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ILLINOIS COMMERCE COMMISSION

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

	:	
-vs-	:	
Commonwealth Edison Company	:	**11-0323**

Consumer complaint against Commonwealth Edison Company billing and charges

Evidentiary Hearing Closing Brief

submitted by:

Alusia Stuart

ILLINOIS COMMERCE COMMISSION
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CHIEF CLERK'S OFFICE

7-08-2011

-v- Commonwealth Edison Company : 11-0323

My main purpose in taking this matter forward is that there are some unanswered questions regarding my electric service, which the informal process was unable to address. When I asked why, the ICC representative said my concern was beyond his pervue. That the informal process is mainly geared towards the testing the functioning of Commonwealth Edison Company equipment. Any questions beyond that would have to be presented at a formal hearing.

It should be stated before I begin, that as per the Illinois Commerce Commission (ICC) 'Guide to Preparing for a Formal Complaint Hearing': a ComEd consumer "may hire an attorney, although it is not required. The utility company will, in most cases, be represented by an attorney."

This was an ICC Formal Hearing, and not a Civil Court case. Civil courts recommend, or require even, legal representation. ComEd was represented by its attorney, and the ICC Informal Hearing was conducted in a legal fashion : ie, briefs, testimony, what to say - how to say - when to say, objections raised by the ComEd attorney, and so on.

Although I am a well educated woman, I am not an attorney and have not spent three years learning courtroom legal practice, procedure and presentation. And the guide's four (4) paragraphs, to prepare for a Formal Complain Hearing, bringing a ComEd consumer 'up to speed' on courtroom practice, procedure and presentation, can hardly compare to a law degree, or prepare a person suitably for a first time legal experience.

I did my best to present my case in plain language, such as an everyday, common person will understand and relate to.

If my plain language somehow fell out of procedure or presentation rousing several objections from the ComEd attorney, such as when I said the building engineer and I conducted our own 'foreign load test', and the building engineer checked all electrical outlets and electric fixtures in my unit, and witnessed several breakers turned off at the fuse box for several months before I placed my informal complaint, then I can only ask for a little leniency and clemency.

The points were important to me. As I stated at the Status Hearing, this is a serious matter to me. That I have many things on my plate and the last thing I have time for, is to spend my time at these hearings. My exact words : "I don't get paid for coming here ... but this is important."

At the ICC Status Hearing on May 17, 2011, I gave two reasons why I felt the informal process did not resolve my complaint. They were that my electric bills were very high, and only started to go down after I called the ICC hotline, August 15, 2010.

Second, the Commonwealth Edison Company or ComEd meter test approach, lack of quality control in ComEd internal shop flow procedures, made all results unreliable; and consequently, should not be considered at the Status Hearing, nor at the Evidentiary Hearing.

As an example of meter test approach, I choose, at the ICC Status Hearing, to describe what happened when a technician came to perform the 'Field Meter Test', on December 28, 2010.

I stated that the technician arrived at the Doorman console requesting access to my meter room, ignoring an arrangement/agreement in place between the ICC representative and ComEd (Ms Kita Dorsey) for the duration of the Informal Complaint process, that all Commonwealth Edison Company personnel be accompanied by the building engineer and myself when carrying out or conducting any testing of my meter during the Informal Complaint process.

Secondly, the technician took out from his tool bag and placed on the floor next to him, his work gloves. As he did so, he looked up at the building engineer and myself and said very pointedly that we had to '... go', because ...'this whole thing can blow-up!'.

As stated during the Status Hearing, neither the building engineer nor I were within the ComEd meter room. We were outside the door-frame.

I continued with my example of what I meant by : ComEd meter test approach, lack of quality control in ComEd internal shop flow procedures, made all results unreliable; and consequently, should not be considered at the Status Hearing, nor at the Evidentiary Hearing : by describing the ComEd technician's very odd behavior after telling us to go, and receiving the answer that : since we were not within the meter room area, but in the common elevator area, where condo owners, their relatives and friends, come and go; and since we were not interfering with his work, we would prefer to remain in the common elevator area.

The ComEd technician's odd behavior consisted of a steady repetition of taking all the contents out of his tool bag, and putting them back in again. Taking all the contents out of his tool bag, and putting them back in again. Taking all the contents out of his tool bag ..., and continuing in this manner for fifteen minutes.

