

January 20, 2005

MINUTES
ILLINOIS CIVIL SERVICE COMMISSION
JANUARY 20, 2005

I. OPENING OF MEETING AT 9:17 A.M. AT 160 NORTH LASALLE STREET, SUITE S-901, CHICAGO, ILLINOIS

II. PRESENT

Chris Kolker, Chairman; George E. Richards, Raymond W. Ewell and Betty Bukraba (via telephone), Commissioners; and Daniel Stralka and Andrew Barris of the Commission staff.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD DECEMBER 16, 2004

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER EWELL AND THE MOTION UNANIMOUSLY ADOPTED TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD DECEMBER 16, 2004.

IV. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE

A. Report on Exempt Positions

<u>Agency</u>	<u>Employees</u>	<u>Positions</u>
Aging	154.....	5
Agriculture	493.....	18
Arts Council.....	21.....	1
Banks and Real Estate.....	1.....	0
Capitol Development Board	16.....	0
Central Management Services	1284.....	112
Children and Family Services	3457.....	42
Civil Service Commission	5.....	0
Commerce & Econ. Opportunity	483.....	60
Commerce Commission.....	58.....	0
Corrections.....	14,255.....	115
Criminal Justice Authority	77.....	5
Deaf and Hard of Hearing Comm.	7.....	1
Developmental Disabilities Council	8.....	1
Elections Board.....	56.....	1
Emergency Management Agency	110.....	2
Employment Security.....	1946.....	25
Environmental Protect. Agency	1136.....	15
Fin. & Prof. Regulation.....	845.....	35
Guardianship and Advocacy	109.....	6
Historic Preservation Agency	211.....	7
Human Rights Commission	11.....	2
Human Rights Department	131.....	7
Human Services	15,426.....	61
Industrial Commission.....	169.....	7
Investment Board.....	3.....	1
Labor.....	78.....	7
Labor Relations Board Educational	16.....	2
Labor Relations Board Local	1.....	0
Labor Relations Board State	18.....	2
Law Enforce. Trng. & Standard Bd.	24.....	1
Medical District Comm.....	2.....	0
Military Affairs	145.....	3
Natural Resources	1592.....	28
Pollution Control Board.....	25.....	3
Prisoner Review Board	23.....	0
Property Tax Appeal Board	21.....	2
Public Aid	2261.....	23
Public Health.....	1133.....	28
Revenue	2131.....	57
State Fire Marshal	137.....	7
State Police	1520.....	6
State Police Merit Board.....	5.....	1
State Retirement System.....	83.....	1
Transportation.....	3067.....	1
Veterans Affairs.....	1191.....	2
TOTALS	53,945.....	703

IV. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE (continued)

B. Governing Rule - Jurisdiction B Exemptions

- a) Before a position shall qualify for exemption from Jurisdiction B under Section 4d(3) of the Personnel Code, the position shall be directly responsible to:
 1. The Governor, or
 2. A departmental director or assistant director appointed by the Governor, or
 3. A board or commission appointed by the Governor, or
 4. The head of an agency created by Executive Order, or the director or assistant director of an agency carrying out statutory powers, whose offices are created by the Governor subject to legislative veto under Article V, Section 11, of the Constitution of 1970, which agency head, director, or assistant director may themselves be subject to exemption under Section 4d(3), or
 5. In an agency having a statutory assistant director, a deputy director exercising full line authority under the director for all operating entities of the agency, provided the statutory role of assistant director is vacant or is assigned clearly distinct and separate duties from the deputy director and as a colleague to him, or
 6. A line position organizationally located between the director and/or assistant director and a subordinate statutorily exempt position(s), provided the position proposed for exemption has line authority over the statutory exempt position(s), or
 7. The elected head of an independent agency in the executive, legislative, or judicial branch of government.
- b) If a position meets the above criterion, it must, in addition, be responsible for one or more of the following before it shall be approved as exempt:
 1. Directs programs defined by statute and/or departmental, board, or commission policy or possess significant authority when acting in the capacity of a director of programs to bind the agency.
 2. Makes decisions in exercising principal responsibility for the determination or execution of policy which fix objectives or state the principles to control action toward operating objectives of one or more divisions, such decisions being subject to review or reversal only by the director, assistant director, board or commission.
 3. Participates in the planning and programming of departmental, board, or commission activities, integrating the plans and projections of related divisions, and the scheduling of projected work programs of those agencies.
 4. Makes decisions in exercising principal responsibility for the determination or execution of policy which fix objectives or state the principles to control action toward operating objectives of one or more divisions, such decisions being subject to review or reversal only by the director, assistant director, board or commission.
 5. Participates in the planning and programming of departmental, board, or commission activities, integrating the plans and projections of related divisions, and the scheduling of projected work programs of those agencies.

