

2013 APR 19 A 11:17

Qi Ji Liu,)

vs)

Commonwealth Edison Company)

Complaint as to billing/charges in Chicago)

CHIEF CLERK'S OFFICE

No: 12-0374

Hon. Heather Jorgenson

COMPLAINANT'S MOTION TO STRIKE RESPONDENT'S FILING

DATED APRIL 12, 2013

Complainant, Qi Ji Liu, hereby respectfully submits his Motion to Strike Respondent's Filing Dated April 12, 2013 and states as follows:

It is a matter of law Respondent has always been at default

1. A Formal Complaint was filed on June 4, 2012. As of August 28, 2012, Illinois Commonwealth Company ("ComEd", or "Respondent") fails to file answer, or otherwise respond, At August 28, 2012, hearing, Respondent's attorney Mr. Mark L. Goldstein ("Mr. Goldstein") deceptively argued that ComEd would file a motion to dismiss based on two-year "Statute of Limitation" which was in the scope of Section 619 because he knew Respondent was already at default and a permission for filing a Section 615 motion might not be granted.
2. On March 12, 2013, the Commission issued a ruling and denied Respondent's Motion to Dismiss. ComEd cannot and did not challenge this ruling because the Respondent and its lawyer Mr. Goldstein knew they had no legal and factual

ground whatsoever to do that. And again, Respond did not file an Answer to the Complaint even as of this day.

3. 83 Ill. Admin. Code ("Code") 200.180 (a), states in part, "[a]nswers to the formal complaints shall be filed with the Commission **within 21 days** *** any respondent does not file an answer when no filing requirement exists, issue as to the respondent will be consider joined." (Emphasis added). As such, ComEd remained at default on all counts listed in the Formal Complaint.

**It is a matter of law Complainant's all factual statements in his pleadings
and testimony must be taken as true**

4. As already stated at ¶ 6 in Complainant's Opposition to a Motion to Dismiss, It is well established, in Illinois and in all other jurisdictions, when a motion to dismiss is evaluated, as long as a party fails to file an Answer, all charges and factual allegation in a complaint must be taken as true and all factual inferences must be drawn in Complainant's favor. See e. g. Urbaitis v. Commonwealth Edison, 143 Ill. 2d 458, 575 N.E. 2d 548 (1991).
5. At the August 28 2012, hearing, Mr. Goldstein promised Respondent would respond to any discovery request; further, at page 2 of its Reply filed on November 5, 2012, Respondent wrote "ComEd will respond to any and all discovery request it receives." On or about November 9, 2012, Complainant filed a Motion for Leave to Conduct Discovery. And the Proposed Request for Admissions, Proposed Interrogatories, Proposed Request for Production as well as the Instruction and Definition for discovery were incorporated therein as

Attachment A. But, as of this day, for five months, Respondent Commonwealth Edison Company has not responded Complainant's Requests for Admission of Facts and any other discovery requests, which were served by mail on November 6, 2012.

6. As already stated, Illinois Supreme Court Rule 216 is clear about the effect of failing to respond to a request for admission within 28 days. The rule provides that "each of the matters of fact *** of which admission is required is admitted unless, **within 28 days thereof**, the party to whom the request is directed denies the matters of which admission is required or objects the matter on the ground that some or all of the requested admissions are privileged or irrelevant or that the request is otherwise improper in whole or in part." (Emphasis added).
7. In P.R.S. International Inc. v Shred Pax Corporation, 184 Ill. 2d 224, 703 N. E. 2d 71, 234, 237 (1998), The Illinois Supreme Court resolved conflicting decisions in the appellate courts on whether a failure to respond to a Rule 216 request results in a judicial admission even where the request admission relates to "ultimate facts." As such, all Requests for Admissions of facts should be deemed as admitted.
8. At and before the hearing on April 10, 2013, Respondent did not present any evidence, nor did it call any witness to testify. Although Respondent's attorney Mr. Goldstein tried hard to provide deliberate false statements in law and in material facts, it is a matter of law, he could not act as a witness. As such, all Complainant's testimony at hearings must be taken as true.

