 rule about how long we have to keep it, and ComEd
10 can only keep it for a year and the Statute of
11 limitations is two years.

12 However, if a formal complaint was
13 actually filed, I would assume that their complaint
14 would make the utility aware that they want the
15 meter and it would be a hold.

16 COMMISSIONER del VALLE: But not if there's an
17 informal complaint?

18 JUDGE TEAGUE-KINGSLEY: If an informal complaint,
19 they could still let the Commission know, but in
20 this case, there was no discussion whatsoever about
21 the meter.

22 COMMISSIONER McCABE: Last, since the Statute of

1 Limitations on consumer complaints is two years and
2 ComEd's policy on retaining meters is one year, is
3 it possible that ComEd could destroy a meter even if
4 a dispute regarding the meter arises within the
5 two year Statute of Limitations?

6 JUDGE TEAGUE-KINGSLEY: Yes, it's possible.

7 COMMISSIONER McCABE: I think this docket raises
8 a number of interesting issues. I would like to ask
9 Staff to give us recommendations on retention of
10 evidence in consumer complaint cases, including any
11 changes or conditions to Commission rules that may
12 be necessary.

13 COMMISSIONER ROSALES: I would add an addendum to
14 Commissioner McCabe that there be a formal complaint
15 rather than an informal complaint.

16 JUDGE TEAGUE-KINGSLEY: I'm sorry. I didn't hear
17 you.

18 COMMISSIONER ROSALES: I would like to see with
19 the question of Commissioner McCabe if there was a
20 formal complaint rather than informal complaint.

21 JUDGE TEAGUE-KINGSLEY: Yes. If there is a
22 formal complaint filed and the meter had not been

1 thrown out, it's available, then the consumer would
2 just say that they need the meter and it shouldn't
3 be thrown out. Even if they don't say that, the
4 utility is aware there's an actual litigation matter
5 going on so it shouldn't be discarded.

6 CHAIRMAN SHEAHAN: Any further discussion or
7 questions?

8 (No response.)

9 There's a motion to adopt and second
10 the proposed Order on remand.

11 All those in favor, say aye.

12 COMMISSIONER McCABE: Aye.

13 CHAIRMAN SHEAHAN: Aye.

14 COMMISSIONER del VALLE: Aye.

15 COMMISSIONER ROSALES: Aye.

16 CHAIRMAN SHEAHAN: Opposed, say nay.

17 COMMISSIONER del VALLE: No.

18 CHAIRMAN SHEAHAN: The ayes have it 4 to 1 and
19 the proposed Order on remain is adopted.

20 Item E-3 concerns a billing complaint
21 filed against Ameren.

22 Is there any objection to approving

1 the Order dismissing the Complaint?

2 (No response.)

3 Hearing none, the Order dismissing the
4 Complaint is approved.

5 Item E-4 concerns a Petition from
6 ComEd to increase funding of its On-Bill Financing
7 Program.

8 Is there any objection to approving
9 the proposed Order?

10 (No response.)

11 Hearing none, the Order is approved.

12 Item E-5 concerns a request from
13 Constellation Energy Power Choice, Inc.'s Petition
14 Requesting the Cancellation of its Certificate of
15 Service Authority under Section 15-115 of the Public
16 Utilities Act.

17 Is there any objection to approving
18 the proposed Order?

19 (No response.)

20 Hearing none, the Order is approved.

21 Item E-6 involves Westphal & Company,
22 Inc.'s Application requesting a Certificate of

1 Service Authority as an Installer of Distributed
2 Generation Facilities under the Public Utilities
3 Act.

4 Are there any objections to approving
5 the proposed Order?

6 (No response.)

7 Hearing none, the Order is approved.

8 Moving onto our Gas Agenda, Items G-1
9 and 2 involve filings made by Peoples/North Shore to
10 modify its tariffs to comply with Docket No. 06-0703
11 relative to the Illinois Administrative Code Part
12 280.

13 Are there any objections to
14 considering these items together and not suspending
15 the filings?

16 (No response.)

17 Hearing none, the filings are not
18 suspended.

19 Item G-3 involves the Approval of an
20 Agreed penalty for a Violation of the Illinois Gas
21 Pipeline Safety Act.

22 Are there any objections to approving

1 the proposed Order?

2 (No response.)

3 Hearing none, the Order is approved.

4 Item G-4 concerns a Petition to Review
5 Affiliate Interactions with Peoples Energy Home
6 Services, pursuant to January 10, 2012 rate Order.

7 Are there any objections to
8 approving the proposed Order?

9 (No response.)

10 Hearing none, the Order is approved.

11 Moving onto our Telecommunications
12 Agenda, Items F-1 through 3 concern various
13 petitions requesting Cancellation of Certificates of
14 Service Authority.

15 Are there any objections to
16 considering these items together and approving the
17 proposed Orders?

18 (No response.)

19 Hearing none, the Orders are approved.

20 Item T-4 concerns ANPI Business, LLC's
21 Application for a Certificate of Exchange Service
22 Authority to operate as a Facilities-Based Carrier

1 of Telecommunications Services in the State of
2 Illinois.

3 Is there any objection to approving
4 the proposed Order?

5 (No response.)

6 Hearing none, the Order is approved.

7 Moving onto our Water and Sewaer
8 Agenda, our consideration of Item W-1 will be
9 postponed for a future meeting.

10 We have one final item on our agenda,
11 Approval of our Report on Communications Markets in
12 Illinois as required by the Public Utilities Act.

13 Is there a motion to approve the report?

14 COMMISSIONER ROSALES: So moved.

15 CHAIRMAN SHEAHAN: Is there a second?

16 COMMISSIONER McCABE: Seconded.

17 CHAIRMAN SHEAHAN: Any discussion?

18 (No response.)

19 All those in favor of approving the
20 report, say aye.

21 (Chorus of ayes.)

22 Opposed say nay.

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(No response.)

The ayes have it and the report is approved.

Judge Kimbrel, do we have any other matters to come before the Commission today?

JUDGE KIMBREL: Nothing further, Mr. Chairman.

CHAIRMAN SHEAHAN: Commissioners, do we have any other business to discuss this morning?

(No response.)

Hearing none, the meeting is adjourned. Thank you.

(Whereupon, the above matter was adjourned.)

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CERTIFICATE OF REPORTER

STATE OF ILLINOIS)
)
COUNTY OF COOK)

CASE NO.

TITLE: BENCH (OPEN) SESSION
 PUBLIC UTILITY

I, PATRICIA WESLEY, do hereby certify that I am a court reporter employed by SULLIVAN REPORTING COMPANY, of Chicago, Illinois; that I reported in shorthand the evidence taken and the proceedings had on the hearing on the above-entitled case on the 25th day of August A.D., 2015; that the foregoing 16 are a true and correct transcript of my shorthand notes so taken as aforesaid, and contains all of the proceedings directed by the Commission or other person authorized by it to conduct the said hearing to be stenographically reported.

Dated at Chicago, Illinois, this 1st day of September, A.D., 2015.

Reporter.