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IV. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE (continued)

Regarding Agenda Items C-E, Assistant Executive Director Andrew Barris (Barris) stated that in addition to staff concerns regarding the reporting structure of the positions, several questions remained regarding the policy making authority of the positions and the potential for overlap in responsibilities. For these reasons, the requests for exemption were continued until the February 17, 2005 meeting.

Regarding Agenda Item F, Barris informed the Commission that the request for exemption was withdrawn.

Regarding Agenda Items G and H, Barris informed the Commission that both Deputy General Counsel positions met the reporting and policy making requirements of Rule 11, i.e., Item G, the Deputy General Counsel - Labor is the lead negotiator of collective bargaining agreements throughout the State. As to the Deputy General Counsel - Personnel, Executive Director Stralka noted that the Commission previously granted a request for exemption for a Deputy General Counsel for Benefits and Personnel position at Central Management Services. The current request reflects the agency's determination that one position is inadequate to tend to both these strategic areas, so the responsibilities are now being split between the previously exempted position (Benefits) and the position before the Commission today (Personnel).

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IV. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE (continued)

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER EWELL AND THE MOTION UNANIMOUSLY ADOPTED TO CONTINUE OR APPROVE THE REQUESTS FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITIONS IN ACCORDANCE WITH STAFF RECOMMENDATION. CHAIRMAN KOLKER WAS RECORDED AS VOTING PRESENT ON THE 4D(3) REQUESTS IN ITEM D (CMS POSITION NOS. 40070-37-70-200-00-01 AND 40070-37-70-100-00-01).

C. Requests for 4d(3) Exemption Continued by the Commission

The following 4d(3) requests for exemption were continued at the January 20, 2005 meeting until the February 17, 2005 meeting:

Agency: Central Management Services
Position Title: Senior Public Service Administrator
Position Number: 40070-37-60-340-01-01
Bureau/Division: Bureau of Property Management/Transactions & Property
Incumbent: Vacant
Supervisor: Manager of Transactions and Property Administration
Location: Cook County

Agency: Central Management Services
Position Title: Senior Public Service Administrator
Position Number: 40070-37-60-330-01-02
Bureau/Division: Bureau of Property Management/Transactions & Property
Incumbent: Vacant
Supervisor: Manager of Transactions and Property Administration
Location: Sangamon County

Agency: Central Management Services
Position Title: Senior Public Service Administrator
Position Number: 40070-37-60-310-01-02
Bureau/Division: Bureau Of Property Management/Transactions and
Property Administration
Incumbent: Vacant
Supervisor: Manager of Transactions and Property Administration
Location: Cook County

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IV. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE (continued)

D. Requests for 4d(3) Exemption Approved by the Commission

The following 4d(3) requests for exemption were approved at the January 20, 2005 meeting:

Agency: Central Management Services
Position Title: Senior Public Service Administrator
Position Number: 40070-37-70-200-00-01
Bureau / Division: Chief Administrative Officer and General Counsel's Office
Incumbent: Vacant
Supervisor: Chief Administrative Officer and General Counsel
Location: Sangamon County

Agency: Central Management Services
Position Title: Senior Public Service Administrator
Position Number: 40070-37-70-100-00-01
Bureau/Division: Legal/Labor Relations
Incumbent: Vacant
Supervisor: Chief Administrative Officer and General Counsel
Location: Sangamon County

V. MOTION TO GO INTO EXECUTIVE SESSION

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER EWELL AND THE MOTION UNANIMOUSLY ADOPTED TO HOLD AN EXECUTIVE SESSION TO CONSIDER APPEALS OF DISMISSAL FILED WITH THE COMMISSION.

VI. RECONVENE MEETING

Upon due and proper notice the regular meeting of the Illinois Civil Service Commission was reconvened at 160 North LaSalle Street, Suite S-901, Chicago, Illinois at 10:00 a.m.

PRESENT

Chris Kolker, Chairman; George E. Richards, Raymond W. Ewell and Betty Bukraba (now present in person), Commissioners; and Daniel Stralka and Andrew Barris of the Commission staff.

VII. NON-MERIT APPOINTMENT REPORT

The Personnel Code permits non-merit appointments for a limited period of time, i.e., emergency appointments shall not exceed 60 days and shall not be renewed, and positions shall not be filled on a temporary or provisional basis for more than six months out of any twelve-month period. Consecutive non-merit appointments are not violative of the Code, however, they do present a possible evasion of merit principles and should be monitored. Set forth below is the number of consecutive non-merit appointments made by each department. These statistics are from the Department of Central Management Services consecutive non-merit report as of December 31, 2004.

