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Editorial: Governor's ICC moves send the wrong message

Subtle, Gov. Blagojevich, very subtle.

Actually, the governor's appointment Wednesday of Marty Cohen to head the Illinois Commerce Commission is relatively subtle—when contrasted to the jackhammer approach used in a letter he wrote to ICC commissioners three weeks ago.

Combine the two actions, and there's no mistaking the message from the governor, who is as powerfully drawn to populist gestures as moths are to light. The governor's message, loosely translated, is "Hey, Illinois residents (and voters), count me on the side of downtrodden consumers standing in opposition to greedy utilities."

Under different circumstances, the naming of Cohen as ICC chair to replace Ed Hurley, who suddenly has been given another assignment, would be surprising but perhaps refreshing. Surprising because it is unusual for a governor to name a commissioner so overwhelmingly identified with the cause of one side or the other in utility vs. consumer public policy debates. In Cohen, Blagojevich has selected the state's most public face of consumer advocacy, a man who for the last 12 years has served, and served well, as executive director of the Citizens Utility Board. Time after time, Cohen and CUB have challenged—correctly more often than not—rate increases or attempts by utilities to make legislative end runs around the ICC.

And it is a role of the ICC, as Blagojevich notes, to watch out for consumer interests. Cohen surely will do that.

Moreover, Cohen is extraordinarily knowledgeable and highly professional. He might be able to comfortably wear his new cap, one that calls for more arbitration and balancing of competing interests than advocacy.

But Blagojevich's appointment of Cohen doesn't come under normal circumstances. It arrives on the heels of the governor's wholly inappropriate letter to ICC commissioners in which he basically ordered them to reject a key proposal made by ComEd. A proposal, by the way, that faces a lawsuit from Attorney General Lisa Madigan, a lawsuit to which CUB and Cohen have been a party.

The governor's letter to commissioners read, in part:

"I appointed members of the Commission to protect the consumer. It is your job to ensure that rates remain just and reasonable, and to reject filings that circumvent the law or the intention of the law. I consider an approval of a reverse auction procurement process of market-based rates for wholesale power either a serious neglect of duty or gross incompetence by the ICC. ... Unless and until a competitive market develops, the request for higher rates must be rejected."

Neglect of duty? Gross incompetence? That doesn't leave much to the imagination in terms of what might happen if commissioners, following their own findings and conscience, find in ComEd's favor, does it?

Set aside for now the merits or lack thereof in ComEd's proposal; that's the subject for another editorial another day. Blagojevich's letter was heavy-handed meddling in decisions that properly reside with the ICC. The governor's role is to appoint commissioners, not to intimidate and not to dictate to them what conclusion to reach on specific cases.

And while they may be too politic to say so aloud, utility executives surely are wondering today whether they can get a fair hearing with Blagojevich's sudden veering across four lanes of political traffic to reach the consumer-advocacy side of the highway.

State Senate President Emil Jones Jr., a Democratic ally of the governor, viewed the Cohen appointment warily, citing the importance of ICC independence and advising that "the governor should not play to cheers of the crowd."

Too late, senator. You should know by now. That's what this governor does.