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BEFORE THE

ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)	
)	
SONJA BEALLIS,)	
)	
Complainant;)	
)	
vs.)	No. 12-0072
)	
COMMONWEALTH EDISON COMPANY,)	
)	
Respondent;)	
)	
Complaint as to)	
billing/charges in Plainfield,)	
Illinois,)	

Chicago, Illinois

April 24, 2012

Met, pursuant to notice, at 11:00 a.m.

BEFORE:

MR JOHN T. RILEY, Administrative Law Judge

1 APPEARANCES:

2

MS. SONJA BEALLIS
3 MR. KEVIN BEALLIS
1914 Great Falls Drive
4 Plainfield, Illinois
appearing pro se;

5

MARK L. GOLDSTEIN, P.C., by
6 MARK L. GOLDSTEIN
and

7

MS. ERIN BUECHLER
3019 Province Circle
8 Mundelein, Illinois 60060
(847) 949-1340

9

appearing for the respondent
Commonwealth Edison Company.

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SULLIVAN REPORTING COMPANY, by
21 Leah Ann Bezin, CSR,
License No. 084-001104

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I N D E X

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Re-direct</u>	<u>Re-cross</u>	<u>By Examiner</u>
Kevin Beallis	32				76
Felicia Kemp	90	101			99 114

E X H I B I T S

<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
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COMPLAINANT

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1 JUDGE RILEY: Good morning.

2 Pursuant to the direction of the
3 Illinois Commerce Commission, I call Docket 12-0072.

4 This is a complaint by Sonja Beallis
5 versus Commonwealth Edison Company as to billing and
6 charges in Plainfield, Illinois.

7 And I understand, Ms. Beallis, you are
8 still appearing without counsel, is that correct?

9 MS. BEALLIS: Correct.

10 JUDGE RILEY: Okay. They are pro se.

11 And you are still residing at 1914
12 Great Falls in Plainfield --

13 MS. BEALLIS: Correct.

14 JUDGE RILEY: -- Illinois?

15 Thank you.

16 And, Mr. Goldstein, you are here on
17 behalf of ComEd; is that correct?

18 MR. GOLDSTEIN: That's correct, Judge.

19 I also have with me Erin Buechler of
20 ComEd and my witness Felicia Kemp.

21 JUDGE RILEY: Good morning to all.

22 Could you state your name and enter an

1 appearance for the record, please.

2 MR. GOLDSTEIN: Okay.

3 For Commonwealth Edison Company,
4 Mark L. Goldstein, 3019 Province Circle, Mundelein,
5 Illinois 60060.

6 My telephone number is (847) 949-1340.

7 JUDGE RILEY: Thank you.

8 And at this time we were scheduled to
9 begin an evidentiary hearing in the complaint filed
10 by Ms. Beallis.

11 Ms. Beallis, are you ready to proceed
12 at this time?

13 MS. BEALLIS: I am.

14 JUDGE RILEY: All right.

15 And will you be testifying, or will
16 Mr. Beallis be testifying?

17 MS. BEALLIS: Mr. Beallis will be testifying.
18 Um-hmm.

19 JUDGE RILEY: All right.

20 And at this time I take it you are
21 calling Mr. Beallis as a witness?

22 MS. BEALLIS: Actually, I'd like to make an

1 opening statement, if I can.

2 JUDGE RILEY: Certainly.

3 MS. BEALLIS: Can I do that?

4 JUDGE RILEY: Certainly.

5 MS. BEALLIS: Commonwealth Edison has acted and
6 continues to act with negligence and has not acted as
7 a responsible corporate citizen. They have not
8 provided any of the prudent evidence or information
9 to this case, mainly our true electrical usage for
10 the last ten years, which I still haven't seen to
11 date at all.

12 In our pretrial briefing two months
13 ago, I believe Mr. Goldstein said they were
14 estimating our usage after the error occurred to come
15 up with a number that they think underpaid. I'm not
16 sure why they are estimating. They have always had
17 full access to our meters. And at that time, I
18 believe that you had said, let's try to figure out a
19 way to get her her billing since she's never seen it.
20 But again, still have not received anything.

21 I'm asking that you rule in our favor
22 and award the 956.09 plus any and all fees to be

1 removed from my account and adjourn the hearing.

2 JUDGE RILEY: All right. Thank you.

3 Mr. Goldstein, did you have an opening
4 statement to make?

5 MR. GOLDSTEIN: I have no opening statement,
6 Judge.

7 JUDGE RILEY: And are you, at this time,
8 prepared to call your first witness?

9 MS. BEALLIS: I am.

10 JUDGE RILEY: And --

11 MS. BEALLIS: My first witness is
12 Kevin Beallis.

13 (Witness sworn.)

14 JUDGE RILEY: Please proceed.

15 KEVIN BEALLIS,
16 called as a witness herein, having been first duly
17 sworn, was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY

20 MS. BIAL LIS:

21 Q Mr. Beallis, you are married?

22 A I am.

1 Q And can you provide me with the address of
2 your residence?

3 A 1914 Great Falls Drive, Plainfield,
4 Illinois, 60586.

5 Q And how long have you lived at that
6 residence?

7 A Since 2001.

8 Q Was this a new home?

9 A Brand new home.

10 Q Did you have the home built?

11 A Yes.

12 Q Did you get to pick out options for this
13 home?

14 A Yes.

15 Q Was air conditioning an option?

16 A Yes.

17 Q Did you utilize that option?

18 A No.

19 Q Why?

20 A Air conditioning is one of the highest uses
21 of electricity. And since we were closing so late
22 into the season, I didn't want to finance an air

1 conditioning unit for 30 years. So we were just
2 going to put one in in the spring.

3 Q Do you remember the date you closed on this
4 home?

5 A September 10th of 2001.

6 MS. BEALLIS: Your Honor, I'd like to provide
7 the Exhibit 1.

8 (Whereupon, Complainant's
9 Exhibit No. 1 was marked for
10 identification.)

11 MS. BEALLIS: Please pass that down.

12 JUDGE RILEY: Okay.

13 MR. GOLDSTEIN: Thank you.

14 BY MS. BEALLIS:

15 Q What is the address that this document is
16 pertaining to?

17 A This is a Will County Recorder public web
18 access address for the house that we live in at
19 1914 Great Falls Drive in the Cumberland Subdivision.

20 Q Okay. Is that statement correct as far as
21 the data on there, closing date and so forth?

22 A That's correct. 9-10-2001.

1 MS. BEALLIS: Okay.

2 Okay. I'd like to introduce
3 Exhibit 2.

4 (Whereupon, Complainant's
5 Exhibit No. 2 was marked for
6 identification.)

7 MS. BEALLIS: Will you pass that down?

8 Thank you.

9 BY MS. BEALLIS:

10 Q And can you tell me the address this
11 pertains to?

12 A This is pertaining -- this is, again, a
13 Will County Recorder public records of 1918 Great
14 Falls Drive to a Sherry and Daniel Johns
15 (phonetically).

16 Q Can you tell me what the closing date is on
17 that document?

18 A July 12th, 2001.

19 Q Do you believe those statements to be
20 accurate?

21 A Absolutely.

22 Q Do you recall the date you actually moved

1 into your home?

2 A Yes. It was October 1st of 2001.

3 Q So you closed in September, but you didn't
4 actually take possession until October.

5 Why?

6 A We were still living in an apartment in
7 Naperville, and our lease didn't run out until the
8 end of September.

9 Q Do you recall when you had an air
10 conditioner installed?

11 A It was late spring/early summer of 2002.

12 Q Are you aware that air conditioning is one
13 of the top three users of electricity for appliances
14 in a typical home?

15 A I am.

16 MS. BEALLIS: I'd like to introduce Exhibit 3.

17 (Whereupon, Complainant's
18 Exhibit No. 3 was marked for
19 identification.)

20 MS. BEALLIS:

21 Q So this states the refrigerator, electric
22 dryer and air conditioning unit are the highest

1 appliances that use electricity in a typical home,
2 correct?

3 A That's correct.

4 Q Do you have an electric dryer?

5 A No.

6 Q So at the time you moved in, you only had a
7 refrigerator.

8 That's one of the top users of
9 electricity in a typical home, correct?

10 A Correct.

11 Q Okay. Are you employed?

12 A I am.

13 Q Is that full-time?

14 A Full-time.

15 Q What's your current work schedule?

16 A My current work schedule is Wednesday
17 through Saturday, ten -- four ten-hour shifts.

18 Q How long has this been your schedule?

19 A About the last three years.

20 Q What was your work schedule prior to that
21 time?

22 A It was Tuesday through Saturday, eight

1 hours each.

2 Q Do you have a college degree?

3 A I do.

4 Q What was your major?

5 A Facility management.

6 Q Can you tell me what course of study that
7 encompasses?

8 A That encompasses everything that a facility
9 would deal with as far as electricity, plumbing,
10 heating and air conditioning, space planning, proper
11 lighting.

12 Q When did you graduate?

13 A 1998.

14 Q Did you make any improvements to this home
15 when you first moved in yourself?

16 A I did.

17 One of the first things I did was
18 installed a programmable thermostat.

19 Q Is that something you knew how to do?

20 A Yes.

21 Q And why did you do that?

22 A For the immediate -- the immediate reason I

1 put it in was for the heating so that, over the
2 winter, that we could, instead of the old thermostat
3 that would just set it to a certain temperature, and
4 that's what it would be at, that we could -- we could
5 control when the heat came on and when the heat was
6 off when it wasn't being used and would use that when
7 we would have the air conditioner installed.

8 Q Is your wife employed full-time?

9 A She is now, yes.

10 Q What's her current work schedule?

11 A Since March 1st, she is back to five days a
12 week, Monday through Friday.

13 Q And what was her work schedule prior to
14 that time?

15 A She worked two days a week since 2009,
16 since my son was born.

17 Q And how many children do you have?

18 A Four.

19 Q Prior to her staying home with your son and
20 your other children, what was her work schedule?

21 A She was working five days a week, Monday
22 through Friday.

1 Q What year were your children born?

2 A I had twins born in 2003, I had a daughter
3 born in 2007, and my son was born in 2009.

4 Q So in 2003, how did you handle child care
5 for your kids?

6 A My kid went to a private day care.

7 Q Five days a week?

8 A Five days a week.

9 Q In 2007, how did you handle your child
10 care?

11 A After my daughter was born, she also went
12 to the same private day care.

13 Q Still five days a week?

14 A Five days a week.

15 Q In 2009, how did you handle your child's
16 care?

17 A After my son was born, my wife negotiated
18 to work the two days that I would be off. So she
19 only worked Mondays and Tuesdays. So...

20 Q So you had no child care?

21 A No child care. Somebody was always home
22 with the kids.

1 Q And currently how are you handling your
2 child care?

3 A Since she went back to work full-time, we
4 have hired a nanny to be at home with the kids.

5 Q So from September to -- 2001 until 2009,
6 which days would you estimate were your highest
7 energy consumption days?