	<u>11/30/04</u>	<u>12/31/04</u>
Central Management Services	8	9
Children & Family Services	3	1
Comm. & Econ. Opportunity	2	3
Environmental Protection	1	0
Historic Preservation	16	2
Human Services	1	3
Natural Resources	9	11
Public Aid	4	3
Public Health	1	2
State Retirement Systems	1	1
Transportation	1	3
Totals	46	38

VIII. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEAL

- **DISCHARGE (On Remand)**

DA-67-04

Respondent	Louis Betts, III	Appeal Date	10/29/03
Agency	DOC	Decision Date	1/10/05
Type of Appeal	Discharge	ALJ	Daniel Stralka
Charge(s)	Violation of Standards of Conduct.	Recommendation	Charges Proven; Discharge Upheld.

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER EWELL AND BY ROLL CALL VOTE THE MOTION UNANIMOUSLY ADOPTED TO AFFIRM THE RECOMMENDED DECISION THAT THE RESPONDENT, LOUIS BETTS III, BE DISCHARGED FROM HIS POSITION OF PUBLIC SERVICE ADMINISTRATOR WITH THE ILLINOIS DEPARTMENT OF CORRECTIONS.

- **DISCHARGE (On Remand)**

DA-71-04

Respondent	Rick Lind	Appeal Date	11/10/03
Agency	DOC	Decision Date	1/07/05
Type of Appeal	Discharge	ALJ	Andrew Barris
Charge(s)	Unauthorized Absence.	Recommendation	Appeal Granted; Employee Reinstated.

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER EWELL AND BY ROLL CALL VOTE THE MOTION UNANIMOUSLY ADOPTED TO AFFIRM THE RECOMMENDED DECISION THAT THE APPEAL OF THE RESPONDENT BE UPHELD AND THAT THE RESPONDENT, RICK LIND, BE REINSTATED WITH THE ILLINOIS DEPARTMENT OF CORRECTIONS.

VIII. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEAL (continued)

• **DISMISSAL**

DA-29-05

Respondent	Jeanetta Dale	Appeal Date	12/1/04
Agency	DOC	Decision Date	1/07/04
Type of Appeal	Discharge	ALJ	Andrew Barris
Charge	Unauthorized Absences.	Recommended Decision	No Jurisdiction; Appeal Dismissed.

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER BUKRABA AND BY ROLL CALL VOTE THE MOTION UNANIMOUSLY ADOPTED TO AFFIRM THE RECOMMENDED DECISION THAT THE APPEAL OF THE RESPONDENT WAS WITHDRAWN AND THAT THE COMMISSION IS WITHOUT JURISDICTION TO CONSIDER THE APPEAL OF THE RESPONDENT, JEANETTA DALE.

IX. APPEALS TERMINATED WITHOUT DECISION

• **DISMISSAL**

LA-06-05

Petitioner	Neal Gosselink	Appeal Date	7/01/04
Agency	DOC	Decision Date	1/07/05
Type of Appeal	Layoff	ALJ	Andrew Barris
Issue	Unknown	Recommended Decision	Lack of Prosecution; Appeal Dismissed.

IT WAS MOVED BY COMMISSIONER BUKRABA, SECONDED BY COMMISSIONER EWELL AND BY ROLL CALL VOTE THE MOTION UNANIMOUSLY ADOPTED TO AFFIRM THE RECOMMENDED DECISION THAT THE PETITIONER'S FAILURE TO FILE MATERIALS REQUIRED BY ORDER OF THE COMMISSION CONSTITUTES A DEFAULT RESULTING IN THE DISMISSAL OF PETITIONER'S APPEAL.

IX. APPEALS TERMINATED WITHOUT DECISION (continued)

• **DISMISSAL**

DA-57-04

Petitioner	William Link	Appeal Date	8/28/04
Agency	DCEO	Decision Date	1/11/05
Type of Appeal	Discharge	ALJ	Daniel Stralka
Charge	Conduct Unbecoming A DCEO Employee; Unauthorized Absence.	Recommended Decision	Settlement Agreement Reached; Appeal Dismissed.

IT WAS MOVED BY COMMISSIONER BUKRABA, SECONDED BY COMMISSIONER EWELL AND BY ROLL CALL VOTE THE MOTION UNANIMOUSLY ADOPTED TO AFFIRM THE RECOMMENDED DECISION THAT THE APPEAL OF THE RESPONDENT, WILLIAM LINK, BE DISMISSED.

