

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

LYDIA MAHR,)
 Complainant)
)
)
 vs.)
)
AMEREN ILLINOIS COMPANY)
 d/b/a Ameren Illinois)
)
 Respondent,)
)
 Complaint as to billing/charges)
 in Springfield, Illinois)

Docket No. 12-0102

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ILLINOIS COMMERCE
COMMISSION

COMPLAINT INITIAL BRIEF: LYDIA MAHR

NOW COMES Complainant, Lydia Mahr, at 3029 E. Linden Ave., Springfield, IL 62702, and as to the Initial Brief that states as follows:

1. This is a contract dispute between an Utility Providers and its customer (Lydia Mahr). Ameren Illinois is providing a service contract with products of light and gas as specific products of its company. The legal issue that centers around this dispute is can a Utility Company adding addition products to a customer contract (Lydia Mahr) without a customer knowledge and bill the customer for a service product that was requested by a previous customer.(Ms. Ida Kopp).
2. Can Ameren Illinois disregard full disclosure laws of products sold as a service products to a customer and not reveal full product Information disclosures to a residential customer (Lydia Mahr) at the initial enrollment of the service contract agreement?
3. All products and services by law have disclosure requirements as follows:
All written, electronic, and oral communications, including advertising, websites, direct

marketing materials, billing statements, utility provider shall be clear and not misleading, fraudulent, unfair, or deceptive.

4. At the initial enrollment of the contract agreement with Ms. Lydia Mahr, Complainant, Ameren Illinois failed to give full product disclosure to the customer (Lydia Mahr) at the enrollment date of May 19, 2008.

5. Ameren Illinois customer service representative negligently added a third product, "Night Lighting service" and falsely implied that this separate product to be synonymous to light and gas describing it as "Electric lighting" or otherwise leading the customer (Lydia Mahr) to believe that this product "Electric lighting" was part of normal service of light and gas.

6. Not at any point of the introduction of the products and services offered by Ameren Illinois' customer service representative did the CSR explain explicitly the "Night light service and the differences between "Electric lighting service and Electric service".

Legal Issues

7. Can products not authorized in a contract agreement be added to a customer utilities service agreement?

8. Is there a Duty to warn Customer by utilities company customer service representative at the initial enrollment?

9. Is it a breach of contract to add unrequested services to customer's contract agreement?

10. Are contract breaches made when willful indifference of rights of customers made by customer service representatives?

11. What is a CSR duty to use reasonable care to offer correct service?

12. Is there a violation of Intentional misrepresentation of CSR Supervisor?

Statement of the Facts

13. Lydia Mahr has been a resident of 3029 E. Linden Ave., Springfield, IL 62702 since May of 2008.

Ameren Illinois, Respondent, provided utility service to the resident of 3029 E. Linden Ave. Springfield, IL May 19, 2008.

14. On May of 2008, Lydia Mahr, requested light and gas utility services at the above resident. Upon requesting for utility service, the Customer Service Representative of Ameren Illinois indicated that she would be billed for the residential utility services of the above address.

15. After two years of service it was explained to her that her billing statement included a service that She did not request.

16. She called Ameren Illinois customer service department to inquire why she was being billed for services she did not request.

17. Ameren Illinois customer service representative acknowledged that the night light service was requested a few years before I purchased the home by the previous owner, Ms. Ida C. Kopp.

18. Ms. Ida Kopp, 86 years old, requested the services in 1992 for the resident of 3029 E. Linden Ave., Springfield, IL.

19. Lydia Mahr purchased the property May 19, 2008.

20. She was totally unaware of this service and she was not interested in this service, therefore, she inquired about a reimbursement or credit for charges related to the night lighting service.

21. Ameren Illinois account representative explained how difficult it would be to get a reimbursement and removal of this unrequested service. It would take several months of continuously addressing

this issue before she decided to write to Mr. Pate, Senior Vice President of Ameren Illinois.

22. After discussing the problem with one of Ameren's executive secretary, she indicated that Ms. Mahr could Email the document to her and she would see that it got to Mr. Pate.

23. This is when Ms. Mahr was introduced to Ms. Chelsea Nichols, Ameren Illinois customer account supervisor.

24. Ms. Nichols stated that the letter sent to Mr. Pate was referred to her, and she would assist Ms. Mahr in resolving the problem. Ms. Mahr's fiancé, Nathaniel Orr assisted her in working endlessly to no end to resolve this matter, only to be deceived into believing that the billing error would be reimbursed.

25. The letter e-mailed to Mr. Pate was dated November 7, 2011. So, it was a week or later that Ms. Nichols and Ms. Mahr corresponded with each other. Starting on November 15, 2011 documents and e-mails were sent to Ms. Nichols for evaluations and resolution discussions.

26. In the early stages of Ms. Nichol's discussions, she offered to reimburse \$400.00 not suspend that amount. However, Ms. Mahr felt that the amount was higher than the \$400.00 offer.