Here, at this point in my example, Ms Moreno, another legal representative from ComEd, interrupted me and said very clearly that this technician's report said the technician finished his work in fifteen minutes.

I would like to draw attention to ComEd Exhibit No.1, which clearly shows the technician's Onsite Time to be 09:15 and the Compl. Time to be 12:38.

Also, ComEd Exhibit No.1, under section 'Completion Comments' : the technician records "Door Man For Access/Engineer".

As you will recall, the technician arrived at the Doorman console requesting access to my meter room, ignoring an arrangement/agreement in place between the ICC representative and Commonwealth Edison Company (Ms Kita Dorsey) for the duration of the Informal Complaint process, that all Commonwealth Edison Company personnel be accompanied by the building engineer and myself when carrying out or conducting any testing of my meter during the Informal Complaint process.

And, during cross-examination the technician states in his testimony that he did not ask for the building engineer when he arrived at the doorman's console. That

he just showed up at the building, and asked for the (key to the) meter room, (which the doorman keeps at his console).

So, to be clear. According to ComEd Exhibit No.1, the technician spent three hours and fifteen minutes (3 hrs and 15 min) for his field meter test. Not fifteen minutes (15 min) as Ms Moreno asserts.

So, to be clear. According to ComEd Exhibit No.1, under section 'Completion Comments': the technician writes that he asked "For Access/Engineer". Yet, the technician testifies at the Hearing, that he did not ask for the building engineer.

This is really confusing ... and ... unprofessional. A confusion and unprofessionalism that questions the veracity of technical evidence presented by Commonwealth Edison Company, and casts doubt on its reliability, in any part, in this case.

I am not an attorney. In a common person's language and understanding, it is clear ComEd testifies and shows in its exhibit that it is doing one thing, and all along it is doing something else.

How can a common person make sense of any of this. If I were an attorney, would I be able to make sense of this? ComEd and its attorney's, did not clear away any confusion.

The testimony of the second technician is equally confusing and unreliable.

Mr A Rumsey testimony and ComEd Exhibit No.2 : What is its point? What is its purpose? It is unclear what Commonwealth Edison Company is intending to show or prove for its case with this witness testimony. It is unclear what Commonwealth Edison Company intent is with ComEd Exhibit No.2.

Is there an answer to the question of why my bill is so drastically varied? Does the testimony and exhibit explain why my billed kilowatt hour usage went down after my complaint to the ICC on August 15, 2010. And remained consistently down to the tune of 50%, 60%, 70%, 80% over previous months within the year;

and, throughout the months of previous years. Even the summer and winter months that have been hotter and colder than years past, and should show higher kilowatt usage and a higher bill.

The kilowatt usage and bill variance from one month to the next within the same year, and across several years, goes beyond "personal usage" changes. A person can make 'energy saving' changes in their home that result in a reduced bill. But my bill swings from a 10% difference to an 80% difference.

Only a completely dead person still walking around his home can live on energy consumption of up to 80% less than prior months'. Commonwealth Edison Company cannot claim that such huge swings in energy consumption are a reflection of "personal usage" changes alone.

Commonwealth Edison Company cannot claim they have answered the question of huge differences in energy consumption on a meter that is running less than 1% slower than optimal.

Certainly the first technician's testimony did not answer these questions. Rather, the contradictions in his testimony and exhibit added to the confusion, questioning the veracity of technical evidence presented and casting doubt on its reliability in this case.

With ComEd second witness, Mr A Rumsey, testimony and ComEd Exhibt No.2, answers do not become clearer. But rather, though entertaining, go bouncing off into entirely other dimensions.

What question was Mr Rumsey answering when he spontaneously leapt into a lengthy exposition on the testing of a meter out in the field? There was a question from ComEd attorney asking Mr Rumsey to state his name and occupation. Which Mr Rumsey did.

Then Mr Rumsey was asked to bring out the meter he performed his -bench- test on. Which Mr Rumsey did. Then another question from ComEd attorney asking

Mr Rumsey if the meter was my meter. Which it was.

Then Mr Rumsey said he could 'shed some light' on the previous technician's cross-examination testimony, and just started talking. And talking. And talking.

