

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Alusia Stuart :
-vs- : **11-0323**
Commonwealth Edison Company :
: :
Complaint as to billing/charges :
in Chicago, Illinois :

PROPOSED ORDER

By the Commission:

I. Procedural History

On April 4, 2011, Alusia Stuart (“Stuart” or “Complainant”) filed a complaint against Commonwealth Edison Company (“ComEd”, “Respondent” or the “Company”) with the Illinois Commerce Commission (“Commission”) alleging that she was improperly billed for the account at her residence at 155 N. Harbor Drive, Apartment 1314, in Chicago, Illinois.

Pursuant to notice given in accordance with the law and the rules of the Commission, this matter came on for status hearing on May 17, 2011, 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. An evidentiary hearing was held on June 28, 2011. Complainant testified on her own behalf. Milton McKinney, Senior Energy Tech, Thomas Rumsey, Jr., Meter Mechanic Specialist, and Kita Dorsey, a Business Analyst in the Customer Relations Department, testified on behalf of ComEd. At the conclusion of the hearing, the ALJ marked the record “Heard and Taken.” On July 29, 2011, Complainant filed her closing brief. Respondent filed its reply brief on August 18, 2011.

II. Complainant’s Position

Ms. Stuart testified that on or about August 13, 2009 she began to notice that her electric meter was not reading correctly. It was at this time that she made a concerted effort to monitor it as well as decrease her electric usage. She turned off the breakers for half of the electrical outlets in her apartment as well as unplugged appliances when not in use. She also had her building engineer check the measures that she took with a hand held device that measured voltage.

Ms. Stuart stated that her meter was changed prior to June 2009 and also on January 7, 2011. She does not trust the new meter because of the circumstances under which it was installed, but noted a difference in her bills since the installation of

the new meter. Although she could not state definitely whether it was reading correctly, she was using less kilowatt hours with the new meter and her bills have decreased.

Ms. Stuart stated that her December of 2009 through May of 2010 bills decreased from the same time frame the prior year. However, her bills from June through October of 2010 were higher than the prior year. Conversely, her November and December of 2010 bills were lower than the prior year.

Ms. Stuart initially testified that she was improperly billed from June 2009 through June 2011 in the amount of \$701.93 because of improper reads from her meter. \$549.37 of the \$700.93 figure includes the following eight monthly payments that she made: (1), \$45, November 13, 2009; (2) \$65, July 23, 2010; (3) \$94.30, August 24, 2010; (4) \$30, October 18, 2010; (5) \$60, November 22, 2010; (6) \$70, December 27, 2010; (7) \$95.29, April 18, 2011; and (8) \$89.78, May 16, 2011. The \$700.93 figure also includes four monthly payments totaling \$92.02 that she still owes on a 12 month installment plan. Lastly, \$60.54 for her current bill is also included in her total.

Ms. Stuart stated that she would be satisfied with a refund that reflected the difference of what her meter had read and a proper reading. She expressed that she could not establish this amount because ComEd had not given her the necessary documentation. In essence, she arrived at this amount because she lacked any kilowatt-hour usage comparisons. However, as a result of the review of her bills during the evidentiary hearing, she concluded that her new amount in controversy actually is \$364.30 which excludes her bills for the months after her new meter was installed. Ms. Stuart understood that her electric bill includes charges for electric usage as well as delivery charges, taxes, etc.

III. Respondent's Position

Milton McKinney testified that he is employed as a Senior Energy Tech by ComEd and has been employed as such for a year and a half. He has worked for ComEd for twenty years. Mr. McKinney's duties as a Senior Energy Tech include installing, removing, exchanging and testing meters as well as cutting and restoring customer electric service.

On December 28, 2010, Mr. McKinney was instructed to go to Ms. Stuart's address to test her electric meter for accuracy. Upon arriving at Ms. Stuart's apartment complex, her building engineer notified Ms. Stuart that her electric service would be interrupted while Mr. McKinney performed the meter test. Mr. McKinney proceeded to enter the meter room, verify the meter number on his work order and tested the meter.

Mr. McKinney returned to Ms. Stuart's address on January 7, 2011 to exchange her electric meter. He took Ms. Stuart's old electric meter back to his office and placed it in a lock box case so that it could be sent to the Company's Oak Brook office for a shop test.

Thomas Rumsey, Jr. is a meter mechanic specialist for ComEd and has maintained this position for twenty-one years. He has worked for the company for thirty-two years. Mr. Rumsey testified that within the last ten years, he has analyzed in

excess of 60,000 meters for tampering, etc. He has also tested meter transformers, built meter transformer clusters, been involved in Commission audits and advised ComEd on meter designs and their capabilities.

