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BEFORE THE  
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF: )  
 )  
GOOSE ISLAND, INC. )  
d/b/a SLICK'S LOUNGE )  
 )  
vs. ) No. 04-0400  
 )  
COMMONWEALTH EDISON COMPANY )  
 )  
Complaint as to )  
billing/charges in Chicago, )  
Illinois. )

Chicago, Illinois  
March 16, 2005

Met pursuant to notice at 10:00 a.m.

BEFORE:

MR. GLENNON DOLAN, Administrative Law Judge

1 APPEARANCES:

2 LAW OFFICES OF MARK L. GOLDSTEIN, P.C., by  
3 MR. MARK L. GOLDSTEIN  
4 108 Wilmot Road, Suite 330  
5 Deerfield, Illinois 60015  
6 Appearing for ComEd;

7 MR. WILLIAM DELANEY  
8 420 North Wabash Avenue  
9 Chicago, Illinois 60611  
10 Appearing for Goose Island, Inc.

11 ALSO PRESENT:

12 John Parise

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SULLIVAN REPORTING COMPANY, by  
Julia C. White, CSR



1           JUDGE DOLAN: By the power and authority of.  
2     The Illinois Commerce Commission, I call Case  
3     No. 04-0400, Goose Island, Incorporated, doing  
4     business as Slick's Lounge versus Commonwealth  
5     Edison, allegations of negligent, fraudulent and  
6     unidentified and ambiguous transfer of debits against  
7     Goose Island, Incorporated, to order.

8                         Would the parties please identify  
9     themselves for the record.

10           MR. DELANEY: William Delaney on behalf of  
11     Goose Island, Incorporated, petitioner.

12           MR. GOLDSTEIN: On behalf of Commonwealth  
13     Edison Company, Mark L. Goldstein, 108 Wilmot Road,  
14     Suite 330, Deerfield, Illinois 60015. My telephone  
15     number is (847) 580-5480. I just said yesterday to  
16     the Clerk of the Commission my additional appearance.  
17     I have with me today, John Parise, from Commonwealth  
18     Edison Company.

19           JUDGE DOLAN: All right. Let the record  
20     reflect there are no other appearances.

21                         A discussion has taken place off the  
22     record concerning a schedule to proceed in this

1 matter. And I guess from that point, we'll see where  
2 we're at.

3 Do you want to have discussion on the  
4 record, Mr. Goldstein?

5 MR. GOLDSTEIN: Yes. For the record, when  
6 Commonwealth Edison Company filed its answer in this  
7 proceeding, it also filed a Bill of Particulars. The  
8 Bill of Particulars has not been responded to by the  
9 complainant.

10 I would also note for the record that  
11 at the November 16, 2004 status hearing in this  
12 matter, the judge -- you, Judge Dolan, set a  
13 discovery cutoff date of January 4th; and -- of this  
14 year. And as far as we're concerned, we have nothing  
15 else to discover. The Bill of Particulars is not  
16 particularly a discovery mode, and so what we propose  
17 is having the complainant file its testimony; and we  
18 will respond to it as we've discussed off the record.

19 JUDGE DOLAN: Mr. Delaney?

20 MR. DELANEY: From our standpoint, I concur  
21 completely with everything Counsel has said in terms  
22 of what the Commission has done and what has

1       transpired in the case. In the month of December, I  
2       was out of the country and, prior to the discovery  
3       date, unable to work with Mr. Fabian on some  
4       outstanding discovery issues that were pending.  
5       We've had multiple conversations about this, and  
6       we've gone back and forth in terms of discovery  
7       issues throughout these proceedings.

8                       And on two separate occasions, the day  
9       of the proceedings, ComEd faxed my office documents  
10      in excess of 40 pages, in excess of 70 pages, within  
11      24 hours of the actual proceedings. So discovery  
12      portions that I was unable to fully review and/or  
13      prepare, and then we would come up on the pre- -- the  
14      actual ICC hearing and do the next scheduling. So  
15      our position is, we would like to motion the Court to  
16      reopen discovery in a limited basis so we could  
17      resolve these issues.

18                      We also had conversations before in  
19      these hearings regarding the possibility of  
20      depositions and are seeking depositions. We talked  
21      about that. There may be a case where we want to  
22      motion the Court for that, as well. I think this is

1 something that could be done in a rather rapid  
2 fashion. And, quite frankly, in terms of time and in  
3 terms of this matter pending, it would not prejudice  
4 any party; and we could also do it in accordance with  
5 the schedule that we discussed off the record prior  
6 in shooting for the June 1st court date that -- or  
7 trial date that had been suggested by all the  
8 parties.

9                   So, again, we would respectfully  
10 request leave to reopen for discovery and, for a  
11 limited time period, to resolve these issues.

12               MR. GOLDSTEIN: Let me make a very brief  
13 response, if I may. I'm advised that Commonwealth  
14 Edison Company has given Mr. Delaney every possible  
15 piece of paper we have. There's nothing more to  
16 discover.

