By the Commission:

On August 1, 2019, the Illinois Commerce Commission ("Commission") entered an Order submitting the second notice of the proposed amendments ("Second Notice Order"), to the Joint Committee on Administrative Rules ("JCAR"). The Second Notice Order set forth proposed amendments to 83 Ill. Adm. Code 411 ("Part 411").

In a memorandum dated September 3, 2019, the executive director of JCAR notified the Interim Executive Director of the Commission that the second notice documentation submitted to JCAR for the Part 411 rulemaking could not be accepted. The memorandum explained that one of the proposed amendments in the rulemaking involved the revision of the header of a subpart, when the correct procedure is to make that change by recodification.

Since JCAR has taken issue with the amendments to the caption for Subpart C and therefore has not accepted the Second Notice Order, this rulemaking is not in the second notice period yet.

On October 22, 2019, Staff filed a Motion to Amend the Second Notice Order ("Motion"). Staff sought to have the changes to Subpart C reflected as a recodification rather than amendment, as requested by JCAR. Staff also requested that there be no amendment to Section 411.310.

Staff in its Motion explained that the amendment to Section 411.310 would allow utilities to utilize on-line surveys as an alternative to telephone surveys. Upon further consideration, Staff has determined if on-line surveys are allowed as an alternative to telephone surveys, that not only are amendments necessary to Section 411.310 but amendments may also be necessary to other sections under Subpart D (for example, but not limited to, Sections 411.301, 411.305, 411.310, 411.315, and 411.320).

Staff further explained that there is not sufficient time prior to the one year deadline expiring for this rulemaking, to work with interested parties on determining the other appropriate additional amendments to Subpart D necessary to allow on-line surveys as an alternative to telephone surveys.
Finally, Staff explained that the other amendments to Part 411 (i.e. Sections 411.40, 411.120, 411.160, 411.200, 411.210, and 411.220) which are unrelated to online surveys should be allowed to go into effect prior to the one year deadline expiring.

Staff therefore moved that the Commission recodify the change to the header to Subpart C of Part 411 and there be no amendment to Section 411.310. No party to this proceeding opposes Staff’s Motion.

The Commission hereby grants Staff’s Motion. Therefore, this Amendatory Order modifies the Second Notice Order, so that: (1) the Commission will recodify the change to the header to Subpart C of Part 411 and (2) there is no amendment to Section 411.310. Accordingly, the attached Appendix setting forth the amendments to Part 411 will be submitted to JCAR. In all other respects, the Second Notice Order should remain the same and in full force and effect.

Accordingly, the Commission, having reviewed the entire record in this proceeding and being fully advised in the premises, is of the opinion and finds that:

(1) the Commission has jurisdiction over the subject matter of this proceeding;
(2) the recitals of fact set forth in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;
(3) the Order entered by the Commission on August 1, 2019 should be amended by removing the amendments to Section 411.310 and the change to the header to Subpart C is a recodification, rather than amendment as reflected in the attached Appendix; and

(4) the proposed rulemaking amending 83 Ill. Adm. Code 411, as reflected in the attached Appendix to this Order, should be submitted to the Joint Committee on Administrative Rules pursuant to Section 5-40(c) of the Illinois Administrative Procedure Act to begin the second notice period.

IT IS THEREFORE ORDERED that the Order entered by the Commission on August 1, 2019 is hereby amended by removing the amendments to Section 411.310 and the change to the header to Subpart C is a recodification, rather than amendment as reflected in the attached Appendix.

IT IS FURTHER ORDERED that the proposed rulemaking amending 83 Ill. Adm. Code 411, as reflected in the attached Appendix to this Amendatory Order, be submitted to the Joint Committee on Administrative Rules pursuant to Section 5-40(c) of the Illinois Administrative Procedure Act.

IT IS FURTHER ORDERED that this Order is not final; it is not subject to the Administrative Review Law.

By Order of the Commission this 14th day of November, 2019.

(SIGNED) CARRIE ZALEWSKI
Chairman