**Respondent's instant filing is a new and another fabrication after the April
10, 2013, hearing**

9. In the subject filing Respondent and Mr. Goldstein failed to quote what Hon. Jorgenson exactly said at the hearing. On the record, before and at the status hearing on April 10, 2013, Respondent and Mr. Goldstein had never filed a "Complainant's ComEd's Account Activity Statement" dated April 12, 2013, or presented any "Activity Statement" to the Commission, nor had they served such a thing to Complainant. The reason is Respondent and Mr. Goldstein knew very well this kind of documents were not routine business record, they were all fabrications of their own for deceptive purpose.
10. In the document, dated April 12, 2013, and filed with Chief Clark of Commission, Mr. Goldstein asserted that on or before April 10, 2013 the presiding Administrative Judge knew there existed a purported document dated April 11, 2013, one day even before it was created, or suggested the Honorable Judge knew the content of any such fabricated "Activity Statement," which Mr. Goldstein had never submitted to her during the hearing. This is a wild and ridiculous statement; and it is an insult to everyone, including not only Complainant, but also the Commission, especially the Honorable Judge. Here again, Mr. Goldstein is trying to prolong or derail the process, wasting the Commission's resources, while making his personal gain at the cost of Complainant and everyone including the Honorable Judge and all taxpayers in Illinois.
11. On the face of the filing, it shows the fraudulent document was created on April

11, 2013, after the April 10, 2013 hearing. It was not and could not be an authentic routine ComEd business record at all. Beyond any dispute, the subject filing is specially designed and fabricated for the purpose to recycle Respondent's wonton or deceptive arguments in its untimely-filed Motion to Dismiss, which was already rejected by the Commission.

12. The so-called Activity Statement shows the account number as 90751-13100.

As ComEd and Mr. Goldstein know very well, Complainant repeatedly pointed out the subject account was created and maintained illegally for double-billing and overcharging.

13. Respondent argued this account number was assigned to Complainant because a new tenant moved into the "property" on September 10, 2010. ComEd and Mr. Goldstein knew very well from the start this is a fraudulent statement.

14. The specific argument from ComEd and Mr. Goldstein is ridiculous as well even if there were such a "new tenant." Anyone, let alone a judge, may ask a simple question: a new tenant move into Willis Tower or into Chicago area, could ComEd and its lawyer create additional account numbers for all other tenants in the same "property" or area? By doing so, they can create huge chaos and confusion or make great amount of extra illegal profit by double-billing all the other customers.

15. ComEd and Mr. Goldstein knew very well: the present dispute started in October of 2010. The so-called Activity Statement purposely dated back only to 04/27//11, it further shows the subject document is a fabrication, it cannot be a ComEd's

business routine record. Anyone may ask what happened before 04/27/11.

Again, ComEd and Mr. Goldstein knew very well, ComEd's double-billing and overcharging were caught from time to time and it was forced to make multiple corrections in the total amount of about \$300 before 04/27/11 at Complainant's repeated request. It is absurd when Mr. Goldstein suggested and invented a two-year "Statute of Limitation." But even applying his own standard, the "Account Activity" should start from April of 2010, not April of 2011. ComEd could not be allowed to mislead the Commission and conceal or withhold the real evidence at hand.

16. In column titled as "CREDIT AMOUNT" in the instant Respondent's filing, ComEd and Mr. Goldstein knew very well Respondent created and maintained three active accounts for Complainant in order to create confusion, double bill and over charge a consumer, and they were intentionally covering up all Respondent's wrongdoings. The truth is Respondent was caught again and again, even before 04/27/11. Each time when Respondent was caught, it was forced to make occasional corrections, but ComEd would do the same thing again and again. The "CREDIT AMOUNT" shows ComEd has always been illegally accepting and transferring payments from one account number to another. Respondent's instant filing is a further proof when and how ComEd violated Illinois Consumer Fraud Act for years. And without intervention from the Commission ComEd will do it in the future to Complainant and to other consumers.

17. In the last line of the "Activity Statement", under the term of "transfer," \$51.63

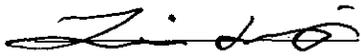
was listed, ComEd and Mr. Goldstein failed to show where the fraudulent dollar amount came from; and the illegal "Transfer" is from where to where even after April 10, 2013, hearing; and how this can be done when they claimed some accounts had been "closed." This further proves ComEd will repeat its deceptive practice in double-billing and overcharging Complainant in the future bills if there is no intervention from the Commission.