8 A Probably would be Sunday and Saturday, is
9 what I would -- that's when we would be home the
10 most.

11 Q What were your highest energy consumption
12 dates from 2009 to February of 2012?

13 A There really wasn't any because somebody
14 was home all the time. Still is.

15 Q So you are saying, for the last three
16 years, you have had no specific high energy
17 consumption days because someone was at your home
18 each day using energy?

19 A Correct.

20 Q The previous eight years before the last
21 three-year period, however, you're stating that only
22 two days a week were high energy as nobody was home

1 during the day Monday through Friday, correct?

2 A Correct.

3 Q So it's safe to say that, from the period
4 of 2001 to 2008, you used approximately 50 percent
5 less energy consumption on a weekly basis?

6 A At least. At least.

7 Q So from when you closed on the house in
8 2001 until August of 2011, were you receiving ComEd
9 bills for electricity service?

10 A Yes.

11 Q Were you paying these bills as received?

12 A Yes.

13 Q Was ComEd reading your meter?

14 A Yes.

15 Q So if we recap, you moved into your home in
16 October 2001 with no air conditioning in your home
17 until the spring of 2002?

18 A Correct.

19 Q Your neighbors had moved in already and
20 were being billed by ComEd?

21 A Correct.

22 Q And how do you know that they were there

1 already?

2 A Well, I know the address is two houses
3 away, and there was nobody living next door to us
4 when we moved in, so I know, when we were moving in,
5 they were already there. And the document that I saw
6 earlier, they closed two months ahead of us.

7 Q Okay. So you and your wife were employed
8 full-time five days a week with no one being home a
9 majority of the time from September 2001 to 2009?

10 A Correct.

11 Q That's almost eight and a half years?

12 A Correct.

13 Q Does it seem reasonable that ComEd -- had
14 ComEd exercised the care that an ordinary prudent
15 person would have exercised, they would have been
16 alerted to the situation back in 2001?

17 MR. GOLDSTEIN: I'm going to object to that.

18 What situation?

19 There's -- I don't know --

20 JUDGE RILEY: It needs clarification.

21 THE WITNESS: Clarify.

22 MR. GOLDSTEIN: I don't understand what you are

1 talking about.

2 MS. BEALLIS: The situation of our mixed meter
3 situation.

4 If they would have used prudent care,
5 they would have known that our meters were switched.
6 As our neighbors closed two months before we closed,
7 we had no billing. No one was living in our home.

8 MR. GOLDSTEIN: Well, that's your statement.
9 You know --

10 MS. BEALLIS: It's supported by the closing
11 documents.

12 THE WITNESS: Okay. I can --

13 MR. GOLDSTEIN: It's supported by nothing.

14 THE WITNESS: I can answer.

15 JUDGE RILEY: Well -- well -- all right. Well,
16 hold on.

17 Ask the question again.

18 THE WITNESS: Ask the question.

19 BY MS. BEALLIS:

20 Q Does it seem reasonable that ComEd -- had
21 ComEd exercised the care that an ordinary prudent
22 person would have exercised, they would have been

1 alerted to the situation back in 2001?

2 MR. GOLDSTEIN: And I object to the --

3 JUDGE RILEY: I understand that.

4 MR. GOLDSTEIN: -- question.

5 JUDGE RILEY: The situation you are referring
6 to is the switched meters?

7 MS. BEALLIS: Correct. Because for over two
8 months, our neighbor was living and billing
9 electricity, and our home wasn't even finished. We
10 didn't even close until September 10th.

11 JUDGE RILEY: Well, let's get a little
12 foundation here.

13 How did you know the meters were --
14 what evidence do you have that the meters were
15 switched?

16 MS. BEALLIS: ComEd said the meters were
17 switched. That's their whole point of coming back --

18 JUDGE RILEY: All right.

19 MS. BEALLIS: -- after me.

20 JUDGE RILEY: All right.

21 Mr. Beallis, is it your --

22 THE WITNESS: Yes.

1 JUDGE RILEY: -- understanding that ComEd, at
2 any time, said that the meters were switched?

3 THE WITNESS: Yes.

4 JUDGE RILEY: When did they tell you that?

5 THE WITNESS: In September of 2011.

6 JUDGE RILEY: All right. The other --

7 MR. GOLDSTEIN: Judge, he's not qualified to
8 make a statement whether -- whatever that question
9 was, he's not qualified to answer that question.

10 JUDGE RILEY: In other words, it's opinion
11 testimony about whether or not ComEd exercised --

12 THE WITNESS: Okay.

13 JUDGE RILEY: -- proper -- proper care, and
14 he's --

15 MS. BEALLIS: He's not qualified -- I'm sorry
16 to interrupt.

17 He's not qualified in answering in
18 what way?

19 JUDGE RILEY: That he's --

20 MS. BEALLIS: That the meters were switched?

21 JUDGE RILEY: No, to ask -- to answer whether
22 or not ComEd exercised prudence in the installation

1 of those meters.

2 MS. BEALLIS: Okay.

3 JUDGE RILEY: I'm going to sustain
4 Mr. Goldstein's objection on this one.

5 MS. BEALLIS: Okay.

6 JUDGE RILEY: Please go ahead.

7 BY MS. BEALLIS:

8 Q Do you know if the home at 1918 Great Falls
9 Drive had electricity when they moved in?

10 A Yes.

11 They moved -- if they closed in
12 2000 -- or July of 2001, they were using electricity
13 from July until September of 2001 when we closed.
14 So --

15 Q Okay.

16 A -- it's safe to say that they had
17 electricity at that residence, yes.

18 Q Okay. And ComEd -- it's safe to say ComEd
19 would have read your meter multiple times throughout
20 the years, correct?

21 A Absolutely.

22 Q So let's blast forward.

1 Can you tell me what happened in
2 August 2011?

3 A Sure.

4 In August of 2011, a gentleman came to
5 the door, and he said he was with Commonwealth
6 Edison, and that he needed to get back and see my
7 meter.

8 Q And what were you assuming he was doing?

9 A I was assuming he was reading my meter.

10 Q And what happened next?

11 A In September of 2011, ComEd sent us a bill
12 for 950-some-odd dollars with no explanation, just
13 pay the bill. That's what our -- our bill was due.

14 Q Okay. So you received a bill with a
15 past-due statement shown in the amount of \$956.09.

16 Does that sound correct?

17 A That sounds correct.

18 Q And what did you do then?

19 A We called ComEd to find out why we had been
20 billed the \$956.

21 Q Okay. And what was your next step?

22 A After that, we were told that that they had

1 come out the year prior and switched our meter, and
2 they switched it with the neighbor's at 1918, and
3 that they were just billing us back the amount of
4 electricity that we had used.

5 Q Okay. And what was your next step?

6 A We actually wrote a letter to the CFO of
7 Commonwealth Edison.

8 Q And were you involved in drafting that
9 letter?

10 A I was.

11 Q And what was included in that letter to the
12 CFO?

13 A We stated our position to him. We sent a
14 check with the remittance of what we owed and asked
15 him to look into the situation and to cash the check
16 within 30 days and to bring our account balance to a
17 zero balance as this was an oversight on ComEd's
18 part.

19 MS. BEALLIS: Okay.

20 I'd like to remit (sic) Exhibit 4.

21

22

1 (Whereupon, Complainant's
2 Exhibit No. 4 was marked for
3 identification.)

4 BY MS. BEALLIS:

5 Q Is this the letter you are referring to
6 dated September 8, 2011?

7 A Yes.

8 Q Is this the letter that you helped
9 Sonja Beallis to draft?

10 A It is.

11 Q And are you sure the CFO received this
12 letter?

13 A It was sent to him. And on the front page
14 is the Certified Mail receipt signed by, it looks
15 like, Sylvia Walker on 9-12-2011. Oh, I'm sorry,
16 Sylvia Williams. It looks like she printed her name
17 underneath.

18 So, yes, it was sent to him. She must
19 have signed for it. So I assume that he did get it.

20 Q Can you read this document?

21 A Sure.

22 September --

1 MR. GOLDSTEIN: I'm going to object to that.

2 JUDGE RILEY: Well --

3 MR. GOLDSTEIN: The document speaks for itself.

4 JUDGE RILEY: Were you planning to read the
5 whole letter?

6 THE WITNESS: Yeah, I was planning on it.

7 JUDGE RILEY: Well --

8 THE WITNESS: Okay.

9 JUDGE RILEY: -- Mr. Goldstein is correct
10 again. Yeah --

11 MS. BEALLIS: All right.

12 JUDGE RILEY: -- there is no need to. The
13 document does --

14 THE WITNESS: Okay.

15 JUDGE RILEY: -- speak for itself and --

16 THE WITNESS: Okay.

17 BY MS. BEALLIS:

18 Q Can you refer specifically to information
19 regarding a payment that was submitted --

20 A Sure.

21 Q -- within the letter?

22 A Sure.

1 On the third --

2 MS. BEALLIS: Is that all right if there is a
3 sentence or two referring to the check that was sent?

4 JUDGE RILEY: Yeah, go ahead.

5 THE WITNESS: We -- on the second page, the
6 paragraph says:

7 "Enclosed please find by Check 1616 in
8 payment for the last proper billing statement that I
9 received prior to this inflated figure which will
10 satisfy the billing incurred and is the final payment
11 on our account for any electricity used through
12 8-22-11, which was the ComEd-provided figure of
13 219.93. Please cash within 30 days of receipt of
14 this letter to avoid stop payment on loss of check.

15 BY MS. BEALLIS:

16 Q If my memory serves me correct, I believe
17 unliquidated debt is referred to within that letter
18 as well?

19 A It is.

20 Q What is unliquidated debt?

21 A Unliquidated debt is a -- is a -- is a debt
22 that is not a constant debt, and it's a debt that's

1 in -- that's in dispute.

2 MS. BEALLIS: Okay. I have the actual
3 definition. Would you like me to read it?

4 You gentlemen are familiar with it, I
5 assume.

6 JUDGE RILEY: No. Proceed. You don't have
7 to --

8 MS. BEALLIS: Okay.

9 JUDGE RILEY: -- read it.

10 BY MS. BEALLIS:

11 Q Did you write on the front of this check?

12 A I did not write on the front.

13 Q Is this your handwriting on the back of the
14 check?

15 A It is.

16 Q And what did you write?

17 A I wrote, accord and satisfaction for
18 electricity used through 8-22-11.

19 JUDGE RILEY: I'm going to object to your -- is
20 that the -- it's been obscured by the print.

21 THE WITNESS: Yes. Yes. They stamped over the
22 top of it.

1 MS. BEALLIS: They stamped over the top of the
2 writing.

3 JUDGE RILEY: Oh, I see what you mean.

4 Go ahead. Proceed.

5 MS. BEALLIS: I can tell you what it says,
6 actually, but I'm sure you don't want me to. I'm
7 sure you are familiar with that --

8 JUDGE RILEY: Thank you.

9 MS. BEALLIS: -- as well.

10 JUDGE RILEY: Thank you very much. Yes.

11 BY MR. BEALLIS:

12 Q Can you tell me when this cash -- when this
13 check was cashed, please?

14 A It looks like it was cashed on 10-6-2011.

15 And also, I believe we had -- we had a
16 phone call from ComEd that said they had cashed the
17 check.

18 Q Correct.

19 And how did you know about accord and
20 satisfaction?

21 A I actually took a business law class in
22 college, and I remembered it from my business law

1 class.