Every other witness for ComEd, before and after, was asked specific questions yielding specific -short- answers of the : yes / no variety; or state what they do for ComEd; or read a line here and there from an exhibit. No other witness just started talking, and kept on talking ....

Ms Kita Dorsey, the third witness for ComEd, testified for quite a long time. She was asked many, many pointed questions by ComEd attorney, and she kept her answers brief for each one. In contrast, Mr Rumsey ... just started talking.

To 'shed some light', is not testifying. What question, and whose, was this witness answering. Onward, Mr Rumsey went . Expostulating and demonstrating in great detail the meter, the seal, the mechanism behind the meter, the reason for the need to keep the meter perfectly steady when performing the meter test.

- Which incidentally, is what they do inhouse. The meter is placed on a 'bench', and then, the rest of the test is "... essentially ..." the same as that performed out in the field. -

Finally, that lengthy oration, so effusively poured out by Mr Rumsey, culminated with ...'a powerful blast'.... Most entertaining. Most wonderful. Most exhilarating. And most, mostly. What was Mr Rumsey testifying to. Specifically?

Because the only question asked of the previous technician during cross-examination, that may even remotely have cause to spark a need to 'shed some light', was whether or not that technician, while performing the field meter test on December 28, 2010, (ComEd Exhibit No.1), was assisted by the building engineer.

The previous technician testified that he was not.

The previous technician testified that the building engineer did not help with the field meter test.

The first step in a field meter test, said Mr Rumsey shedding some light, could produce a 'powerful blast'. And that is why field technicians wear protective gloves and masks; and that is why it isn't safe for people standing close.

The first technician, in his testimony said, 'the room is so small'. The second technician said, 'the first step in the field meter test could produce a 'powerful blast'.' Implying that that is why the first technician told the building engineer and I to 'go'.

Well if it is dangerous, why didn't Commonwealth Edison Company cordon off the common area, a high traffic area, which is just two inches (2")

- 2" -

away from the meter room.

Even if the building engineer and I did 'go'. What would have happened if someone else unsuspectingly entered the area when the first technician was performing his dangerous first step? What is going on here? Why am I asked to 'go' from the common area, yet anyone else can enter the area?

Perhaps it is because the first technician did not bring all the testing equipment, when he came to test the meter.

According to the first technician's own testimony. All he does is install meters, take out meters, and conduct field meter tests. Surely if that is all you do, it is only a professional expectation that you would remember or make sure that you bring all of your testing equipment with you.

Testing equipment is a two-piece set : suckers (which attach to the window of

the meter) on a cable, insert into a hand held device. The hand held device then records the meter spindle revolutions.

If you do not have the suckers and only the hand held device, you cannot perform the meter test. The hand held device by itself cannot test the meter. The meter testing equipment is a two-piece set, and both pieces of the set are required to test the meter.

The building engineer and I watched the technician repeat his odd behavior of taking out all the contents of his work bag, and put them back in again. We paid attention to the technician when he told us to 'go' because this whole thing can blow up. We remained. Finally, according to ComEd Exhibit No.1, which clearly shows the technician's Onsite Time to be 09:15 and the Compl. Time to be 12:38, the technician left and returned sometime later and performed the meter test as I watched and the building engineer, according to the technician's cross-examination testimony, did not assist.

It is unclear what Commonwealth Edison Company is intending with Mr Rumsey's testimony. Although there was testimony that the meter arrived at the in-house shop intact : the original manufacturer's stamp was there; and the meter number was verified; and the meter LL was running a little slow, but within parameters; there was no evidence which explained why a meter that runs slow, actually runs faster.

There was no evidence produced by this witness which explain why a meter that runs slow, actually runs faster, reading more kilowatt hours (producing a higher bill), until a complaint is made to the ICC. After a complaint is made, the very next month, the meter begins to read less kilowatt hours (producing a smaller bill), and consistently does so until ComEd says the meter is running slow and replaces the meter with another meter. The new meter also produces readings, showing less kilowatt hour usage, that are consistent with meter readings taken after the complaint on the old meter.

As it is unclear what Commonwealth Edison Company has succeeded with the

testimony of witness No.2, it is unclear what Commonwealth Edison Company seeks to accomplish with ComEd Exhibit No.2. ComEd Exhibit No.2 is the -bench-test itself.