Mr. Rumsey testified that Ms. Stuart's meter was exchanged on January 7, 2011 and her original meter was sent for a shop test. Mr. Rumsey became familiar with Ms. Stuart's meter, meter number 140374573, when it was delivered to him on March 3, 2011. The meter was shipped to Mr. Rumsey in a yellow basket but it was not on the pallet that it was assigned. Mr. Rumsey had a hard time finding the meter as a result of this error. Mr. Rumsey stated that he reviewed the paperwork accompanying the meter, ensured that the manufacturer's seal was still in tact, and then placed the meter in a test port after he inspected it.

Mr. Rumsey then performed essentially the same test as done by the field tech. The main difference in the test performed by him and the one performed by the field tech is that when testing a meter in the field the field tech must take certain precautions, such as wearing protective gear and ensuring that customers stand back. This is done because the meter is energized. The meter tested 99.24% accurate which is within Illinois Commerce Commission guidelines. Mr. Rumsey explained why he thought that the field test differed from his shop test. Mr. Rumsey's review of Ms. Stuart's account also revealed that the meter was tested for foreign load and that the test revealed no such load.

Mr. Rumsey testified that Ms. Stuart's new meter was purchased by ComEd on November 12, 2010 and that it had been tested by the manufacturer on November 4, 2010 and had test results of 99.5, 99.68 and 99.98 percent accurate. It tested within Commission guidelines, as had Ms. Stuart's prior meter. Ms. Stuart's prior meter was installed on August 18, 2004 before being removed on January 7, 2011.

Kita Dorsey is a Business Analyst in the Customer Relations Department of ComEd and has been employed by the company for thirteen years. She has worked in her current department for six years where she now handles customer complaints and inquiries.

Ms. Dorsey testified that she received Ms. Stuart's Commission informal complaint on October 15, 2010. She stated that she has access to Ms. Stuart's account at 155 North Harbor Drive and that the account currently has Ms. Stuart's mother, Barbara Szulinski, as the first person of record and Ms. Stuart as the second person. Ms. Dorsey noted that ComEd is providing a multiple space heating rate on this account and has done so for the past two years. She explained that during the span of June 3, 2008 to June 30, 2011, there was one meter change on this account and that the readings on this account were in large part, progressive reads. She further testified that during this three year time period the readings from month to month are consistent.

Ms. Dorsey stated that Ms. Stuart had a prior account at the same address which was opened on February 1, 1993 but that is now final. The meter which was removed on January 7, 2011 is also the meter which had serviced Ms. Stuart's prior account. Ms. Stuart's old balance was transferred to her new account. Ms. Dorsey testified that Ms. Stuart's current balance is \$60.54. Ms. Stuart also owes \$92.02 under her deferred

payment agreement which she entered into on November 1, 2010 and amounts to four monthly payments of \$23. Ms. Dorsey concluded that based upon Ms. Stuart's account activity and the readings taken, Ms. Stuart has been billed correctly and no credit is due Ms. Stuart's account.

IV. Commission Analysis and Conclusions

We find that the Complainant failed to meet her burden of proof. This complaint revolves around alleged improperly billing from June 2009 through December 2010 in the amount of \$364.30. Ms. Stuart maintains that her electric meter was reading improperly during this time and that she should be reimbursed for the following payments: (1) \$45, November 13, 2009; (2) \$65, July 23, 2010; (3) \$94.30, August 24, 2010; (4) \$30, October 18, 2010; (5) \$60, November 22, 2010; and (6) \$70, December 27, 2010. These payments reflect the actual amount due and owing for each month in question. She includes the November and December 2010 payments even though she admitted that these bills were lower than the prior year. We struggle with Ms. Stuart's accounting of any refund due her. This is further exacerbated by the fact that the evidence proffered by the Company establishes that both the electric meter that was removed on January 7, 2011 and the new meter which replaced, it tested within Commission guidelines. The replaced meter tested 99.24% accurate and the new meter tested 99.5%, 99.68% and 99.98% accurate.

Based upon the foregoing record, we conclude the Complaint should be denied.

V. Findings and Ordering Paragraphs

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

- (1) Respondent, Commonwealth Edison Company, is an Illinois corporation, engaged in furnishing utility services in the State of Illinois, and, as such, is a public utility within the meaning of the Illinois Public Utilities Act;
- (2) the Commission has jurisdiction over the complaint and the subject matter herein;
- (3) the findings of fact and conclusions of law reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact and findings of law; and
- (4) the complaint filed by Alusia Stuart against Commonwealth Edison Company on April 4, 2011 is denied.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the complaint filed by Alusia Stuart against Commonwealth Edison Company on April 4, 2011 is denied.

IT IS FURTHER ORDERED that any petitions, objections, or motions made in this proceeding and not otherwise specifically disposed of herein are hereby disposed of in a manner consistent with the conclusions contained herein.

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; it is not subject to the Administrative Review Law.

DATED:	February 15, 2012
BRIEFS ON EXCEPTIONS DUE:	February 29, 2012
REPLY BRIEFS ON EXCEPTIONS DUE:	March 7, 2012.

D. Ethan Kimbrel
Administrative Law Judge