2 Q So as a college student, you know that.

3 Is it reasonable to think that a CFO
4 of a company as big as ComEd would know what accord
5 and satisfaction is?

6 A I believe, yes, he would.

7 MS. BEALLIS: Judge, I'm going to ask, again,
8 that you immediately rule in our favor with no
9 further proceedings.

10 This is a legally binding settlement
11 of this unliquidated debt. It was sent to the chief
12 financial office of ComEd signed for by his office
13 and cashed within the 30-day window he was given to
14 process that payment.

15 By cashing this payment, as it is
16 written in legal terms and confirmed by our
17 correspondence with him, he agreed to return our
18 account to a zero balance. We agreed to continue to
19 pay our bill as generated going forward.

20 MR. GOLDSTEIN: Well, Judge, I guess, at the
21 worst, we would have to brief the issue of whether
22 the cashing of this check, you know, meets the

1 definition of accord and satisfaction and whether
2 even accord and satisfaction is applicable to checks
3 that are sent to Commonwealth Edison Company.

4 I can say that these kinds of checks
5 are sent to the company many, many, many times in a
6 year.

7 I can also say that the \$219.93
8 payment was credited to Sonja Beallis' electric
9 account.

10 MS. BEALLIS: And, your Honor, the reason we
11 sent it directly to the chief financial officer in
12 the manner that we sent it was to make sure that
13 someone that was aware of what the law was and aware
14 of what the check meant got it.

15 As you can see, it took 28 days for
16 them to process it. Their customer service confirmed
17 the reason it took so long to get it processed was
18 because we had sent it to the CFO versus the billing
19 processing center. But we wanted to make sure
20 someone that actually knew what those words meant
21 received it and signed for it, and it wasn't just an
22 automatically processed payment.

1 JUDGE RILEY: So, essentially, what your --
2 your motion is for -- in the line of -- along the
3 lines of a summary judgment inasmuch as your argument
4 is that by taking the 219.93, cashing the check with
5 the handwritten accord and satisfaction language on
6 the back, that they have agreed to a settlement of
7 all outstanding amounts?

8 MS. BEALLIS: (Nodding.)

9 MR. GOLDSTEIN: No. I think that's an issue
10 that, you know, obviously, we were unaware of coming
11 into the hearing today, Judge, and we would be happy
12 to brief that issue if you desire.

13 JUDGE RILEY: That's going to delay the
14 proceeding because it's a matter of -- it's an
15 interim motion for the ultimate dismissal of the
16 case.

17 MR. GOLDSTEIN: Understood.

18 What I would like to do, if it is all
19 right with your Honor, is put our witness on and, you
20 know, then we could brief the issue for your Honor.

21 JUDGE RILEY: In other words, complete the
22 record?

1 MR. GOLDSTEIN: Yes. Mark it heard and taken,
2 complete the record, and we will brief the issue.

3 JUDGE RILEY: All right, then.

4 And you don't --

5 MS. BEALLIS: I have further questions for my
6 witness if you are going to continue.

7 JUDGE RILEY: You do?

8 Please go ahead.

9 MS. BEALLIS: I assume the CFO isn't here to
10 question directly, correct?

11 JUDGE RILEY: No, I don't believe Commonwealth
12 Edison has produced the CFO --

13 MS. BEALLIS: I didn't think so.

14 JUDGE RILEY: -- or that Commonwealth Edison --
15 all right.

16 MS. BEALLIS: I was just checking.

17 BY MS. BEALLIS:

18 Q Okay. Mr. Beallis, are you aware of
19 further attempts on your end to settle this debt?

20 A Yes.

21 Q Do you -- were you involved in phone calls,
22 correspondence?

1 What means did you use?

2 A We did both phone calls and letters back
3 and forth.

4 MS. BEALLIS: I'd like to submit Item 5 and 6,
5 which are correspondence back to the CFO again.

6 JUDGE RILEY: Just for clarification, these are
7 Exhibits 5 and 6?

8 MS. BEALLIS: Um-hmm.

9 (Whereupon, Complainant's
10 Exhibits No. 5 and No. 6 were
11 marked for identification.)

12 MS. BEALLIS: Sorry. That's 5.

13 6.

14 And these letters are dated 10-13-11
15 and 11-10-11, respectfully (sic).

16 BY MS. BEALLIS:

17 Q Do you recognize these letters?

18 A Yes.

19 Q And you were involved in drafting them?

20 A Yes.

21 Q If you --

22 JUDGE RILEY: Let me just interrupt just to

1 make sure I'm keeping these straight.

2 The Exhibit 5 is the September 10
3 letter?

4 MS. BEALLIS: Right. And 6 is October.

5 THE WITNESS: No, no, no.

6 MS. BEALLIS: No. I'm sorry.

7 THE WITNESS: No, no, no.

8 MS. BEALLIS: October 13th is Exhibit 5.

9 JUDGE RILEY: Oh. October 13. All right.

10 MS. BEALLIS: November 10th is Exhibit 6.

11 THE WITNESS: Yes.

12 JUDGE RILEY: Please proceed.

13 BY MS. BEALLIS:

14 Q If you believe this was accord and
15 satisfaction, why did you continue to come to an
16 agreement?

17 A We never tried to really come to an
18 agreement after that, but we did definitely want to
19 work with ComEd. We had no problem. We understand
20 that things happen, mistakes are made. But, you
21 know, we tried to avoid this whole process of
22 hearings, taking time off of work, you know, coming

1 downtown. You know, we tried to avoid it all by
2 trying to work it out with them as far as getting our
3 balance back down to zero.

4 When they continued to send the bills,
5 we knew that that wasn't going to happen. So we
6 didn't want to just not talk about it with them, we
7 wanted to try to work with them. But up until this
8 point, they haven't really -- haven't really come
9 down and talked to us or really said anything to us
10 except, you know, pay your bill.

11 MS. BEALLIS: I'd like to introduce Exhibit 7.

12 (Whereupon, Complainant's
13 Exhibit No. 7 was marked for
14 identification.)

15 THE WITNESS: There is 7 on there for you.

16 BY MS. BEALLIS:

17 Q Do you recognize this spreadsheet?

18 A I do.

19 Q And what does it represent?

20 A It represents phone conversations that
21 we -- that we have had with ComEd and some ICC
22 members, too, as well.

1 Q In the last correspondence cited on the
2 spreadsheet --

3 A Um-hmm.

4 Q -- which, I believe, is dated April 17th,
5 can you summarize what that is stating?

6 A Yes.

7 It's -- it's a conversation with a
8 customer service representative about a smart meter
9 charge that we had had -- that we had noticed on our
10 bills. And when we talked to them, they had said
11 that we had had a smart meter installed, and then
12 they backed up and said, well, there was a smart
13 meter at 1918 Great Falls Drive installed sometime
14 prior to March of 2010. And then she went on to say
15 that they pulled the smart meter out of 1918 Great
16 Falls Drive and went back to a standard meter and
17 that they had stopped billing us for the smart meter
18 on December of 2011.

19 Q Do you currently or have you ever had a
20 smart meter at your home?

21 A No.

22 Q And that was reaffirmed by the customer

1 service rep?

2 A It was.

3 Q So it appears your neighbor may have had a
4 smart meter installed?

5 A It appears that way, yes.

6 Q If ComEd took the standard meter out and
7 put the smart meter in, it's your understanding
8 that's a physical change?

9 A Yes.

10 Q So they should have known something?

11 A From there web site, correct. That's
12 correct.

13 MS. BEALLIS: All right.

14 I'd like to introduce Exhibit 8.

15 (Whereupon, Complainant's
16 Exhibit No. 8 was marked for
17 identification.)

18 BY MS. BEALLIS:

19 Q I'd like to point out Page 4.

20 How does ComEd know.

21 Can you read that brief couple
22 sentences?

1 A Yeah.

2 How does ComEd know when a customer is
3 being billed with usage data from the correct meter?

4 If the meter is accessible, you will
5 not need to be home. ComEd meter readers will leave
6 door hangers with information to let you know they
7 have been to your residence.

8 If the meter is inaccessible after two
9 attempts, ComEd will contact you to schedule an
10 appointment.

11 The smart meter network is built
12 around device authentication. Each smart meter is
13 given a set of three credentials at the time of
14 manufacture which compose its unique cyber identity.
15 These credentials never change throughout the
16 lifetime of the device and are used to authenticate
17 the device and its data at the time of billing making
18 sure a customer is being billed from the correct
19 meter.

20 Q Did you ever receive a door hanger or any
21 information on the smart meter?

22 A No, never.

1 Q Now, if the frequently asked question
2 information was true, did they make sure a customer
3 was being billed from the correct meter?

4 A No.

5 MS. BEALLIS: I would like to introduce Item 9.

6 And, I'm sorry, due to the late
7 notice, I only have one copy. But it's your copy of
8 bills ComEd made, so I'm sure you have the exact same
9 thing. It's the copies you had sent me.

10 (Whereupon, Complainant's
11 Exhibit No. 9 was marked for
12 identification.)

13 BY MS. BEALLIS:

14 Q Do you recognize these bills?

15 A Yes.

16 Q Are they yours?

17 A I thought they were.

18 Q Do they have your address on them?

19 A They do.

20 Q Did ComEd supply them?

21 A Yes.

22 MS. BEALLIS: I'd like to introduce a ComEd

1 bill dated December 2007.

2 JUDGE RILEY: That would be Exhibit 10?

3 MS. BEALLIS: Um, correct. Sorry. Exhibit 10.
4 December 20th, 2007.

5 (Whereupon, Complainant's
6 Exhibit No. 10 was marked for
7 identification.)

8 BY MS. BEALLIS:

9 Q Is that what you believe to be your
10 electricity bill at that time?

11 A Yeah, I'll have to see it back.

12 Q Okay. Sorry.

13 A Can I take it -- we don't have a copy --

14 JUDGE RILEY: Oh. Sorry.

15 THE WITNESS: -- of that one.

16 JUDGE RILEY: Okay.

17 MS. BEALLIS: We apologize we just have one.

18 THE WITNESS: Sorry.

19 Yes --

20 BY MR. BEALLIS:

21 Q Okay.

22 A -- it is.

1 Q Okay. Can you tell me what the difference
2 is, obviously, between the December 2007 bill and the
3 March 2010 bill as you are looking at it?