27. Both Ms. Mahr and Ms. Nichols agreed on Ms. Nichols researching into the records more thoroughly to see if there were something she had missed. It was, only until later, that Ms. Mahr realized that Ms. Nichols had no intentions on resolving or reimbursing her for billing errors that had occurred over the past two years.

28. Ms. Nichols knew that the previous owner, Ms. Ida Kopp, had requested the "night light service" Years before Ms. Mahr had purchased the property (1992). Ms. Nichols was aware of the fact that Services could not be transferred from one customer to another customer without their knowledge.

29. Ms. Nichols was, also, aware of how residential customers would request for utility service at the initial request application period of signing up for a specific residential location.

30. In her 13 years work experience with Ameren, she had to be trained on procedures of signing up a new customer or transferring a current customer's services from one location to the next property location.

31. In Exhibit "A", is Ameren Illinois' Customer Service Center enrollment application procedures for new customers or existing customers transferring services to another location. This is illustrated on Ameren Illinois website.

32. Therefore, as a trained supervisor, Ms. Nichols was fully aware of the new customer application enrollment procedures.

33. Ms. Mahr sent a letter on December 1, 2011(Exhibit "B") and December 21, 2011(Exhibit "C") explaining in details all of the essential areas of concern. Nevertheless, it seems as if Ms. Nichols was totally unconcerned with this substantial factual information and had no intentions on correcting the billing error.

34. In Ms. Nichols "Direct Testimony", she attached as Exhibit 1.1 a copy of Ms. Mahr (Complainant's) bill as an example of how billing statements are read and analyzed. However, Ms. Nichols did not indicate that this illustration was a recently new billing format generated over the past year or so.

35. A previous bill with a different format was attached of one of Ameren's past billing statements (Exhibit "D") illustrating how the negligence billing of unwanted services or unrequested services would exist for months, if not years before it was corrected. In all honesty and fairness, Ms. Nichols should have had two billing statements illustrations.

36. Ms. Chelsea Nichols is an Account Customer Supervisor with 13 years of experience and training in situations such as the one I have presented.

37. Ms. Nichols knew without a reasonable doubt that Ms. Ida Kopp had requested the "Night Light Service" years before the property was purchased by a new owner.

38. Every account representative repeated the statement of not being authorized to reverse the billing

error. Yet, not one was candid enough to give me a contact person to resolve the matter amicably.

39. It was only after sending a letter to the Vice President of Ameren Illinois that she could get any results at all, and it was very difficult to get any correspondence to higher management.

40. On May 19, 2008, Lydia Mahr, entered into a contract with Respondent, Ameren Illinois, in which Ameren Illinois agreed to provide utility service for the property located at 3029 E. Linden Ave., Springfield, IL 62702.

41. This verbal contract agreement was for gas and electric services to the home of the above resident, and not any other service not requested.

42. Under the terms of the contract agreement, Ameren is required to provide Lydia Mahr with utility services requested at the date and time specified by her, the customer.

43. Ameren customer service representative negligently added unrequested services to Ms. Mahr contract agreement without her knowledge.

44. Ameren customer representatives knew or reasonably should have known that such representations of unrequested services was false and misleading or made the same without knowledge as to the truth or falseity, and intended and knew or should have known that plaintiff, Lydia Mahr, would rely upon these representations and warranties from Ameren's Terms and Conditions.

45. Ameren's customer service representatives had a duty to use ordinary and reasonable care to offer the correct utility service to Ms. Mahr, the customer, and yet they failed to use ordinary reasonable care and were negligent in adding unrequested utility services.

46. Ms. Chelsea Nichols intentional misrepresentation and misleading facts of the negligence of the customer service added to the violation of 83 IL Admins. Code Sect. 280.75.

47. This was a breach of Ameren's customer agreement contract.

48. Ms. Chelsea Nichols had a continuing Duty to Warn Ms. Mahr, the customer. Without a doubt, Ms. Nichols had knowledge of the billing error, and, yet, did not create a continuing duty to acknowledge to

Ms. Mahr, the plaintiff of the billing error.

49. This showing of intentional misrepresentation shows, by clear and convincing evidence, that members of the Respondent's management team acted with willful indifference to the rights of Lydia Mahr, the customer.

Argument

Issue

50. This dispute is about a contract agreement with Ms. Lydia Mahr and Ameren Illinois Utility Company for the service of electric and gas at 3029 East Linden Ave., Springfield, IL 62702 was completed on May 19, 2008.

51. Ms. Mahr entered into a binding agreement with Ameren Illinois for the supply of electric and gas utility services at a fixed price.

52. Ms. Mahr's agreement with Ameren Illinois Customer Terms and Conditions Application for Service stated the following:

Any Person, developer, firm, organization, association, corporation or other entity whose Premises are within the Company's service territory may request service, subject to all applicable rules and regulations, by making application through the Company's Customer contact center or through www.ameren.com.