17               MR. DELANEY: Could I --

18               MR. GOLDSTEIN: And that's the reason we --

19               MR. DELANEY: -- ask for clarification of the  
20 definition of "every possible piece of paper."

21               MR. GOLDSTEIN: Everything that relates to your  
22 complaint.

1           MR. DELANEY:  So, for the record, there's not  
2 another document that exists?

3           MR. GOLDSTEIN:  I don't believe so.

4           MR. JOHN PARISE:  I don't believe so.

5           MR. DELANEY:  Okay.  I would -- I would  
6 strenuously dispute that.  And that would be a point  
7 of which I would then, again, demand that discovery  
8 be opened.

9           MR. GOLDSTEIN:  If you can -- if you can review  
10 your --

11          MR. DELANEY:  I can say it right now.

12          MR. GOLDSTEIN:  -- your documents.  And if you  
13 believe that there are other documents that you need  
14 to discover, I don't know --

15          MR. DELANEY:  For the record, right now there's  
16 an issue --

17          JUDGE DOLAN:  You guys know that we've got a  
18 court reporter.  So only one can talk at a time.  
19 So --

20          MR. DELANEY:  I apologize.

21          JUDGE DOLAN:  How about this:  Why don't -- I'm  
22 going to try to still stick to the same schedule that

1 we're looking at for direct testimony. I will give  
2 you 14 days to resolve any discovery issues or bring  
3 any motions that you feel are pertinent and then,  
4 obviously, give ComEd an opportunity to respond to  
5 them.

6 The fact that there was no motion to  
7 compel or, you know, 201 case or anything like that,  
8 I don't feel that either party is going to be  
9 prejudiced by giving a window of 14 days in order  
10 to --

11 MR. GOLDSTEIN: Is that -- in those 14 days,  
12 will Mr. Delaney be responding to the Bill of  
13 Particulars?

14 MR. DELANEY: Well, I think what we should do,  
15 if that's the case because of my experience on the  
16 discovery issues that we've dealt with thus far,  
17 14 days is not going to be a time period to turn  
18 anything around.

19 MR. GOLDSTEIN: No.

20 MR. DELANEY: May I finish here?

21 What I would suggest is, let's do a  
22 status date in 14 days; and I'll motion up my issues

1 because I -- I can recite them right now off the top  
2 of my head, but that wouldn't do anyone justice; and  
3 I know that Mr. Goldstein has just entered the  
4 picture here. So I can get him up to date, as well.

5 MR. GOLDSTEIN: Could we -- could we get a date  
6 upon which the complainant is going to respond to the  
7 Bill of Particulars?

8 MR. DELANEY: Certainly.

9 MR. GOLDSTEIN: That's what I'm asking at the  
10 moment.

11 MR. DELANEY: That's a separate --

12 MR. GOLDSTEIN: Is that 14 days from now?

13 MR. DELANEY: Would -- would you like for me to  
14 commit to that date? Sure, no problem.

15 MR. GOLDSTEIN: All right.

16 MR. DELANEY: I can do that, if that's a  
17 separate issue.

18 MR. GOLDSTEIN: All right. Will that be  
19 ordered by the judge?

20 JUDGE DOLAN: I can put that in my order.  
21 That's fine.

22 MR. GOLDSTEIN: Thank you.

1           MR. DELANEY: Not a problem.

2           MR. GOLDSTEIN: I think I can also represent,  
3 on behalf of Commonwealth Edison, that we have no  
4 other materials that we wish to discover.

5           JUDGE DOLAN: All right. I mean, I guess what  
6 I'm thinking, though, if you're going to ask for  
7 depositions, you're going to have to file a motion  
8 for the depositions.

9           MR. DELANEY: Actually, could we go off the  
10 record for a second?

11          JUDGE DOLAN: Yeah, go ahead.

12                                 (Whereupon, a discussion was had  
13                                 off the record.)

14          JUDGE DOLAN: A discussion took place off the  
15 record concerning the schedule. We've had  
16 discussions concerning the schedule, which will be  
17 laid out on the record; but I believe Mr. Goldstein  
18 has another issue he wishes to address before we go  
19 over the --

20          MR. GOLDSTEIN: Yes.

21          JUDGE DOLAN: -- schedule.

22          MR. GOLDSTEIN: I've been advised this morning

1 by Mr. Parise that Goose Island is past due on its  
2 current liquor bill. I assume that Goose Island is  
3 going to do something about that.

