

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

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2008 DEC -1 A 10:44

CHIEF CLERK'S OFFICE

Dorsah Gariba :
-vs- : 08-0473
Commonwealth Edison Company :
Complaint as to billing and/or charges. :

RESPONDENT'S PROPOSED DRAFT ORDER

Procedural History

On August 7, 2008, Dorsah Gariba ("Complainant") filed a verified complaint against Commonwealth Edison Company ("Respondent" or "ComEd") with the Illinois Commerce Commission ("Commission") alleging that he was improperly billed for electric services at 7319 Woodward Avenue, Apartment 205, Woodridge, Illinois ("Woodward"), and 6463 North Damen Avenue, Apartment 204, Chicago, Illinois ("Damen"), in the amount of \$454.56.

Pursuant to notice given in accordance with the law and the rules of the Commission, this matter came on for status hearing on September 18, 2008 before a duly authorized Administrative Law Judge ("ALJ") of the Commission at its offices in Chicago, Illinois. Complainant appeared *pro se* and Respondent was represented by counsel. On September 26, 2008, ComEd filed a Motion to Dismiss which was denied by the ALJ. On October 17, 2008, an evidentiary hearing was held wherein Complainant testified on his own behalf and Gay Gallapo, a customer relations principal analyst with Respondent testified on behalf of Respondent. At the conclusion of the hearing on October 17, 2008, the record was marked "Heard and Taken."

On December 1, 2008, Respondent made a Motion to file a Proposed Draft Order instanter together with a Proposed Draft Order.

Testimony of Parties

Complainant testified that he has consistently paid all of his electric bills at Woodward and Damen. He testified that sometime in 2005 he received a bill for a Chicago address at 1811 South Troy, Unit BF, Chicago, Illinois ("Troy") although he never lived there because he was living on Woodward at that time. He lived on Woodward from November 20, 2004 through September 21, 2006. He then moved to Arizona and sometime later returned to live in Michigan. Thereafter, he moved to the Damen address on September 17, 2007. At his Damen address, he received a bill from his previous address on Woodward for \$379.54 for the period of July 6, 2006 to November 17, 2006. He contends that his bill averaged less than \$25.00 per month so his bill at Woodward could not have been that high. He testified that his electric service on

Damen was shut off without any notice from ComEd and that he has paid all his electric bills to Respondent and owes nothing.

In sum, Complainant contended that he paid all his electric bills at the Woodward and Damen addresses and that ComEd improperly transferred a balance owed at the Troy address of his ex-wife to his electric account. He further contended that his electric service was disconnected without proper notice.

Ms. Gallapo testified that she was familiar with Complainant because she handled his informal complaint and had spoken to him. She testified that the first set of ComEd Exhibits A1-A-5, related to Ms. Porter's account at the Troy address which was opened on June 13, 2005. She testified that a balance of \$147.87 was transferred to Ms. Porter's new account after a final reading on December 1, 2005.

Ms. Gallapo testified that the second set of ComEd Exhibits B1-B-6 related to Complainant's electric account at the Woodward address. She testified that based on the activity statement, ComEd Exhibit B-3, the final balance on Complainant's Woodward account on November 17, 2006 was \$379.54. She testified that ComEd Exhibit B-4 showed that all the meter readings were actual readings of the Woodward meter and that all the Woodward bills were billed directly to the Complainant. She further testified ComEd Exhibit B-6 showed that a prior Woodward account balance where Ms. Porter was the secondary party on the account in 2004 was transferred to her at the Troy address.

Ms. Gallapo testified that the third set of ComEd Exhibits C-1-C-10 related to Complainant's electric account at his Damen address. She testified that ComEd Exhibit C-3 indicated a balance due at September 30, 2008 of \$475.12. ComEd Exhibit C-4, the activity statement for Damen, showed the transfer debit of \$379.54 being transferred to the Complainant's Damen address. ComEd Exhibit C-5 showed that all the bills for Damen were based on actual meter readings. ComEd Exhibits C-6-C-10 were Complainant's contacts with ComEd representative beginning on June 10, 2008 through July 9, 2008. She further testified regarding the billing and payment history for the Woodward address between June 15, 2005 to November 17, 2006 and the payment history for the Damen address between September 5, 2007 and July 29, 2008 were correct with the exception of a two cent error shown on the Damen address bill from February 28-March 28, 2008 as shown on ComEd Exhibit C-11.

Ms. Gallapo testified that the fourth set of ComEd Exhibits D-1-D-9 were bills issued to Complainant for his Damen address and that these bills correspond to the bill information set forth on ComEd Exhibit C-11. She also testified that none of the Troy electric charges were transferred to the Complainant's account.