4 A Yeah. It looks like they changed some of
5 the -- the fonts, or whatever. But the thing that
6 sticks out to me is, on the 2007 document, there is
7 no smart meter program charge; and on the March 24th,
8 2010, there is a charge the smart meter program on
9 that 2010.

10 Q So sometime between 2007 and 2010, that
11 charge showed up on the bill?

12 A Yes.

13 MS. BEALLIS: Okay.

14 I'd like to just stipulate for the
15 record that I have other bills through 2008 that are
16 all consistent with the 2007 billing.

17 JUDGE RILEY: Okay.

18 MS. BEALLIS: Since I am not bound by 24 months
19 that I can pull up bills, I can see way back what
20 I've got, and they all state the same.

21 BY MS. BEALLIS:

22 Q What does your bill reflect as of today?

1 A The last bill that we received, which is
2 dated March 22nd, 2012, again the font has changed
3 somewhat, but there is no smart meter program charge
4 on our current bill, the latest bill that we have
5 had.

6 JUDGE RILEY: Now, is that part of the --

7 MS. BEALLIS: That's Exhibit 11. Sorry.

8 JUDGE RILEY: Okay.

9 (Whereupon, Complainant's
10 Exhibit No. 11 was marked for
11 identification.)

12 BY MS. BEALLIS:

13 Q So looking at the information from the
14 current bill, the information that ComEd provided
15 back to March 2010 and the information from your 2007
16 bill, it appears consistent with what customer
17 service told you, correct, that the smart meter was
18 installed and that it was pulled out again?

19 A That's correct. That's what it looks like.
20 There was no charge. Then there was a charge all the
21 way through their information. And then, currently,
22 there is no charge again. So it definitely appears

1 that -- that that's what -- exactly what happened.

2 Q Has ComEd offered you any solutions to this
3 mixed billing issue?

4 A Only to pay what we've owed. That's all.

5 Q So after all you have read, seen and heard,
6 would you personally say that ComEd is negligent in
7 this issue?

8 A Absolutely. Absolutely negligent.

9 Q The definition of "negligent," according to
10 Merriam Webster, is failing --

11 MR. GOLDSTEIN: Judge, I'm going to object to
12 this.

13 Let her make it in a brief or some
14 argument. This is not a question. This is a
15 question-and-answer repartee between you and your
16 husband, not some reading of definitions.

17 JUDGE RILEY: No.

18 MS. BEALLIS: I feel that it's important that
19 the definition of "negligent" is on the record for
20 this because ComEd has shown, over and over again,
21 how negligent they are.

22 JUDGE RILEY: Well, even -- well, see, you are

1 drawing -- excuse me.

2 You are drawing a legal conclusion
3 from a definition in the dictionary, and you can't do
4 that. You are trying to just summarily say they were
5 negligent because of what you perceived they have
6 done, and that conclusion can't be drawn here.

7 So Counsel's objection is valid.

8 Negligence is a legal conclusion, it's
9 a legal standard, and it's not taken from a
10 dictionary. So...

11 MS. BEALLIS: Okay.

12 BY MS. BEALLIS:

13 Q Can you cite -- is he able to cite examples
14 that he considers neglectful?

15 THE WITNESS: Sure.

16 JUDGE RILEY: Well --

17 THE WITNESS: I'm sorry.

18 MR. GOLDSTEIN: I'm going to object to that,
19 Judge.

20 JUDGE RILEY: Again, what you are -- you are
21 going back to the issue of negligence, and you are
22 trying to establish a legal standard for --

1 MS. BEALLIS: Well, I'm trying --

2 JUDGE RILEY: -- negligence here.

3 MS. BEALLIS: I'm trying to establish that
4 there was more than one opportunity, when a company
5 that's core business is a providing accurate
6 electrical service to their customers, where they
7 should have been able to determine there is a problem
8 here, not over a decade later.

9 JUDGE RILEY: I'm not a hundred percent sure I
10 follow you, but...

11 THE WITNESS: As to what's happened. I mean --

12 JUDGE RILEY: In other words, you are trying to
13 say that the -- that the crossed meter, the switched
14 meter situation should have been --

15 MS. BEALLIS: Found way before --

16 JUDGE RILEY: -- should have been found --

17 MS. BEALLIS: -- a decade later.

18 JUDGE RILEY: Exactly. Right. No, that's
19 understood.

20 MS. BEALLIS: And especially if they physically
21 removed a meter, a standard meter and installed a
22 smart meter, which, from their own customer service,

1 is the way that's handled.

2 JUDGE RILEY: I --

3 MS. BEALLIS: Yet another key opportunity.

4 They should have seen it.

5 JUDGE RILEY: Well, I understand. But I don't
6 think what you are trying to prove is really -- I
7 don't know what -- I don't see how you are going to
8 do it just simply through the witness' testimony.
9 It's just his opinion that it's negligence, but it's
10 not -- doesn't -- again, it doesn't establish
11 negligence by a legal standard. That's the problem.

12 MR. GOLDSTEIN: Yeah. One other thing I'd like
13 to point out to your Honor.

14 You know, there has been a lot of talk
15 about the smart meter program and the smart meter
16 charges. These are charges that are charged to every
17 single Commonwealth Edison customer.

18 JUDGE RILEY: Okay. Well --

19 MR. GOLDSTEIN: It has absolutely nothing to do
20 with inserting a new meter into the Beallis
21 residence.

22 JUDGE RILEY: Okay. Well, that's just

1 something you can bring up as evidence --

2 MR. GOLDSTEIN: And --

3 JUDGE RILEY: -- or bring up in testimony.

4 MR. GOLDSTEIN: -- we will certainly testify to
5 that.

6 JUDGE RILEY: Okay.

7 MR. GOLDSTEIN: You know, this is a total
8 different tangent than talking about the mixed meter
9 situation, which is the basis of the Beallis
10 complaint.

11 JUDGE RILEY: That's the thing --

12 MS. BEALLIS: I object.

13 It's not a tangent at all.

14 JUDGE RILEY: Okay.

15 MS. BEALLIS: I'm sorry, but that's just not
16 appropriate. It's -- if, indeed, everyone's charged
17 the smart meter program, then, again, the customer
18 service representatives at ComEd are misinformed,
19 because this is information they gave me.

20 I took very thorough notes of every
21 conversation I have had. And, unfortunately, since
22 ComEd has refused to provide me with any information

1 that I asked for, I can only use the information I'm
2 able to gather.

3 THE WITNESS: They are not charging it now.

4 JUDGE RILEY: Excuse me. Excuse me.

5 MR. GOLDSTEIN: Judge --

6 JUDGE RILEY: Mr. Beallis, you can only --

7 THE WITNESS: Okay.

8 JUDGE RILEY: -- speak in response to a
9 question.

10 THE WITNESS: A question. Okay.

11 MR. GOLDSTEIN: Judge, with respect to what
12 Ms. Beallis has just said, Ms. Beallis provided
13 certain requests for discovery. Commonwealth Edison
14 responded to those requests. If Ms. Beallis had any
15 objection prior to today, she never voiced them to
16 me. She never sent them in any correspondence. And
17 as we have noted from the hearing this morning, the
18 Beallises have been very thorough in providing
19 correspondence to Commonwealth Edison Company.

20 JUDGE RILEY: All right.

21 MR. GOLDSTEIN: So if she had any objection to
22 those responses to the various data requests, then

1 she certainly could have made them known first to me
2 and then to your Honor if she was not satisfied with
3 my responses.

4 MS. BEALLIS: I did make them known to his
5 honor.

6 JUDGE RILEY: All right. This is argument.
7 It's along the lines of he-said-she-said.

8 I do note that Commonwealth Edison did
9 object to most of the -- or all of the data requests
10 that you had sent, but they did provide certain
11 information notwithstanding.

12 MR. GOLDSTEIN: Judge --

13 JUDGE RILEY: Well, let's not get any farther
14 involved in this. As I said, this is just argument
15 going back and forth to no purpose.

16 MR. GOLDSTEIN: Okay.

17 JUDGE RILEY: Ms. Beallis, what more do you
18 have for the witness?

19 MS. BEALLIS: No further questions, your Honor.

20 JUDGE RILEY: All right. Okay.

21 Before we get to cross-examination, I
22 want to go over some of these documents and get a

1 little bit of foundation, if I can.

2 EXAMINATION

3 BY

4 JUDGE RILEY:

5 Q Mr. Beallis.

6 A Yes.

7 Q Let's go back to Exhibits 1 and 2. These
8 are --

9 A All right.

10 Q -- documents from the Will County
11 Recorder's office.

12 A Correct.

13 Q Where did you obtain these?

14 A On line from willcountydata.com.

15 Q And then was this with a home computer?

16 A Correct.

17 Q And have you seen these documents before?

18 A Yes.

19 Q And you have read them?

20 A Yes.

21 Q Do you understand them?

22 A Yes.

1 Q Going to Docket -- to Exhibit 3, it appears
2 to be a printout of a web page.

3 A Correct.

4 Q Where did you obtain this?

5 A From
6 comed.com/home-savings/tips-guides/heating-cooling/
7 pages/central.

8 Q All right.

9 A From their web site.

10 Q And then we go to the -- going to --
11 Exhibit 4 is the September 8 letter, 2011 letter.

12 A Correct.

13 Q I note that it is signed by Sonja Beallis?

14 A Um-hmm.

15 Q But it says -- typed underneath, it says
16 Kevin and Sonja Beallis.

17 Did you --

18 A Right.

19 Q -- assist in the preparation of this
20 letter?

21 A Yes.

22 Q And that was Exhibit 4.

1 Taking a look at Exhibit 5, is the --
2 Exhibit 5, I understand, is the October 13, 2011
3 letter.

4 A Correct.

5 Q And again, it is signed by --

6 MS. BEALLIS: I believe that's just a printed
7 copy. You were --

8 JUDGE RILEY: It's just a printed copy.

9 BY JUDGE RILEY:

10 Q But did you assist in the preparation of
11 this letter?

12 A Yes, I did.

13 Q Exhibit 6 is the November 10, 2011 letter.

14 A Yes.

15 Q Again, a copy unsigned.

16 But did you assist or prepare (sic) in
17 the assistance of this?

18 A Yes, I did, your Honor.

19 Q Okay.

20 And Exhibit 7 is the spreadsheet you
21 testified to.

22 A Yes.

1 Q Did you prepare this spreadsheet?

2 A Some of it, yes.

3 Q And with regard to the -- to the narratives
4 that are on the right side of the spreadsheet --

5 A Yes, sir.

6 Q -- these are summaries of conversations you
7 had with Commonwealth Edison personnel?

8 A Correct.

9 Q And how did you recall the content of these
10 conversations?

11 Were these calls recorded?

12 A Some were. Some I was just writing down
13 on -- on paper.

14 Q You were just taking notes?

15 A Taking notes.

16 Q And there are summations of either
17 recordings you made or -- or from your notes; is that
18 correct?

19 A Absolutely, yes.

20 Q But these were your conversations; is that
21 correct?

22 A They were, yes.

1 Q All right.

2 And Exhibit 8 is another -- what
3 appears to be another computer printout; is that
4 correct?

5 A Yes.

6 Q And do you remember where you got that?

7 A That was also from the ComEd -- the
8 comed.com. It's on -- actually, it's printed at the
9 bottom of the pages.

10 JUDGE RILEY: All right.

11 Then what I'm going to need are copies
12 of -- or at least a single copy of Exhibits 9, 10 and
13 11 before you leave.