• **DISMISSAL**

DA-01-05

Petitioner	Larry Wargel	Appeal Date	7/6/04
Agency	DOC	Decision Date	12/08/04
Type of Appeal	Layoff	ALJ	Andrew Barris
Issue	Non-renewal of Term Appointment.	Recommended Decision	Joint Stipulation To Dismiss; Appeal Dismissed.

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER BUKRABA AND BY ROLL CALL VOTE THE MOTION UNANIMOUSLY ADOPTED TO AFFIRM THE RECOMMENDED DECISION THAT THE APPEAL OF THE RESPONDENT, LARRY WARGEL, BE DISMISSED.

IX. APPEALS TERMINATED WITHOUT DECISION (continued)

• **DISMISSAL**

LA-20-05

Petitioner	Diane Hendren	Appeal Date	10/27/04
Agency	DNR	Decision Date	1/11/05
Type of Appeal	Layoff	ALJ	Andrew Barris
Issue	Lack of Funds; Material Reorganization.	Recommended Decision	Lack of Prosecution; Appeal Dismissed.

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER EWELL AND BY ROLL CALL VOTE THE MOTION UNANIMOUSLY ADOPTED TO AFFIRM THE RECOMMENDED DECISION THAT PETITIONER'S FAILURE TO FILE MATERIALS REQUIRED BY ORDER OF THE COMMISSION CONSTITUTES A DEFAULT RESULTING IN THE DISMISSAL OF PETITIONER'S APPEAL.

• **DISMISSAL**

LA-23-05

Petitioner	Jay V. Johnson	Appeal Date	10/28/04
Agency	DNR	Decision Date	1/07/05
Type of Appeal	Layoff	ALJ	Andrew Barris
Issue	Unknown	Recommended Decision	Lack of Prosecution; Appeal Dismissed.

IT WAS MOVED BY COMMISSIONER BUKRABA, SECONDED BY COMMISSIONER EWELL AND BY ROLL CALL VOTE THE MOTION UNANIMOUSLY ADOPTED TO AFFIRM THE RECOMMENDED DECISION THAT PETITIONER'S FAILURE TO FILE MATERIALS REQUIRED BY ORDER OF THE COMMISSION CONSTITUTES A DEFAULT RESULTING IN THE DISMISSAL OF PETITIONER'S APPEAL.

• **DISMISSAL**

AA-26-05

Petitioner	Connie Lenear	Appeal Date	10/08/04
Agency	DOC	Decision Date	1/10/05
Type of Appeal	Allocation	ALJ	Andrew Barris
Issue	Unfair Pay.	Recommended Decision	Failure To Respond by Petitioner; Appeal Dismissed.

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IX. APPEALS TERMINATED WITHOUT DECISION (continued)

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER RICHARDS AND BY ROLL CALL VOTE THE MOTION UNANIMOUSLY ADOPTED TO AFFIRM THE RECOMMENDED DECISION THAT PETITIONER'S FAILURE TO FILE MATERIALS REQUIRED BY ORDER OF THE COMMISSION CONSTITUTES A DEFAULT RESULTING IN THE DISMISSAL OF PETITIONER'S APPEAL.

X. PETITION FOR DECLARATORY RULING

• DECLARATORY RULING
DR-16-05

Petitioner	Gary Lee Kupsak	Appeal Date	8/09/04
Agency	ICJA	Decision Date	12/30/04
Type of Appeal	Declaratory Ruling	ALJ	Daniel Stralka
Issue	Petitioner's Resignation.	Recommended Finding	ALJ Finds That Petitioner's Resignation Did Not Violate Personnel Rules.

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER BUKRABA AND BY ROLL CALL VOTE THE MOTION UNANIMOUSLY ADOPTED TO AFFIRM THE DECLARATORY RULING OF THE ADMINISTRATIVE LAW JUDGE.

XI. EMERGENCY AMENDMENT TO THE PERSONNEL RULES

The Personnel Rules were duly amended by the Department of Central Management Services on July 1, 2004 by statutory authority (20 ILCS 415) as follows:

Heading of Part	Public Officials and Employees
Code Citation	80 Ill. Adm. Code 303
Sections Involved	303.125 303.130 303.135 303.145 303.148
Effective Date	7/01/04
Date Submitted	January 10, 2005

XI. EMERGENCY AMENDMENT TO THE PERSONNEL RULES (continued)

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER EWELL AND THE MOTION UNANIMOUSLY ADOPTED TO APPROVE THE EMERGENCY AMENDMENT TO THE PERSONNEL RULES.

