

Andrea Begner, at 4-5. The last payment received by Ameren Illinois from Complainant for service at his residence was on July 18, 2011. *Id.* No payment has been received by Ameren Illinois from Complainant for any electric or natural gas services used by him after June 23, 2011, and such amounts currently total \$2,262.26 (which includes the Disputed Amount). *Id.* Complainant's only apparent dispute is Ameren Illinois' legal ability to assess late payment interest charges on his past due electric and gas account. R. at pp. 84-85.

II. Legal Standard

Under the Illinois Public Utilities Act, Complainant bears the burden of proving the allegations in his Formal Complaint. 220 ILCS § 5/9-244(d). The rules of evidence which apply in civil cases before the circuit courts of the State of Illinois apply to proceedings before the Illinois Commerce Commission ("Commission"). 83 ILL. ADM. CODE § 200.610. Therefore, standard Illinois rules of evidence regarding the burden of proof apply. The term "burden of proof" encompasses both the burden of persuasion and the burden of producing evidence. *Consolidated Communication Consultant Serv., Inc. v. Illinois Bell Tel. Co.*, Docket 99-0429, 2001 WL 34676516 (Ill. C.C. June 14, 2001). The burden of persuasion pertains to the ultimate burden of persuading the tribunal that the necessary elements of a claim have been proven. *Id.*

Complainant must make out a *prima facie* case in support of all allegations in his Formal Complaint. Complainant can only establish a *prima facie* case by proffering at least "some evidence on every element essential to [the plaintiff's underlying] cause of action." *People ex rel. Sherman v. Cryns*, 203 Ill. 2d 264, 275, 786 N.E.2d 139, 148 (2003). If Complainant has failed to meet this burden, the Commission should enter judgment in the Respondent's favor. *Id.* "Complainant bears the burden of proof in a complaint case, and in substantiating its allegations the complainant must prove its case by a preponderance of the evidence." *PlastoFilm*

Industries, Inc. v. Commonwealth Edison Company, Docket 94-0119, 1999 WL 33915076 (Ill. C.C July 8, 1999).

III. Argument

Complainant has presented no evidence indicating that the principal and late payment interest amounts claimed by Ameren Illinois to be due and owing are inaccurate, or otherwise not properly due and owing. Further, Complainant has admitted that he did maintain electric and natural gas services at his premises at all times. R. at pp. 91-92.

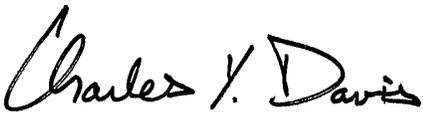
Complainant's only argument is that Ameren Illinois should not be able to assess late payment interest charges against him for the amounts he owes to Ameren Illinois, including the late payment interest charges included in the Disputed Amount. The Administrative Code provides that "if a utility elects to assess a late payment charge and files a tariff in accordance with the rules set forth herein, such charge shall be set at an amount equal to 1½% per month on any amount, including amounts previously past due, for utility service which is considered past due under this section." 83 ILL. ADMIN. CODE § 280.90(d). Furthermore, per Ameren Illinois' electric and gas tariffs applicable from November 19, 2010 to present, and approved by the Commission with an effective date of November 10, 2010: "In the event payment is not received by the last date for payment...a late payment charge equal to 1½% per month will be assessed on any amount considered past due...." See Ameren Illinois Company Electric Service Schedule III. C.C. No. 1 attached hereto as Exhibit A, and Ameren Illinois Company Gas Service Schedule III. C.C. No. 2 attached hereto as Exhibit B.

All principal and late payment charges owed by Complainant are clearly detailed in Ameren Illinois Exhibit 1.1. Complainant has presented no evidence that Ameren Illinois has not complied with the Administrative Code, its tariffs, or that any of its principal or late payment

charges are inaccurate or improperly charged. As such, Complainant has not made a *prima facie* case and has failed to meet his burden in this matter. Therefore, Complainant's Formal Complaint should be denied and dismissed.

WHEREFORE, Respondent, AMEREN ILLINOIS COMPANY d/b/a Ameren Illinois, hereby respectfully requests that the Commission enter an Order denying and dismissing Complainant's Formal Complaint with prejudice, and for such other and further relief as the Commission deems just and proper.

**AMEREN ILLINOIS COMPANY d/b/a
Ameren Illinois, Respondent**

By: 
One of Its Attorneys

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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 26th day of March, 2013, or by enclosing the same in an envelope addressed to such party at the above address, with postage fully prepaid, and by depositing said envelope in a U.S. Post Office mailbox in Springfield, Illinois, at 5:00 p.m. on this 26th day of March, 2013.