18. Beyond any doubt, ComEd and Mr. Goldstein know very well what the amounts of payments are from each of the three account numbers and what the sum of the total amount is. They can submit official business record and provide the dollar figures in several minutes. But they choose to conceal all these material evidence in order to deprive Complainant's fundamental rights; prolong or derail the process simply for corporative illegal profit and personal gains, at the cost of Complainant and all Illinois tax payers.
19. It is noteworthy ComEd and Mr. Goldstein dare not and did not submit "Account Activity" for the two other account numbers which ComEd had maintained. The reason is: the moment they submit that, such documents would confirm, beyond any doubt, a judgment can be entered right away against Respondent on all Counts listed in the Complaint; and beyond any doubt such documents will confirm right away what misconducts Mr. Goldstein has committed..

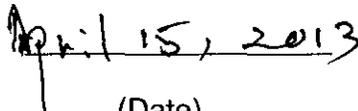
20. In order to cover up illegal conducts and all the wrongdoings committed by both Respondent and its attorney, ComEd and Mr. Goldstein tried hard from the start to delay or avoid filing a response to the Complaint, an Answer, or a response to a brief discovery request. They intend to convert a formal legal proceeding at the Commission – a State regulatory agency into a TV court show, where no answer and discovery are needed. But everyone knows even a TV court show requires witnesses for both parties be identified, and witnesses for both parties must show up and provide testimony in order to resolve a minor dispute in facts at a trial.
21. At the April 10, 2013, hearing, for purpose, Mr. Goldstein reminded the Honorable Judge that ComEd is a big company, but he failed to state all parties in legal proceedings have equal rights and equal responsibilities, In this respect, no more and no less of these for any big corporation and an ordinary Joe. When huge corporations are caught in violation of Illinois Consumer Fraud Act, the wrongdoers are no better than a petty thief; all of them, even huge companies larger than ComEd , cannot get away and they cannot avoid persecution and punishment by arguing, as Mr Goldstein did in this case, that they are big, it would save time if investigation is totally eliminated; or no issue left as they have no gain after being caught.
22. Beyond dispute, a lawyer does not have a license to provide deliberate fraudulent statements in law and in material facts, or knowingly and willingly conceal or withhold material evidence, or present fabricated fraudulent or misleading documents to any tribunal. As such, both ComEd and its attorney

should be sanctioned under Illinois Supreme Court Rule 137; Mr. Mark L. Goldstein should be disqualified in this case. And Respondent's subject filing must be stricken.

WHEREFORE, Complainant respectfully prays the Illinois Commerce Commission grant this motion.



(Complainants Signature)



(Date)

Qi Ji Liu

2913 S. Union Ave. Chicago, IL 60616

Tel: (312) 225-4401

Illinois Commerce Commission

Qi Ji Liu,)
vs)
Commonwealth Edison Company) No: 12-0374
Complaint as to billing/charges in Chicago) Hon. Heather Jorgenson
)

PROOF OF SERVICE

I, Qi Ji Liu, Complainant, on oath state that I cause an exact copy of the attached **Complainant's Motion to Strike Respondent's Filing Dated April 12, 2013**, by mailing such copy to the above-named Respondent's attorney at the address: Mark L. Goldstein, 3019 Province Circle, Mundelein, IL 60060 by deposing such copy thereof with envelope bearing sufficient pre-paid postage in the United State Mail.



(Complainant's Signature)

April 15, 2013

(Date)

Qi Ji Liu
2913 S. Union Ave. Chicago, IL 60616
Tel: (312) 225-4401

cc and the Complainant's Motion to Strike Respondent's Filing Dated April 12, 2013 to:

Hon. Heather Jorgenson
Administrative Law Judge
Illinois Commerce Commission
160 N. LaSalle St., Ste C-800
Chicago, IL 60601

Ms Elizabeth A. Roland
Chief Clerk
Illinois Commerce Commission
527 East Capital Avenue
Springfield, IL 62701

Illinois Commerce Commission

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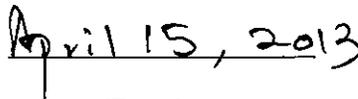
NOTICE OF MOTION

TO: Mark L. Goldstein
3019 Province Circle
Mundelein, IL 60060

PLEASE TAKE NOTICE that, as soon as the motion may be heard, I shall appear before the Honorable Judge Heather Jorgenson or any Judge in her stead at the Offices of the Illinois Commerce Commission, Chicago, Illinois, Michael Bilandic Building, 160 North LaSalle, Suite C-800, and then and there present the attached **Complainant's Motion to Strike Respondent's Filing Dated April 12, 2013**, a copy of which is attached herein and serve upon you.



(Complainant's Signature)



(Date)

Qi Ji Liu
2913 S. Union Ave. Chicago, IL 60616
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