XII. AMENDMENTS IN CLASS SPECIFICATIONS

A. The following class titles were submitted for revision by the Director of Central Management Services:

<u>Current Position Title</u>	<u>Proposed Position Title</u>
Hearings Referee	No Change in Title
Hearings Referee Intermittent	No Change in Title

Recommendation For Commission Action

Assistant Executive Director Andrew Barris addressed the Commission regarding the revision to the Hearings Referee class specifications. Barris stated that he inquired about the effect of the language requirement on existing positions. Barris was told by CMS that the new requirement would not effect existing positions where a language requirement did not exist. Rather, the revision would only effect some positions that might be filled with bilingual candidates.

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER BUKRABA AND THE MOTION UNANIMOUSLY ADOPTED TO APPROVE THE REVISIONS TO THE CLASS SPECIFICATIONS FOR THE FOLLOWING CLASSES, TO BE EFFECTIVE FEBRUARY 1, 2005.

Hearings Referee

Hearings Referee Intermittent

B. The following class titles were submitted for abolishment by the Director of Central Management Services:

<u>Current Position Title</u>	<u>Proposed Position Title</u>
Health Planning Specialist 1	Abolish
Health Planning Specialist 2	Abolish

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XII. AMENDMENTS IN CLASS SPECIFICATIONS (continued)

Recommendation For Commission Action

Assistant Executive Director Barris informed the Commission that both the Health Planning Specialist 1 and 2 class titles were submitted for abolishment because they had been vacant since January 1999.

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER RICHARDS AND THE MOTION UNANIMOUSLY ADOPTED TO APPROVE THE ABOLISHMENT OF THE FOLLOWING CLASSES TO BE EFFECTIVE FEBRUARY 1, 2005.

Health Planning Specialist 1
Health Planning Specialist 2

C. **The following class title was submitted for establishment by the Director of Central Management Services:**

Proposed Position Title

Equal Pay Specialist

Recommendation For Commission Action

Assistant Executive Director Barris informed the Commission that the Illinois Equal Pay Act became effective January 1, 2004 and that the Equal Pay Specialist class title was created in response to this legislation.

IT WAS MOVED BY COMMISSIONER BUKRABA, SECONDED BY COMMISSIONER EWELL AND THE MOTION UNANIMOUSLY ADOPTED TO APPROVE THE ESTABLISHMENT OF THE FOLLOWING CLASS TO BE EFFECTIVE FEBRUARY 1, 2005.

Equal Pay Specialist

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XII. AMENDMENTS IN CLASS SPECIFICATIONS (continued)

D. The following class title was submitted for revision by the Director of Central Management Services:

<u>Current Position Title</u>	<u>Proposed Position Title</u>
Veterans Service Officer	No change in title
<u>Recommendation For Commission Action</u>	

The Commissioners discussed the propriety of establishing a future date for the conclusion of an ongoing time of hostility. A continuance was favored to investigate with CMS the feasibility of assigning an ascertainable date in the past as the end to the War on Terrorism, as opposed to a random future date, with CMS returning to the Commission to revise this date as circumstances warrant.

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER BUKRABA AND THE MOTION UNANIMOUSLY ADOPTED TO CONTINUE CONSIDERATION OF THE REVISION OF THE CLASS SPECIFICATIONS FOR THE FOLLOWING CLASS UNTIL THE FEBRUARY 17, 2005 MEETING.

Veterans Service Officer

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER BUKRABA AND THE MOTION UNANIMOUSLY ADOPTED TO DISAPPROVE ANY CLASS SPECIFICATIONS RECEIVED BY THE COMMISSION NOT CONTAINED IN THIS REPORT TO ALLOW ADEQUATE STUDY.

XIII. FY2004 ANNUAL REPORT

This matter was continued to the February 17, 2005 meeting at the request of the Executive Director.

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XIV. REQUEST TO PROVIDE SEARCHABLE ONLINE CASE ANNOTATIONS

The Executive Director informed the Commission of the request of Jupiter Publishing to access the Commission's decisions to provide online case annotations for their customers. After discussion, the Executive Director will contact other similarly situated agencies to determine their practices in this area.

XV. STAFF REPORT

The Executive Director informed the Commissioners that ISLs for FY2006 are due February 17, 2005.

Additionally, certification was recently submitted to the Secretary of State of those who are required to file annual Statements of Economic Interest.

XVI. ANNOUNCEMENT OF NEXT MEETING

Announcement of the next regular meeting to be held on Thursday, February 17, 2005 at 9:00 a.m. in the Commission's Chicago Office.

XVII. MOTION TO ADJOURN

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER BUKRABA AND THE MOTION UNANIMOUSLY ADOPTED TO ADJOURN THE MEETING AT 10:21 A.M.