Ms. Gallapo testified that the Complainant was disconnected at the Damen address on July 1, 2008 for non-payment of his electric bills. At the direction of the ALJ, ComEd filed Late-filed Exhibits 1A, 1B and 1C indicating that notification was given to the Complainant prior to disconnection.

Commission Analysis and Conclusions

While Complainant contended that he paid all his electric bills at both the Woodward and Damen addresses, he did not provide any proof of payment of any of the electric bills that were shown as unpaid in ComEd Exhibits B-3, C-1-C-9, and C-11. To the contrary, the most that the Complainant was able to demonstrate was that he made payments on the Woodward account in 2004, whereas ComEd showed unpaid Woodward electric bills commencing on June 15, 2005. The evidence clearly shows that the joint electric account between the Complainant and his ex-wife was finalized on June 15, 2005 and that the balance owed at that time was transferred to Complainant's ex-wife account and was paid in full. The record reflects that the Complainant failed to pay all of his electric bills on the Woodward account from June 15, 2005 through November 17, 2007, and as a result, these bills were properly transferred to the Complainant's Damen account. There is also no evidence that the Troy electric bills were transferred to the Complainant's Woodward or Damen accounts. The evidence shows that only the outstanding Woodward bill owed by the Complainant was transferred to his Damen account. In addition, the evidence also shows that all of the Woodward and Damen electric bills were based upon actual meter readings, and, as a result, Complainant's contention that the bills may have been too high is unfounded.

Based on the information provided in ALJ Exhibits 1A, 1B and 1C, it is clear that ComEd provided the appropriate notice of disconnection to the Complainant prior to disconnecting his electric service on July 1, 2008 for an unpaid delinquent balance on his electric service account. Since there was outstanding debt from his residential Woodward account, ComEd properly transferred the Woodward balance to Complainant's Damen account in accordance with 83 Ill. Adm. Code 280.50 c).

Complainant has the burden to show that he paid all his electric bills for his Woodward and Damen electric service accounts. The Commission concludes that the Complainant failed to provide any proof of payment of those unpaid electric bills for which he was responsible as the account holder at his Woodward and Damen locations. Complainant has failed to sustain his burden of proof in this matter. Complainant owes ComEd \$454.56. The complaint may properly be dismissed with prejudice.

Findings and Ordering Paragraphs

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) Commonwealth Edison Company is a "public utility" as defined in the Illinois Public Utilities Act;
- (2) the Commission has jurisdiction over the parties and the subject matter of this proceeding;

(3) the findings of facts and law reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact and law;

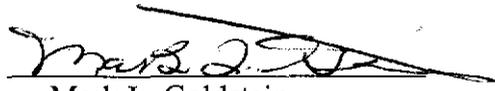
(4) Complainant owes the Respondent \$454.56;

(4) the complaint filed by Dorsah Gariba against Commonwealth Edison Company on August 7, 2008 should be denied.

IT IS THEREFOR ORDERED by the Illinois Commerce Commission that the complaint filed by Dorsah Gariba against Commonwealth Edison Company be, and is hereby, denied.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final, its is not subject to the Administrative Review Law.

Respectfully submitted,
Commonwealth Edison Company

By: 
Mark L. Goldstein
Its Attorney

DATED:
BRIEFS ON EXCEPTIONS DUE:
REPLY BRIEFS ON EXCEPTIONS DUE:

Eve Moran
Administrative Law Judge

STATE OF ILLINOIS

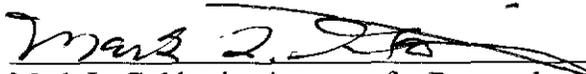
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NOTICE OF FILING

TO: Parties on Certificate of Service

PLEASE TAKE NOTICE that on November 26, 2008, I filed with the Chief Clerk of the Illinois Commerce Commission a Motion to File Respondent's Proposed Draft Order and Respondent's Proposed Draft Order, attached hereto, a copy of each is hereby served upon you.


Mark L. Goldstein, Attorney for Respondent
3019 Province Circle
Mundelein, IL 60060
(847) 949-1340

CERTIFICATE OF SERVICE

I hereby certify that on November 26, 2008, I served a copy of the Respondent's Motion to File Respondent's Proposed Draft Order and Respondent's Proposed Draft Order by placing copies of same in the U.S. Mail, first class postage affixed, addressed to each of the parties as indicated below:

Ms. Elizabeth A. Rolando
Chief Clerk.
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701

Ms. Eve Moran
Administrative Law Judge
Illinois Commerce Commission
160 N. LaSalle St., Ste. C-800
Chicago, IL 60601

Mr. Dorsah Gariba
6463 N. Damen Ave., Apt. 204
Chicago, IL 60645


Mark L. Goldstein