14 MS. BEALLIS: You can just have them.

15 THE WITNESS: Is there a place to copy them?

16 JUDGE RILEY: Yes, we do.

17 THE WITNESS: Can't we just --

18 JUDGE RILEY: Well, I was going to say that --
19 Mr. Goldstein, do you have copies of those --

20 MR. GOLDSTEIN: No. I have --

21 JUDGE RILEY: -- with the signature?

22 THE WITNESS: I don't think he does. We

1 didn't --

2 MR. GOLDSTEIN: No --

3 THE WITNESS: -- have time to make those.

4 MR. GOLDSTEIN: -- not the last three.

5 JUDGE RILEY: All right.

6 MS. BEALLIS: This is -- Exhibit 9 is

7 actually --

8 MR. GOLDSTEIN: We have --

9 MS. BEALLIS: -- the only indication --

10 MR. GOLDSTEIN: -- that.

11 MS. BEALLIS: -- we have received --

12 MR. GOLDSTEIN: We have that exhibit, Judge.

13 MS. BEALLIS: So they have that.

14 MR. GOLDSTEIN: That's --

15 MS. BEALLIS: They just don't have 10 and 11.

16 MR. GOLDSTEIN: -- what we have for exhibits.

17 JUDGE RILEY: All right. We will take care of

18 that.

19 And then I want to declare just a very

20 brief recess.

21 But first, Ms. Beallis, are you moving

22 for the admission of any or all of these exhibits

1 into evidence?

2 And let me -- well, first of all, let
3 me state that Exhibit 9 is a -- is actually --
4 appears to be a group exhibit of Commonwealth Edison
5 bills that were sent to you?

6 MS. BEALLIS: Right.

7 JUDGE RILEY: Exhibit 10 is a Commonwealth
8 Edison bill dated December 20, '07?

9 MS. BEALLIS: Um-hmm.

10 JUDGE RILEY: And Exhibit 11 is your current
11 bill.

12 What is the date on that?

13 THE WITNESS: March 22nd, 2012.

14 JUDGE RILEY: All right. And --

15 MS. BEALLIS: Admit them into evidence, Judge.

16 JUDGE RILEY: -- you are moving for the
17 admission of all of these exhibits into evidence?

18 MS. BEALLIS: Yes.

19 JUDGE RILEY: Mr. Goldstein?

20 MR. GOLDSTEIN: I have no objection.

21 JUDGE RILEY: Then Exhibits -- Complainant's
22 Exhibits 1 through 11, as they have been identified,

1 are admitted into evidence.

2 (Whereupon, Complainant's
3 Exhibits Nos. 1 through 11,
4 inclusive, were admitted into
5 evidence.)

6 JUDGE RILEY: And then I want to declare just a
7 brief recess.

8 MR. GOLDSTEIN: Can we have about ten minutes,
9 Judge?

10 JUDGE RILEY: About ten minutes. Okay. That's
11 fine..

12 MR. GOLDSTEIN: Thank you.

13 MS. BEALLIS: Fine.

14 (Whereupon, a recess was
15 taken.)

16 JUDGE RILEY: Let's go back on the record.

17 And, Mr. Beallis, as long as you are
18 still under oath, I just want to go back very briefly
19 to something you already testified to and I want to
20 make sure I'm clear on it.

21 BY JUDGE RILEY:

22 Q There was a visit from a Commonwealth

1 Edison meter reader sometime in 2011; is that
2 correct?

3 A August of 2011.

4 Q And do you know the reason why that ComEd
5 rep came out to your residence?

6 A He just came and knocked on door and asked
7 if he could get back to see the meter.

8 Q And --

9 A And if I had a dog.

10 Q All right. And did you -- and did he get
11 access to the meter?

12 A Yeah.

13 Q And what did he -- what did he do at that
14 time?

15 A I really wasn't -- you know, I have four
16 kids. I wasn't really paying attention to what
17 was -- what he did.

18 Q All right. So you have no idea if the
19 meter was -- if there was anything mechanically done
20 to the meter or if he read --

21 A Oh, he wasn't -- well, I know he didn't
22 change the meter because he wasn't there that long.

1 Q I see.

2 A He was there and then he was gone.

3 Q To your knowledge, how did the meters get
4 unswitched from the other address?

5 A I have no idea.

6 Q All right.

7 A I don't know.

8 Q But at this point --

9 A I can assume, but I don't think I can tell
10 you that I would know.

11 Q Reasonably, you understand, though that
12 that -- it's your understanding, anyway, that the
13 meter -- that the meter that had been switched with
14 the address next door --

15 A Two doors down.

16 Q -- that -- two doors down, that was
17 corrected; is that correct?

18 Do you know that?

19 A I don't -- I believe so.

20 Q Okay.

21 A I mean, I think that's -- I think they -- I
22 think they must have initiated a call or something

1 to --

2 Q But --

3 A -- theirs, is what -- is all I can think.
4 I don't really know. ComEd really hasn't given me
5 any information as to how we got to there.

6 Q But its my understanding that this \$900
7 balloon bill --

8 A Yes.

9 Q -- that you received was the result of a
10 reestimate based upon the correction of the switched
11 meter situation.

12 A That's what I understood at our -- yeah.
13 That's what I understood from ComEd after the fact,
14 yes.

15 Q So you don't have any direct knowledge that
16 the meters were properly switched to the proper
17 addresses; is that correct?

18 A I -- correct.

19 Q All right.

20 A I don't know.

21 Q All right.

22 A I don't.

1 Here's those 10 and 11 --

2 JUDGE RILEY: Ah.

3 THE WITNESS: -- those copies, too.

4 JUDGE RILEY: All right. 10 and 11.

5 What about 9?

6 MR. GOLDSTEIN: 9 was --

7 THE WITNESS: 9 --

8 JUDGE RILEY: 9 was -- I think that was a group

9 exhibit.

10 MR. GOLDSTEIN: Is that the bills?

11 MS. BEALLIS: That was the big copy.

12 THE WITNESS: That was the ones that they --

13 MS. BEALLIS: Right there, isn't it?

14 THE WITNESS: No. It was -- it actually had

15 like -- that was from him, I think.

16 MS. BEALLIS: It was.

17 MR. GOLDSTEIN: That was the rebill, Judge.

18 JUDGE RILEY: Okay.

19 THE WITNESS: It was --

20 MS. BEALLIS: That --

21 THE WITNESS: I guess it was that. It was the

22 2010 to -- March of 2010 to February of 2012.

1 BY JUDGE RILEY:

2 Q So that's a group exhibit; is that correct?

3 THE WITNESS: Yeah.

4 JUDGE RILEY: And we don't have an extra copy
5 of that?

6 MR. GOLDSTEIN: We have provided your Honor
7 with copy -- with copies. This is ComEd Exhibit 2,
8 Judge.

9 THE WITNESS: This one doesn't --

10 JUDGE RILEY: All right. So --

11 THE WITNESS: -- go back that far.

12 JUDGE RILEY: -- is ComEd Exhibit 2 the same
13 thing as --

14 MR. GOLDSTEIN: I didn't look completely.

15 JUDGE RILEY: -- Complainant's Exhibit 9?

16 MR. GOLDSTEIN: I would assume for -- it looks
17 about the same size --

18 THE WITNESS: Yeah.

19 MR. GOLDSTEIN: -- so I'll assume it is.

20 THE WITNESS: Do you want to take a look at
21 that?

22 MR. GOLDSTEIN: Oh, this is -- this is all

1 the --

2 MS. BEALLIS: That's the one that you had sent
3 us.

4 MR. GOLDSTEIN: Oh. Oh, the entire attachment.

5 THE WITNESS: The whole thing.

6 MR. GOLDSTEIN: Okay.

7 THE WITNESS: Sorry.

8 JUDGE RILEY: Do you need a copy of that?

9 MR. GOLDSTEIN: No, I have a copy.

10 JUDGE RILEY: Okay. Well, let me make a copy
11 of that right now.

12 THE WITNESS: Okay.

13 JUDGE RILEY: I'll be right back.

14 THE WITNESS: Okay.

15 JUDGE RILEY: Let's go off the record.

16 (Whereupon, a recess was
17 taken.)

18 JUDGE RILEY: Let's go back on the record.

19 Did you want to call -- do you have
20 any other witnesses that you wanted to call?

21 MS. BEALLIS: No other witnesses, your Honor.

22 JUDGE RILEY: All right, then.

1 Then I will consider that we have
2 moved -- or you have moved and we have admitted into
3 evidence -- moved your exhibits into evidence.

4 I have nothing further for the
5 witness.

6 (Witness excused.)

7 JUDGE RILEY: Then I will say that we have
8 completed your case in chief.

9 And I'll turn this over to
10 Mr. Goldstein.

11 MR. GOLDSTEIN: By the way, for the record, I
12 have no cross-examination of Mr. Beallis.

13 JUDGE RILEY: Oh, my -- my -- my mistake.

14 MR. GOLDSTEIN: I just want to make that clear.

15 I would like to call Felicia Kemp as a
16 ComEd witness.

17 JUDGE RILEY: Good afternoon, Ms. Kemp.

18 (Witness sworn.)

19 JUDGE RILEY: Please proceed.

20 MR. GOLDSTEIN: All right.

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FELICIA KEMP,

called as a witness herein, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY

MR. GOLDSTEIN:

Q Ms. Kemp, state your full name, and tell us by whom you are employed and in what capacity.

A My name is Felicia Denise Kemp.

I work for Commonwealth Edison. I am a business analyst for Commonwealth Edison in the Customer Service Department.

Q And how long have you been employed by ComEd, and how long have you been in your current position?

A I have been employed by ComEd for four years, and I have been in the customer service position for four years.

Q Could you generally describe your duties and work experience at ComEd.

A Basically, if there is any question about an account, whether it be the balance being

1 incorrect, a question of a payment not being applied
2 to an account, anything from an address correct,
3 customer name correct, that nature, we investigate.

4 Q How did you become familiar with the
5 account of Sonja Beallis?

6 A I was asked to look at the account to make
7 sure that the billing was proper and correct.

8 Q And in order to perform your duties and
9 review the Sonja Beallis electric account, do you
10 have access to the books and records of Commonwealth
11 Edison Company?