The -bench- test was performed on March 3, 2011. The meter was removed from the meter room on January 07, 2011. Mr Rumsey, witness No.2. in his ComEd Exhibit No.2 'System Meter Remarks', remarks in bold lettering, which contrasts the rest of his remarks, with the exception of the 'Weighted Average = 99.24%', which were made in plain lettering, that the "Meter was shipped in a locked yellow basket, but it was not shipped on the pallet number it was assigned to. That is why it took extra time to locate the meter."

Well, "extra time", according to what. In his cross-examination, Mr Rumsey testifies that he can't remember when he was asked to perform the bench test. But that it definitely wasn't in January, when the meter was removed.

So, ..."extra time", according to what.

The -bench- test was requested the first week of January. Yet Mr Rumsey testifies he is sure he was not asked to perform the -bench- test in January, and testifies overall that he cannot remember when he was asked to perform the -bench- test.

So why is he specifically making a reference to "extra time" in his "System Meter Remarks". If he doesn't know when he was asked to perform the -bench- test, why does he state "extra time" was required to perform a test that he didn't know he was expected to perform. "Me thinks he doth (say) to much."

Furthermore, in ComEd Exhibit No.2, "System Meter Remarks". How does "extra time" fit itself in with reports that deal with the functioning of meter equipment?

It is unclear where Commonwealth Edison Company is taking us with ComEd Exhibit No.2. It is unclear what the purpose of ComEd Exhibit No.2 is, except to say the meter has a weighted average of 99.24% out of 100%. That it is running a little slow, but within parameters.

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My bill should correspondingly be a little smaller by : 100 - 99.24 = .76. It is not. Below is a chart showing my kilowatt usage from March 2008 to June 2011. Kilowatt usage matches the kilowatt usage column in ComEd Exhibit No.7.

The letter 'E' before a kilowatt entry means that it is a ComEd estimate. According to ComEd, estimate readings are higher than actual readings. A higher 'estimate' reading is typically followed by a lower 'actual' reading. The 'NM' beside 2011 means new meter. A new meter was put in, January 7, 2011.

On August 15, 2010 a complaint was made to the ICC regarding my bill. The bills from ComEd for 2010 show 2010 was hotter in summer months than 2009, and 2010 was colder in winter months than 2009. If, as ComEd asserts, my meter was reading a little slow, then the chart below would consistently reflect less kilowatt usage per month, by a variable of : 100 - 99.24 = .76.

	2008	2009	2010	2011 NM
(1) Jan		2231	2072	1395
(2) Feb		2029	1769	1376
(3) Mar	1810	1632	1230	797
(4) Apr	1284	851	629	E644
(5) May	642	E657	392	401
(6) Jun	542	302	504	264
(7) July	519	358	629	
(8) Aug	729	E294 + 986	750	
(9) Sept	456	E314	581	
(10) Oct	388	438	E480	
(11) Nov	527	E531	259	
(12) Dec	1262	1082	E458	

It does not. Moreover, my bill after January 2011, when the new meter was put in, should be higher by the same variable of 100-99.24=.76. It is not.

The chart below indicates percentage differences for the each month across 2008, 2009, 2010, 2011. March 2008 has a kilowatt usage of 1810, which is 10% more than March 2009. March 2009 is 25% more than March 2010. March 2010 is 35% more than March 2011. Overall, the month of March : 2008 kilowatt usage is double that of 2011 kilowatt usage.

If my meter was running slow, as ComEd asserts, then kilowatt usage after January 2011, when the new meter was put in, should at least be in the vicinity of the March 2008 kilowatt reading of 1810. Yet, the new meter reads more than half the kilowatt hours.

