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Our Opinion: Utility hearings need to be open

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IMAGINE IF state's attorneys, before scheduling a major criminal case in court, got to sit down with the judge and discuss why the charges against the defendant are warranted. There is no record of the content of the meeting, only a note that it occurred.

That's a bit how things operate with the Illinois Commerce Commission, which can hold meetings with utilities before the utilities announce their plans to seek rate increases from the commission. In the case of the \$162 million in rate increases the ICC granted Ameren's Illinois units last week, such a meeting took place on Oct. 24, 2007. We don't know what was said because there is no transcript or recorded minutes.

We are not alleging that anything inappropriate was discussed at that meeting. Nor are we accusing the commissioners and Ameren representatives involved of any wrongdoing whatsoever. But allowing such a meeting before a utility even files a request for an ICC hearing does not boost our confidence in the objectivity of the hearing that follows.

WE THINK the proceedings of a regulatory body such as the ICC must be open to instill the confidence of the millions of ratepayers affected by its decisions. We can think of no area in which this is more important than in the impossibly technical field of utility regulation.

"A process of regulation is only as good as the actual transparency and fairness of the process," says Paul Gaynor, chief of the attorney general's public interest division. "To the extent that pre-filing meetings occur ... between industry and the regulators, it's pretty hard to envision how ratepayers or customers are getting a fair shake."

We can't imagine a utility meeting in advance to tell ICC members why they should turn down its request for an increase.

ONE PROBLEM we do have with this case specifically is the ICC's denial of requests by Attorney General Lisa Madigan and the AARP to give oral arguments in the case. How can it be that Ameren gets a prehearing meeting with commissioners yet consumers' representatives don't get a say at the actual hearing?

The Citizens Utility Board and the attorney general's office — the state's two biggest consumer representatives in utility issues — both expressed strong opposition to the ruling. CUB is appealing it to the ICC. Madigan's office is considering a lawsuit.

Madigan called the ruling "yet another example of the Illinois Commerce Commission approving higher rates for utilities and giving consumers the short end of the stick." CUB executive director David Kolata called the rate increases "devastating." CUB believes Ameren vastly overstated its expenses and should be entitled to, at most, \$58 million in increases.

THE ICC — which whittled Ameren's original request down from \$247 million — says it was merely following the law in approving the \$162 million figure.

We won't pretend to know who is correct here. That will likely be a decision for a judge.

But we also won't pretend to have much confidence in a system that appears tilted in favor of the utilities. And until the legislature acts to close this loophole and open up the utility regulation process, we anticipate future ICC decisions will be greeted with similar skepticism.

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