12 A Yes.

13 Q And with res- -- you are sponsoring three
14 exhibits, are you not, this afternoon?

15 A Yes.

16 Q And those three exhibits that you are
17 sponsoring are taken from the books and records of
18 Commonwealth Edison Company, are they not?

19 A They are.

20 Q And these records are kept in the ordinary
21 course of Commonwealth Edison Company's business --

22 A Yes.

1 Q -- is that right?

2 A Yes.

3 (Whereupon, Respondent's Exhibit
4 No. 1 was marked for
5 identification.)

6 BY JUDGE RILEY:

7 Q Let's first turn to what has been marked as
8 ComEd Exhibit 1.

9 It's a ComEd account activity
10 statement, and this is for the account of
11 Sonja Beallis, is it not?

12 A Yes.

13 Q And generally describe what is shown on
14 that exhibit, Ms. Kemp.

15 A Basically her activity statement. It shows
16 the electric service; the billing period of electric
17 service; the reading; the meter number; the amount
18 that was charged; any late payment charges that were
19 applied; any payments that the customer made on the
20 account; any type of adjustments or billing
21 adjust- -- payment adjustments or billing adjustments
22 made on the account.

1 Q And what is the current balance that is
2 shown on the Sonja Beallis account?

3 A The balance due is \$795.30.

4 Q All right. Let's look at Page 2 of that
5 exhibit on this account.

6 Am I correct that on Page 2 there is
7 shown a rebilling of the Sonja Beallis account?

8 A Yes, there are.

9 Q Could you explain how that rebilling
10 occurred and what is shown on ComEd Exhibit No. 1.

11 A Well, it looks like there was a
12 service -- the bills were canceled on this account
13 for -- starting at -- on 10-20 of 2010 from a billing
14 period of 9-20 -- it looks like each month
15 thereafter, the billing was canceled up until
16 September 22nd of 2011 -- or, actually, no, I'm
17 sorry, August 22nd of 2011. And at that point, it
18 looks like there was some type of meter exchanged.
19 All the bills for that period was given -- the
20 customer was given account -- a credit back on to
21 their account, and the meter -- a new meter was
22 installed. And from that point, using the new meter

1 information, the customer was billed accordingly for
2 each month back to a one-year time frame.

3 Q And is it your understanding that the --
4 that billing that you have been describing was based
5 upon a mixed meter situation with another meter?

6 A Yes.

7 Q And could you explain how Commonwealth
8 Edison goes back and back bills once it's determined
9 that there is a mixed meter situation?

10 A Well, each meter is -- they have a record
11 of the reading for each meter, the kilowatt hours
12 that were used for each specific time period. And
13 what they did was, once they established the correct
14 meters and exchanged them and put them in the proper
15 places, they took the meters and rebilled according
16 to the usage that was used on the meter -- on the
17 meters.

18 Q And is it your understanding that
19 Commonwealth Edison -- why does Commonwealth Edison
20 Company go back one year for the rebilling?

21 A Well, it's according to the Part 280 law
22 that we can only go back one year and bill the

1 customer.

2 Q And that's part of the Commission rules?

3 A Yes.

4 Q All right.

5 Let me show you what's been marked as
6 ComEd Exhibit 2.

7 (Whereupon, Respondent's Exhibit
8 No. 2 was marked for
9 identification.)

10 BY MR. GOLDSTEIN:

11 Q This is a group of bills.

12 Would you describe what is shown on
13 this group exhibit?

14 A These are bills that -- where they were
15 rebilled. They were canceled and rebilled for each
16 specific time based on the meter readings for the
17 specific meters. And so it's the current charges for
18 each specific billing period.

19 And they have -- the first month, they
20 have from 9-20-2010 to October 20, 2010. It
21 specifically demonstrates or displays the charges for
22 that specific time period. It displays the kilowatt

1 hours that were used for that specific time period.

2 Q All right.

3 Let's now look at ComEd Exhibit No. 3.

4 (Whereupon, Respondent's Exhibit
5 No. 3 was marked for
6 identification.)

7 BY MR. GOLDSTEIN:

8 Q Could you describe what is shown on that
9 exhibit, Ms. Kemp?

10 A This is the meter reading history. And,
11 basically, it gives you a from-and-to date of a
12 specific time that the meter -- that the reading was
13 taken for a specific meter.

14 It looks like here on 9-20 of 2010
15 that there was some type of service order issued, and
16 it looks like meters were exchanged. The bills for
17 the specific meters were canceled and rebilled.

18 Q All right. And it's now your
19 understanding, then, that the reason that the meters
20 were exchanged was that there was a mixed meter
21 situation with another unit in the vicinity of the
22 Beallis meter?

1 A Correct.

2 Q Residence, rather?

3 A Correct.

4 Q All right.

5 Now, you have had an opportunity to
6 review the billing that is shown on Exhibits 1 and 2
7 as well as the various meter readings.

8 By the way, with respect to ComEd
9 Exhibit 3, they were all regular readings of the
10 meter, were they not?

11 A Correct.

12 Q And do you have any information that would
13 tell you that there was any Commonwealth Edison
14 error with respect to -- whether there was a
15 Commonwealth Edison billing error with respect to the
16 mixed meter situation?

17 A No, there was no billing error.

18 Q Is it your opinion that Commonwealth Edison
19 Company properly rebilled the Beallis account based
20 upon the mixed meter situation?

21 A Yes.

22 MR. GOLDSTEIN: I have nothing else of the

1 witness, Judge.

2 I would move into evidence ComEd
3 Exhibits 1 through 3.

4 JUDGE RILEY: Thank you. I'll get to that in
5 just a second, but I want to ask Ms. Kemp a couple
6 questions of my own.

7 EXAMINATION

8 BY

9 JUDGE RILEY:

10 Q Going back to Exhibit 1, what on this
11 document indicated to you that there was a -- that
12 there was a mixed meter situation?

13 I thought you had testified to that.

14 A On 9 -- on September 1st, 2011 --

15 Q Okay.

16 A -- it says crossed meters. So that's an
17 indication to me that --

18 Q Okay.

19 I'm sorry. Go ahead.

20 A That was an indication to me that there's a
21 problem with the meters, that the meters were
22 crossed --

1 Q So it --

2 A -- or mixed.

3 Q -- specifically says crossed meter?

4 A Yes.

5 Q Does the same notation appear on ComEd

6 Exhibit 3?

7 It's just one page, isn't it?

8 A Yes.

9 On here it says on 9-20 of 2010,

10 exchanged meters, estimate exchanged (sic) meters --

11 Q Which is --

12 A -- which means that there was some physical

13 movement of the meters.

14 Q I see.

15 Estimated changed meter is

16 what -- what -- that they --

17 A They swapped.

18 Q They swapped --

19 A That they moved --

20 Q -- the meters from one address to the

21 other?

22 A -- were physically moved, yes.

1 Q And that corrected the mistake; is that --

2 A Yes.

3 Q -- your understanding?

4 MS. BEALLIS: Your Honor, I object.

5 JUDGE RILEY: Well, I'm sorry.

6 MS. BEALLIS: I'm sorry.

7 JUDGE RILEY: I have no further questions for

8 Ms. Kemp.

9 Did you have any questions, any
10 cross-examination for Ms. Kemp, first of all?

11 MS. BEALLIS: I do.

12 JUDGE RILEY: Please proceed at this time.

13 CROSS EXAMINATION

14 BY

15 MS. BEALLIS:

16 Q Ms. Kemp, on your Exhibit 1 --

17 2 -- Exhibit 1 --

18 A Exhibit 1. Okay.

19 Q -- the judge asked you how you knew this
20 was a crossed meter situation, and you reference
21 9-1-11, that it says crossed meter?

22 A Yes.

1 Q But then on Exhibit 3 it says 9-20-2010,
2 estimated change meter. That's a year apart.

3 Can you explain to me why?

4 A The reason being is, when they went to
5 cancel your bills or when they determined that there
6 was a crossed meter and exchanged, in order to
7 correct this on September 1st, they indicated where
8 they re- -- where they canceled your bills. They
9 credited your account for the bills for that specific
10 time frame from August 22nd, 2011, up to September
11 20th 2010. That's when the adjustments were made to
12 your account. And they credited all those bills that
13 were charged back at that time. And then they
14 rebilled starting from September the 1st of 2011 for
15 each specific month based on the readings for that
16 specific meter.

17 Q Are you personally involved in generating
18 my billing?

19 Do you have anything to do with the
20 billing, or you just analyze it once there is an
21 error made?

22 A I just analyze it once there is an error

1 made.

2 Q So you stated in your testimony that a new
3 meter was installed?

4 A Meters were exchanged, according to the
5 documents here.

6 Q Where was the new meter installed?

7 Do you have a date when that occurred?

8 A That it was -- that the meter exchange --
9 was exchanged?

10 Q And where was it?

11 Who got a new meter?

12 I'm trying to figure out how that was
13 facilitated.

14 A Okay. It looks like on September the 1st
15 the meters were -- actually, hold on a second. Wait
16 a minute.

17 It looks like on September the 1st the
18 meters were exchanged, 2011. It doesn't state on the
19 document that I'm looking at where the meter was
20 installed. And at this point, I can't assume where
21 the meters were installed. I can tell you what the
22 new meter numbers were, but I can't tell you exactly

1 what address they were installed based on these
2 documents.

3 Q And you, yourself, did not exchange the
4 meters?

5 A No.

6 MS. BEALLIS: I object to the relevance. It's
7 conclusionary.

8 JUDGE RILEY: Well --

9 MS. BEALLIS: She doesn't --

10 JUDGE RILEY: Well -- okay.

11 MS. BEALLIS: She wasn't involved in that at
12 all.

13 JUDGE RILEY: No, I understand. But we don't
14 have a -- we don't have a motion to admit the
15 documents yet.

16 MR. GOLDSTEIN: I believe I made it.

17 JUDGE RILEY: Oh, you did make the motion?

18 MR. GOLDSTEIN: Yeah, yeah.

19 MR. BEALLIS: Yes.

20 JUDGE RILEY: Well, do you have any further
21 cross-examination for Ms. Kemp?

22 MS. BEALLIS: I do.

1 BY MS. BEALLIS:

2 Q What does the -- does regular meter mean?

3 One of them said regular. Here on the
4 meter reading, sorry, Exhibit 3, you have forced
5 estimate, which I would assume nobody comes out to
6 read. Does regular company mean that someone from
7 ComEd --

8 A Someone --

9 Q -- came and physically read the meter?

10 A Physically, yes, read the meter.

11 Q So it looks like there's one, two, three,
12 four, five, six, seven, eight, nine, ten, almost a
13 dozen times just between May of '09 until you figured
14 out there was an error in September 2010 where
15 someone was physically on site reading these meters,
16 correct, according to your document?