	2008		2009		2010		2011 NM
(1) Jan			2231	7%	2072	33%	1395
(2) Feb			2029	13%	1769	22%	1376
(3) Mar	1810	10%	1632	25%	1230	35%	797
(4) Apr	1284	34%	851	26%	629	2%	E644
(5) May	642	2%	E657	40%	392	2%	401
(6) Jun	542	44%	302	68%	504	27%	264
(7) July	519	31%	358	76%	629		
(8) Aug	729	35%	E294 + 986	24%	750		
(9) Sept	456	22%	E314	85%	581		
(10) Oct	388	13%	438	10%	E480		
(11) Nov	527	1%	E531	51%	259		
(12) Dec	1262	15%	1082	58%	E458		

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Similarly so, when the chart is viewed month following month within the same year. The chart below shows a 15% increase in kilowatt usage from September to October 2008. A 40% increase for the same months in 2009. And an 18% decrease for the same months in 2010. But October 2010 was an estimate reading. So for the following month three (3) months after my complaint to the ICC, my kilowatt usage was 46% lower than the previous month of 2010.

For January 2011 to February 2011 (the New Meter) there was a 1% decrease in kilowatt hours. For the same period in 2010, there was a 15% decrease in kilowatt hour usage.

	2008	2009	2010	2011 NM
(1) Jan		2231	2072	1395
(2) Feb		2029	1769 15%	1376
(3) Mar	1810	1632	1230 31%	797
(4) Apr	1284	851	629 49%	E644
(5) May	642	E657	392 38%	401
(6) Jun	542	302	504 30%	264
(7) July	519	358	629 25%	
(8) Aug	729	E294 + 986	750 20%	
(9) Sept	456 37%	E314 38%	581 22%	
(10) Oct	388 15%	438 40%	E48018%	
(11) Nov	527 36%	E531 21%	259 46%	
(12) Dec	1262 140%	1082 104%	E458 77%	

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After my complaint to the ICC on August 15, 2010 the monthly meter readings for kilowatt usage began to go down consistently.

September 2010 showed an estimated difference of 85% higher over 2009.

October 2010 was an 'E' or estimate reading.

November 2010 showed a difference of 51% lower over November 2009.

December 2010 showed a difference of 58% lower over December 2009.

January 2011 showed a difference of 33% lower over January 2010.

February 2011 showed a difference of 22% lower over February 2010.

March 2011 showed a difference of 35% lower over March 2010.

April 2011 is an 'E' reading and shows 2% lower over April 2010.

May 2011 is 2% higher than May 2010.

June 2011 is 27% lower than June 2010.

So it is clear that even if we were to accept the field meter test and the inhouse -bench- test results : that the old meter was slow by 100% - 99.24% = 0.76 : the difference does not explain the consistently dramatic swings in electric usage.

Most significantly, my electric bill started to come down - CONSISTENTLY - only - AFTER - my complaint to the ICC, August 15 of 2010. There is no such thing as a co-incidence. And if there were, this one is just to timely.

My final point is bitter-sweet. Bitter because the ComEd attorney and representative called their third witness, Ms Kita Dorsey. Ms Dorsey is a ComEd customer service representative. Ms Dorsey was asked to read ComEd Exhibit No.7 almost in its entirety.

And again. Although Ms Dorsey spoke for quite a long time, but was never given a free hand to go 'off reservation' and start talking freely about her job, and the issues she faces, and etc. Ms Dorsey was even prompted by ComEd attorney and representative to explain what a technical ComEd term she used meant.

Ms Dorsey testified that my meter readings were "progressive", which, upon a separate question from ComEd attorney and representative, Ms Dorsey testified the meter did not go backwards.

Ms Dorsey was also questioned at great length on ComEd Exhibit No.6. Most specifically the ComEd attorney and representative Mrs Moreno, paid particular attention over and over again in their questioning, to the fact that I had received a LIHEAP payment and received a Res Special Hardship payment.

What can I say. This is bullying. As though to poke fun and point fingers at a person that receives aid. Well yes. I did receive aid. It is there for people that need it. Have you seen the economy lately. The Federal government is dangerously close to defaulting on its loans. Millions of people have lost their homes. The City of Chicago has had furlough days for its employees. I understand that ComEd was turning off electricity to 13, 000 people per month for non-payment.

What was the point of drawing special attention to these two payments. I would like to know in writing.

Well, to begin with. My son died suddenly February 14, 2005. It took me almost three years to even come to a point that I could look at life again. And, of course, by that time the economy was swirling down the toilet. I am self-employed and have been since 1994. Many of my clients have lost their jobs or homes. Or both. Or are supporting family members in that position.

in that position.