53. In Ameren terms and conditions it stated: "No employee or agent of the Company has the power to amend, modify, alter, or waive the rules and regulations contained herein, or to bind the Company by making any promises or representations not authorized in this Schedule."

54. Ms. Mahr's utility light and gas contract agreement was modified by Ameren Illinois Customer Service Representative by adding a Night lighting service (also called Electric lighting) that was not a standard service offered by Ameren Illinois. UTILITIES (220 ILCS 5/) Public Utilities Act.

55. In the transcript of the initial enrollment date, May 19, 2008, submitted by Ameren Illinois, Ameren's CSR concluded the initial enrollment conversation of Ms. Mahr by stating that she would receive light and gas on the 23rd of May, 2008.

Issue

56. What are the requirements of Utility Providers to provide product information disclosure to residential customers an initial enrollment of a service? Ameren's Customer Service Representative failed to explain explicitly every product that was a part of the account at the 3029 E. Linden Ave. location. A previous service request (Night lighting service) was submitted, signed, and approved by the previous owner, Ms. Ida Kopp. (Exhibit D in Rebuttal Testimony.)

57. During the initial enrollment of Ms. Mahr's account at 3029 E. Linden Ave., Ameren's Customer Service Representative had an obligation to explain to Ms. Mahr all three services that were billed at that location.

58. "Night lighting service (electric lighting service) is a separate product, and should have been disclosed at the initial enrollment date (May 19, 2008). Through negligence, the Customer Service Representative failed to acknowledge the difference between the meaning of electric lighting service and light service."

59. Through negligence, the Customer Service Representative falsely suggested, implied, or otherwise misleads Ms. Mahr, the customer, into believing that the Night lighting service was part of the standard services of light and gas offered at Ameren Illinois, as recorded in the telephone

60. Initial enrollment conversation on May 19, 2008 (Ameren's Transcription submitted on August 8, 2012 evidentiary hearing)

Issue

61. Unauthorized billing in the case of *Gowdey v. Commonwealth* is one example of how a utility

company like Ameren requested services of Ms. Mahr's and Illinois Public Utility Act violation:

GOWDEY v. COMMONWEALTH EDISON CO. 37 Ill. App.3d 140 (1976) 345 N.E.2d 785

In plaintiffs' complaint it was alleged that Edison

- 1 Unlawfully used a "negative option" by which the bulb service was included in a
- 2 customer's bill unless it was otherwise specifically requested;
3. Failed to disclose in its bills to residential customers that a charge for a light bulb service was included or that the service was optional;
4. deceived its customers through the use of information, materials and rate cards which were phrased in a manner intended or likely to lead customers to believe the service was free and not optional; and
5. through its marketing scheme, wrongfully charged plaintiffs for the bulb service even though they had never agreed to the purchase or to be charged therefor.

Plaintiffs sought extensive injunctive relief as well as a repayment to plaintiffs of all the alleged wrongful charges.

In plaintiffs' complaint it was alleged that Edison

- (1) unlawfully used a "negative option" by which the bulb service was included in a customer's bill unless it was otherwise specifically requested;
- (2) failed to disclose in its bills to residential customers that a charge for a light bulb service was included or that the service was optional;
- (3) deceived its customers through the use of information, materials and rate cards which were phrased in a manner intended or likely to lead customers to believe the service was free and not optional; and
- (4) through its marketing scheme, wrongfully charged plaintiffs for the bulb service even though they had never agreed to the purchase or to be charged therefor. Plaintiffs sought extensive injunctive relief as well as a repayment to plaintiffs of all the alleged wrongful charges.

Issue

62. Ms. Chelsea Nichols purposely concealment of information about the previous Night Light service agreement negligence by Ameren's CSR, and the Night light service request form signed

and submitted by Ms. Ida Kopp are both blandent examples of negligence of Ameren's management staff. (Testimony in the Evidentiary Hearing.)

63. Are Utilities Companies required to refund or credit customers for incorrect billing under 83 IL Administrative Code Section 280.75?

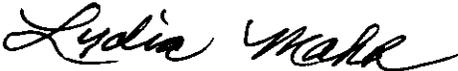
The Illinois Public Utility Act or 83 IL. Administrative Code Section 280.75 states as follows;

In the event that a customer pays a bill as submitted by a public utility and the billing is later found to be incorrect due to an error either in charging more than the published rate, in measuring the quantity or volume of service provided, or in charging for the incorrect class of service, the utility shall refund the overcharge with interest from the date of overpayment by the customer.

CONCLUSION

For the foregoing reasons, Lydia Mahr respectfully requests that the Court rule in favor of the Complainant.

Date: September 19, 2012


Lydia Mahr

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PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing instrument was served upon:

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via electronic transmission on this 19th day of September, 2012.


/s/

Lydia Mahr 3029 E. Linden Ave., Springeld, IL 62702