17 A Can you repeat your question, please?

18 I'm not sure I understand --

19 Q Sure.

20 A -- what you are saying.

21 Q It looks like, according to your document,
22 there were almost a dozen times between May of 2009

1 and September of 2010 where a ComEd worker was on my
2 site and, apparently, at my neighbor's reading the
3 meter. There wasn't a forced estimate.

4 A Okay. It looks like that there was someone
5 there, yes, to read this, the meter for this specific
6 address.

7 Q And I do have a copy of training documents
8 from ComEd.

9 So they are very well trained on how
10 to read meters, correct?

11 A Yes.

12 Q So I guess my point is, if they are out
13 there a dozen times just in that short time period,
14 they didn't notice anything amiss, that these meters
15 were crossed let alone forward from 2009?

16 But this is all the information I have
17 at my fingertips.

18 A I can't adjust or comment on whether they
19 understood or didn't understand. The technician --
20 we have technicians that go out to read meters at the
21 addresses and enter those readings, those meter
22 readings into a computer.

1 MS. BEALLIS: Can I enter more evidence?
2 Even though there is another witness,
3 am I able to do that?
4 I don't know. I'm asking you.
5 JUDGE RILEY: Well --
6 MS. BEALLIS: Sorry.
7 JUDGE RILEY: -- it depends on --
8 MS. BEALLIS: It's from ComEd. It's what they
9 provided me. So it's nothing new for him. He gave
10 it to me. It is one of the pieces provided.
11 JUDGE RILEY: Mr. Goldstein?
12 MR. GOLDSTEIN: I have would have no objection.
13 It really has no relevance, so I don't care --
14 MS. BEALLIS: It's just a list of the training
15 that ComEd says that their people all undergo.
16 JUDGE RILEY: That was in response to one of
17 the data requests, wasn't it?
18 MS. BEALLIS: It was. It was. And one of the
19 things that it says, they all have to read 500 meters
20 without error before reading meter. And my point is,
21 if they have that extensive of training, one would
22 think they would have caught an error with over a

1 decade of reading my meter.

2 MR. GOLDSTEIN: Well --

3 MS. BEALLIS: -- personally.

4 JUDGE RILEY: This is argument.

5 MR. GOLDSTEIN: Judge, I guess the
6 counter-argument is that they are just reading the
7 meters, and that's all they are doing. They would
8 have no idea whether the meter was switched or not.

9 MR. BEALLIS: No.

10 JUDGE RILEY: In other words, there is no one
11 here that can testify to that document, so it would
12 just have to speak --

13 MR. GOLDSTEIN: Well, I mean --

14 JUDGE RILEY: -- for itself.

15 MR. GOLDSTEIN: -- I have no objection to it,
16 Judge. It's just not relevant to anything that's
17 before us.

18 BY MS. BEALLIS:

19 Q Can you tell me if you deal with a lot of
20 these switched meters issues?

21 Do they happen often?

22 A To my knowledge, they don't happen a lot,

1 but they do happen.

2 MS. BEALLIS: I have -- which, again, is a
3 ComEd document that -- they sent me a letter and said
4 these occur often yet, apparently, don't do anything
5 to keep them from occurring. It's from
6 Kita (phonetically) Dorsey, customer relations
7 analyst. She says this often occurs when these
8 buildings are being built.

9 Am I able to remit that?

10 JUDGE RILEY: Well, let me --

11 MS. BEALLIS: That just further --

12 MR. GOLDSTEIN: Well, I have no objection to
13 this being put into evidence, Judge.

14 I think it certainly speaks for itself
15 and explains exactly why there is no negligence on
16 the part of ComEd.

17 JUDGE RILEY: Well, we can mark this as
18 Complainant's Cross Exhibit 1.

19 (Whereupon, Complainant's Cross
20 Exhibit No. 1 was marked for
21 identification.)

22 MS. BEALLIS: Can you tell me, according to the

1 law, if this was--

2 JUDGE RILEY: And it's -- your motion is -- to
3 admit this into evidence --

4 MS. BEALLIS: Yes.

5 JUDGE RILEY: -- is granted.

6 All right.

7 MS. BEALLIS: Thank you.

8 (Whereupon, Complainant's Cross
9 Exhibit No. 1 was admitted into
10 evidence.)

11 BY MS. BEALLIS:

12 Q If this situation was a fraud situation
13 versus a missed billing -- mismatched billing
14 situation, could you tell me how that's handled?

15 Is it different? Fraud.

16 MR. GOLDSTEIN: I'm going to object as to
17 relevance.

18 MS. BEALLIS: I'm simply --

19 JUDGE RILEY: Where are you going with this?

20 MS. BEALLIS: Well, I'm wondering if it -- if
21 they do the same estimating if it's fraud or if it's
22 a more detailed accounting. Because, as I have said,

1 already more than once, I am --

2 JUDGE RILEY: Well --

3 MS. BEALLIS: -- have never even seen my actual
4 bills, and they tell me they are estimating this is
5 the usage difference.

6 MR. GOLDSTEIN: Judge, I have no objection to
7 Ms. Beallis asking questions that deal with what
8 would occur under a crossed or mixed meter situation.
9 But when we go into fraud and try to compare apples
10 to oranges, I don't think we are going get anywhere.

11 I do object to its relevance.

12 JUDGE RILEY: I don't understand what the fraud
13 introduction is about.

14 MS. BEALLIS: Well, as I have mentioned to you
15 previously, our usage is vastly different between
16 2001 to current. And my position is that I'm sure I
17 have overpaid ComEd for a decade. Conveniently, they
18 don't need to go back any more than 24 months to
19 review their records, which I think is great for
20 them. Clearly, I can't review my records because
21 they won't give them to me. But I believe, under ICC
22 rule, if it's fraud, they could go back to the

1 beginning the time somehow and find these records.

2 So I'm just wondering if the
3 compilation of the billing is done in a similar
4 manner.

5 MR. GOLDSTEIN: Judge, Ms. Beallis' colloquy
6 assumes that ComEd has those records, which is not
7 the case.

8 JUDGE RILEY: Well, all right.

9 MR. GOLDSTEIN: As your Honor knows, ComEd is
10 only required by the Commission to maintain records
11 for the two-year period that Ms. Beallis objects to.
12 Unfortunately, that is the case, and that is what the
13 situation is, and we are not going to --

14 JUDGE RILEY: Yeah, okay.

15 MR. GOLDSTEIN: We can't go back to 2001, as
16 she would prefer.

17 JUDGE RILEY: I'm not going to get into an --
18 allegations of fraud at this time. It wasn't part of
19 the original complaint and --

20 MS. BEALLIS: No. And I'm not -- I'm not --
21 I'm not alleging fraud, per se. I'm just wondering
22 why -- according to ICC law, I read it in the

1 Administrative Code, that if it was a fraud
2 situation, they could go back from the beginning of
3 time and bill me. So, in essence, they must have
4 access to records, just don't --

5 JUDGE RILEY: So what you're saying is --

6 MS. BEALLIS: -- want to provide them.

7 JUDGE RILEY: -- do these records exist if
8 there is an allegation --

9 MS. BEALLIS: Right.

10 JUDGE RILEY: -- of fraud.

11 MS. BEALLIS: Right.

12 JUDGE RILEY: Ms. Kemp, can you answer the
13 question?

14 THE WITNESS: They probably can.

15 BY MS. BEALLIS:

16 Q Okay. Is there any reason that you are
17 aware of that ComEd would not provide me with the
18 detailed billing versus just the summary as I
19 received --

20 A I'm not --

21 Q -- for the proper --

22 A I'm not sure why they -- they did not.

1 Q Okay. And so you are claiming that the
2 meter at 1914 Great Falls Drive was changed on
3 9-20-2010 to correct this situation?

4 A According to these documents, yes.

5 MS. BEALLIS: Okay.

6 I have no further questions.

7 JUDGE RILEY: Okay. Hold on.

8 FURTHER EXAMINATION

9 BY

10 JUDGE RILEY:

11 Q Ms. Kemp, as we sit here today, do we have
12 any idea how ComEd learned that a crossed meter
13 situation existed?

14 A I mean, I'm quite sure -- well, I would
15 just assume that they were contacted. I don't know
16 by who or what method. But, obviously, there was
17 a -- they were contacted, and a service order was
18 issued to go out and investigate.

19 Q So we know that somehow it was brought to
20 ComEd's attention?

21 A Yes.

22 JUDGE RILEY: All right.

1 And, Mr. Goldstein, did you have
2 anything to follow up with?

3 MR. GOLDSTEIN: I have no redirect, Judge.

4 JUDGE RILEY: All right.

5 Then we have the matter of your
6 Exhibits --

7 MR. GOLDSTEIN: Yes.

8 JUDGE RILEY: -- 1, 2 and 3.

9 Move for the admission into
10 evidence --

11 MR. GOLDSTEIN: Yes.

12 JUDGE RILEY: -- as -- yes, I knew that.

13 Is there any objection to all or any
14 of the ComEd's exhibits?

15 Ms. Beallis, you indicated earlier
16 you -- I thought there was a relevance problem
17 with --

18 MS. BEALLIS: Yeah --

19 JUDGE RILEY: -- with one of them?

20 MS. BEALLIS: -- I do object.

21 MR. GOLDSTEIN: To which?

22 JUDGE RILEY: Which one?

1 MS. BEALLIS: I object to Exhibit 1 and
2 Exhibit 3 because I don't believe the information
3 they are providing is accurate.

4 MR. GOLDSTEIN: Well --

5 JUDGE RILEY: Mr. Goldstein, a response?

6 MR. GOLDSTEIN: Well, yes.

7 ComEd Exhibits 1 and 3 are
8 Commonwealth Edison records that are kept in the
9 ordinary course of its business. They are business
10 records. And even if they were inaccurate, which
11 they are not, that would go to the weight of the
12 evidence rather than its admissibility.

13 But I do emphasize again that these
14 records are accurate. The bills that were generated
15 based upon what is contained in ComEd Exhibits 1 and
16 3 are fully reflected in the bills that Ms. Beallis
17 received, and so they are 100 percent accurate.

18 MS. BEALLIS: Your Honor, they are testifying
19 today that they changed my meter, which they have
20 never confirmed, prior to this time, that we had had
21 a changed meter out at all. And we requested, as
22 part of our discovery, any service records pertaining

1 to our home, which, again, we did not receive.

2 JUDGE RILEY: Okay.

3 Well, I can just -- all I can do is go
4 back to the testimony of Ms. Kemp that these records
5 are produced by ComEd, and they are kept in the usual
6 and ordinary course of business. They are relied
7 upon on a regular basis, on a daily basis to correct
8 and issue customer billing.