Then in April 2010, I was diagnosed with a papilloma in a mammary duct of my right breast. The LIHEAP payment and Res Special Hardship payment were for the culmination of all this. The straw that broke the camel's back you might say.

Receiving these payments for my electric bill are not easy to get. You have to prove certain conditions exist in your life. The Res Special Hardship is for medical reasons.

So, if the LIHEAP agency thinks I qualify, why did ComEd attorney and ComEd representative make a point of asking the ComEd customer service representative more than a couple of times to read out loud each line that pertained to the aid.

I would like to point out that I have had service with ComEd since 1993. I have never paid a deposit for my electric service. Looking at ComEd Exhibit No.6 it is impossible not to notice that over the past several years I have let the bill climb high, and then I pay it all off. Then I let the bill climb high, and I pay it all off.

Why? Well, I don't know. I have heard, however, that people in trauma really don't connect as adroitly as the did prior to the trauma. But that really isn't any of ComEd attorney and representative business in this case.

If ComEd, prior to the bullying abusive treatment of its attorney and representative, during an ICC hearing about my flamboyantly erratic electric bill, saw no reason to demand a security deposit for my service, or something of the like, who are the ComEd attorney and representative to bring it up - like a menacing club over my head - as though to adequately explain their case.

I said earlier that this last part of my closing brief is bitter-sweet. I have written about the bitter. Now it is time for the sweet.

During the evidentiary hearing the Administrative Law Judge (ALJ) asked me how much I thought I was entitled to as my portion of overpayment to ComEd over

the past two years. I listed eight (8) payments. The ALJ asked if that were the total, and I answered that, "I don't know.". That I just went to my bank account bill pay section and listed all I saw there.

I had omitted, and ComEd Exhibit No.6 points out, a payment of $600.00 I had missed. May I point out, the ALJ asked, and ComEd attorney and representative did not object to my answer, what document I used to provide the amounts and dates of my overpayments. I answered that I was using ComEd Exhibit No.6.

So to the total of $364.30, I would like to add the cash payment I made at a bill payment currency exchange, of $600.00, 06/29/10, according to ComEd Exhibit No.6. Making the sum total of my overpayment to ComEd : $964.30.

Commonwealth Edison Company brought in witnesses to the hearing that described what they did in their jobs with ComEd. These employees didn't bring testing equipment when they came to test the meter. These employees misplaced the meter for three months - requiring "extra time" : ComEd Exhibit No.2. - A meter, it should be pointed out, is a big part of an ICC complaint. - These employees 'shed light' on testimony that didn't exist.

The meter test approach, lack of quality control in ComEd internal shop flow procedures, made all results unreliable; and consequently, should not be considered at the Evidentiary Hearing.

These employees were forced by ComEd attorney and ComEd representative through their questioning, to read specific lines from ComEd Exhibit No.6, in an attempt to discredit me. As I have stated. I am not an attorney. The guide for this hearing prepared by the ICC states an attorney is not required. I was very clearly upset by this line of questioning, yet no attempt was made to apologize for the bullying, nor explain the purpose of their questioning.

Commonwealth Edison Company brought in exhibits with gaping holes and lacked veracity.

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A meter that 'runs a little slow' cannot explain the dramatically drastic swings in meter readings. Commonwealth Edison Company presented witnesses and exhibits that lead a common person to question the veracity of technical evidence presented and cast doubt on its reliability in this case.

Commonwealth Edison Company have failed to make their case.

*** This final statement makes note of the fact that none of the Commonwealth Edison company exhibits were marked as either 'public' or 'confidential'. A great omission because many of the exhibits provided by Commonwealth Edison Company contain sensitive personal information.

*** I would like to stress most strongly that I would like ALL PERSONAL SENSITIVE INFORMATION contained within the ComEd exhibits be removed or obscured BEFORE being made public through the Commission's e-Docket website.

Signed Alusia Stuart

Date: 07-08-2011

CERTIFICATE OF SERVICE

Please take notice that on __July 08, 2011__ I, Alusia Stuart , hereby certify that I did file the above and foregoing Brief with the Illinois Commerce Commission via US Postal Service; and, that on __July 05, 2011__, served the persons identified on the docket's service list via e-mail.

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