4 MR. DELANEY: I have no idea.

5 MR. GOLDSTEIN: I would ask Counsel to look  
6 into this and make sure that --

7 MR. DELANEY: Are we collecting --

8 MR. GOLDSTEIN: -- that --

9 MR. DELANEY: -- on behalf of Goose Island?

10 MR. GOLDSTEIN: -- that Goose Island pays its  
11 bill.

12 JUDGE DOLAN: Well, Mr. Goldstein, as you know,  
13 that is -- that isn't the matter that's before us.

14 MR. GOLDSTEIN: We're well aware of that.

15 MR. DELANEY: That has no relevance whatsoever.

16 MR. GOLDSTEIN: I am well aware of that.

17 MR. DELANEY: I would be -- I don't even know  
18 how to respond other than interesting, irrelevant  
19 tidbit of information.

20 JUDGE DOLAN: Okay. With that being said, we  
21 will go ahead and --

22 MR. DELANEY: Actually, just for clarification,

1       why -- why are you informing me of this, Counsel?

2               MR. GOLDSTEIN:   Because I'd like Goose Island  
3       to pay its bill.

4               MR. DELANEY:   Are you collecting?   Are you  
5       retained by Goose Island to collect?

6               MR. GOLDSTEIN:   I'm not retained by Goose  
7       Island to do anything.

8               JUDGE DOLAN:   ComEd is.

9               MR. GOLDSTEIN:   I'm putting you on -- I'm  
10       putting you on notice that there's an outstanding  
11       liquor bill.

12               MR. DELANEY:   So are you asking to include that  
13       as part of this hearing?

14               MR. GOLDSTEIN:   No.

15               MR. DELANEY:   Okay.   And are you making a  
16       statement on behalf of ComEd that Goose Island needs  
17       to pay their bill?

18               MR. GOLDSTEIN:   Oh, yes.

19               MR. DELANEY:   Okay.   For the record, I have no  
20       response to that statement; but I will respond in due  
21       course.

22               JUDGE DOLAN:   Okay.   With that being said, we

1 are going to say within 14 days, any motions for  
2 depositions will be filed by the complainant; and  
3 any -- or, also, within the 14 days, you will respond  
4 to ComEd's Bill of Particulars.

5 MR. DELANEY: Certainly.

6 JUDGE DOLAN: Okay.

7 MR. DELANEY: And for clarification, it may not  
8 be just a motion for a dep. It may be a motion for  
9 discovery --

10 JUDGE DOLAN: Okay.

11 MR. DELANEY: -- for clarification on the  
12 discovery issues that we discussed off the record.

13 JUDGE DOLAN: Well, then -- okay. How about if  
14 we just say any discovery response, how's that, say,  
15 within 14 days, will be filed -- or will be sent to  
16 the other side because you don't really have to file  
17 your discovery --

18 MR. DELANEY: Certainly.

19 JUDGE DOLAN: -- here.

20 Any motions will be responded to  
21 within seven days. Is that fine with ComEd?

22 MR. GOLDSTEIN: Yes.

1           JUDGE DOLAN:   Okay.   Then we will set down a  
2   status of April 13th at 11:00 a.m.   On April 15th,  
3   direct testimony will be filed by the complainant.  
4   By May 16th, any rebuttal testimony will be filed on  
5   behalf of the Company.   And we will set this matter  
6   down for June 1st, 2005, at 10:00 a.m. for a hearing.  
7   Does that coordinate with everybody?

8           MR. GOLDSTEIN:   Yes.

9           MR. DELANEY:   Certainly.

10          JUDGE DOLAN:   Okay.   Now, the only other thing  
11   that we do need is, we do need that extension of the  
12   one-year time period filed, which, Mr. Goldstein, you  
13   just sent me one in that other case.   So do you want  
14   to just prepare it?

15          MR. JOHN PARISE:   And charge me for that?

16          JUDGE DOLAN:   Well, if you don't want to, he  
17   can do it.   I mean, either that or --

18          MR. GOLDSTEIN:   I'll prepare it.   I'll be  
19   happy --

20          JUDGE DOLAN:   -- just send --

21          MR. GOLDSTEIN:   I'll be happy to prepare it.

22          JUDGE DOLAN:   -- or send him -- send him --

1           MR. GOLDSTEIN: I'll send this on.

2           JUDGE DOLAN: -- send him the formed copy so he  
3 can get it filed on behalf of the complainant because  
4 technically, it's your --

5           MR. DELANEY: Sure.

6           JUDGE DOLAN: -- burden to --

7           MR. DELANEY: Absolutely.

8           JUDGE DOLAN: -- get it filed. So --

9           MR. DELANEY: I will. I will make sure we get  
10 it coordinated.

11          MR. GOLDSTEIN: I'll send that to you.

12          JUDGE DOLAN: Okay. Is there anything else,  
13 then, that we need to discuss today?

14          MR. GOLDSTEIN: No.

15          MR. DELANEY: I think that's it.

16          JUDGE DOLAN: Okay. All right. Then we will  
17 be entered and continued until April 13th, 2005, at  
18 11:00 a.m.

19          MR. DELANEY: Thank you.

20          JUDGE DOLAN: All right. Thank you, all.

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(Whereupon, the above-entitled  
matter was continued to  
April 13th, 2005, at  
11:00 a.m.)