9 So I will -- over objection, and your
10 objection is noted, I will admit ComEd Exhibits 1, 2
11 and 3 into evidence.

12 (Whereupon, Respondent's
13 Exhibits No. 1, No. 2 and No. 3
14 were was admitted into
15 evidence.)

16 JUDGE RILEY: Is there anything further?

17 (No response.)

18 (Witness excused.)

19 MR. GOLDSTEIN: Do you have any other
20 witnesses, Mr. Goldstein?

21 MR. GOLDSTEIN: I have no other witnesses.

22 Judge, I guess the only open issue is

1 the briefing.

2 I would like the opportunity, and, I
3 guess, the joint opportunity with the Beallises, to
4 brief the issue of accord and satisfaction which was
5 raised in the testimony of Mr. Beallis.

6 And I would also like, as part of the
7 brief, to explain the smart meter program because
8 there seems to be some issue with the smart meter
9 program and how it's applicable or not applicable to
10 Ms. Beallis and her electric bill.

11 JUDGE RILEY: Well, it seems to me it's -- it
12 was an issue that was raised during the course of the
13 hearing, that suddenly --

14 MR. GOLDSTEIN: Yes, that's --

15 JUDGE RILEY: It started out as a crossed meter
16 situation, and then you injected testimony with
17 regard to being charged for a smart meter for a
18 period of time, whereas you hadn't been charged
19 before, and then you weren't charged subsequently.

20 MS. BEALLIS: Right, which was just to show
21 that ComEd should have noticed there was an issue.
22 We never had a smart meter at our actual home ever.

1 MR. GOLDSTEIN: There was never a smart meter.
2 And we would be happy to explain that away in brief,
3 Judge.

4 JUDGE RILEY: All right. But it's my
5 understanding, then, that what you -- the motion that
6 you made is for -- along the lines, again, of summary
7 judgment based upon the check that you submitted --

8 MS. BEALLIS: Um-hmm.

9 JUDGE RILEY: -- remitted to the chief
10 financial officer of Commonwealth Edison, and it's
11 your understanding that you submitted that check in
12 full accord and satisfaction of all debts
13 outstanding --

14 MS. BEALLIS: Correct.

15 JUDGE RILEY: -- including the resolution of
16 this matter; is that correct?

17 MS. BEALLIS: That is correct. That's why we
18 have continued to pay our bill in full as billed
19 going forward.

20 JUDGE RILEY: That's the usage that you have
21 been --

22 MS. BEALLIS: Right.

1 JUDGE RILEY: -- paying.

2 MS. BEALLIS: Correct.

3 JUDGE RILEY: And the outstanding amount right
4 now that you're --

5 MS. BEALLIS: It's actually less than what the
6 outstanding amount should be.

7 JUDGE RILEY: Well, what's the actual dollar
8 amount?

9 Was it 9 --

10 MS. BEALLIS: The correct dollar amount was
11 956.09.

12 JUDGE RILEY: 956.09 was the -- is the disputed
13 amount.

14 MS. BEALLIS: Plus fees and --

15 JUDGE RILEY: Right. I understand.

16 What kind of time frame do we need for
17 this, for the brief on this, on this accord and
18 satisfaction issue?

19 MR. GOLDSTEIN: Will the Beallises be also
20 filing a brief?

21 MR. BEALLIS: We can do oral.

22 MR. GOLDSTEIN: No. It's a written -- it's a

1 written brief.

2 MR. BEALLIS: We are ready to go oral if -- can
3 do oral.

4 JUDGE RILEY: Well, let's -- I think we are
5 talking two different things.

6 MR. GOLDSTEIN: This is an issue of case law --

7 JUDGE RILEY: Right.

8 MR. BEALLIS: Um-hmm.

9 MR. GOLDSTEIN: -- Mr. Beallis.

10 MR. BEALLIS: Um-hmm.

11 MR. GOLDSTEIN: Not some definition somewhere.

12 JUDGE RILEY: And before I can make a ruling on
13 a motion to dismiss this matter, I'd have to -- I'd
14 have to -- I would have to be briefed on it.

15 MR. GOLDSTEIN: And as I said, Judge, we'd also
16 like to put in the brief the smart meter program and
17 what it was about and --

18 JUDGE RILEY: Well --

19 MR. GOLDSTEIN: -- how it is applicable or
20 inapplicable to the --

21 MS. BEALLIS: I object. There's nobody --

22 MR. GOLDSTEIN: -- Beallises.

1 MS. BEALLIS: -- here to testify to anything
2 for the smart meter program.

3 MR. GOLDSTEIN: Well, because you raised it --

4 JUDGE RILEY: But --

5 MR. GOLDSTEIN: -- during the course of this
6 hearing, Ms. Beallis, as opposed to putting it in
7 your complaint.

8 MS. BEALLIS: That's because we weren't aware
9 of it, and it's because I had to do my own research
10 to figure out what was going on with my account
11 because ComEd refuses to provide me with anything.

12 JUDGE RILEY: Well, what I want to do is get
13 back to the briefing schedule.

14 Mr. Goldstein, if you -- I'll give you
15 permission if --

16 MR. GOLDSTEIN: 28 days, Judge, to file a
17 brief.

18 JUDGE RILEY: And are the -- is the complainant
19 going to file a brief as well with regard to the
20 issue of accord and satisfaction in support of the
21 motion --

22 MS. BEALLIS: Yes.

1 JUDGE RILEY: -- that you made?

2 All right, then.

3 28 days would take us to what's --

4 MR. GOLDSTEIN: Are they going to file the
5 initial brief, or are we going to file, or how are we
6 going to do this, Judge? Joint briefs? How are we
7 going to do this?

8 JUDGE RILEY: I would just as soon have joint
9 briefs because, otherwise, we are really dragging
10 this thing out.

11 MS. BEALLIS: It's already dragged out.

12 JUDGE RILEY: The other matter is closing
13 briefs.

14 MR. GOLDSTEIN: That would all be the same
15 thing. I don't think we need a closing brief.

16 JUDGE RILEY: We don't need a separate briefing
17 schedule?

18 MR. GOLDSTEIN: I don't think so, Judge.

19 JUDGE RILEY: May 22 is 28 days from now.

20 MR. GOLDSTEIN: And what about -- then reply
21 briefs another 14 days after that?

22 JUDGE RILEY: Is that sufficient?

1 MR. BEALLIS: No.

2 MS. BEALLIS: No.

3 MR. GOLDSTEIN: You need more time than that?

4 MR. BEALLIS: Less.

5 MS. BEALLIS: No, less.

6 This has been drug out. Since August

7 I have been dealing with ComEd.

8 MR. GOLDSTEIN: Seven days after that?

9 Whatever you want.

10 MS. BEALLIS: When can I get a ruling?

11 How fast can we --

12 JUDGE RILEY: That's -- that's -- see --

13 MS. BEALLIS: I mean, it's been drug out.

14 JUDGE RILEY: -- I can't -- I can't -- I can't

15 hamstring myself --

16 MS. BEALLIS: No, I understand.

17 JUDGE RILEY: -- with a deadline if I haven't

18 seen the brief. That's the whole thing. I've got to

19 take my time to read and digest those.

20 I'll move as expeditiously on it as I

21 possibly can. That's all I can promise.

22 Well --

1 MS. BEALLIS: Can we move up the briefs to be
2 within 14 days?

3 JUDGE RILEY: 28 days.

4 MS. BEALLIS: 14?

5 MR. BEALLIS: 14.

6 JUDGE RILEY: You want to cut the time in half.
7 I don't think Mr. Goldstein can do that.

8 MR. GOLDSTEIN: I don't want to do that. I
9 have too much to do. 28 and 14 is usually the time
10 period for briefing, Judge.

11 I think you ought to also explain to
12 the Beallises that your decision is not final.

13 JUDGE RILEY: No, I was going to get to that.

14 MR. BEALLIS: We realize that.

15 JUDGE RILEY: Okay. Can we make it 21 and 7?

16 MR. GOLDSTEIN: Huh?

17 JUDGE RILEY: Can we make it 21 and 7?

18 MR. GOLDSTEIN: I prefer 28, Judge.

19 JUDGE RILEY: 28 and 7?

20 MR. GOLDSTEIN: Sure.

21 MR. BEALLIS: 21 and 7?

22 JUDGE RILEY: No, 28.

1 MR. BEALLIS: Oh, 28?

2 JUDGE RILEY: So we are back to May 22 and then
3 May 29.

4 And this would include any closing
5 arguments you have also.

6 And the procedure, as Mr. Goldstein
7 stated, is that, for the ultimate dismissal of the
8 case, if it comes to that, on your motion, that would
9 have to be submitted to the Commissioners. I cannot
10 make that decision myself. I can deny the motion. I
11 can't grant it. So...

12 But I will have to read the briefs
13 first to be able to make a decision under any
14 circumstances, and I can't -- I can't tell you how
15 long that would take. But I will, again, reiterate
16 that I'll move as expeditiously as possible.

17 Anything further?

18 MR. GOLDSTEIN: Nothing else.

19 MR. BEALLIS: So the following briefs are due
20 June 5th?

21 JUDGE RILEY: No, May 22.

22 MS. BEALLIS: May 22nd.

1 JUDGE RILEY: May 22nd. And then seven days --

2 MR. BEALLIS: Seven days.

3 JUDGE RILEY: -- would be May 29th.

4 MR. BEALLIS: May 29th. Okay. Anything --

5 MR. GOLDSTEIN: You know that one of those days

6 is Memorial Day?

7 MR. BEALLIS: No. That's Tuesday.

8 MS. BEALLIS: Would be the 29th, then.

9 MR. BEALLIS: Memorial Day would be May 28th.

10 MR. GOLDSTEIN: One of the days of the seven is

11 Memorial Day.

12 MR. BEALLIS: Oh. Well, I'm okay with that.

13 JUDGE RILEY: Is that -- is that --

14 MR. BEALLIS: That's fine.

15 JUDGE RILEY: That's not a problem?

16 MR. BEALLIS: Yeah, fine.

17 JUDGE RILEY: No problem?

18 All right. Then we will just work

19 around Memorial Day.

20 If there is nothing further, then?

21 (No response.)

22 JUDGE RILEY: I will just note that,

1 Mr. Goldstein, I was fully aware that you were
2 entitled to cross-examination -- to cross-examine
3 Mr. Beallis. It just was an oversight on my part.

4 The parties have no further witnesses
5 or documentation?

6 (No response.)

7 JUDGE RILEY: All exhibits have been disposed
8 of.

9 All motions have been disposed of with
10 regard to the exhibits.

11 Last chance. Anything?

12 (No response.)

13 JUDGE RILEY: Then I'll direct the court
14 reporter to mark this matter heard and taken.

15 And I will await the submission of the
16 briefs with regard to the accord and satisfaction
17 issue and closing arguments.

18 Thank you very much.

19 MR. BEALLIS: Yeah.

20 MS. BEALLIS: Thank you.

21 HEARD AND TAKEN

22