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ILLINOIS COMMERCE COMMISSION**

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

**ORIGINAL**  
ILLINOIS COMMERCE  
COMMISSION

2013 APR 29 P 12:50

Qi Ji Liu )

CHIEF CLERK'S OFFICE

-vs- )

No. 12-0374

Commonwealth Edison Company )

Complaint as to )

billing/charges in Chicago, Illinois. )

**RESPONSE TO COMPLAINT NAT'S MOTION TO STRIKE RESPONDENT'S FILING  
DATED APRIL 12, 2013**

Commonwealth Edison Company ("ComEd") by its counsel, Mark L. Goldstein, responds to Complainant's Motion to Strike Respondent's Filing Date April 12, 2013, and in support thereof, states:

**Background**

On June 4, 2012 Complainant filed his Complaint alleging much wrongdoing by ComEd and its employees. At the first status hearing, August 28, 2012, ComEd apologized to Mr. Liu and attempted to resolve the matter with Mr. Liu. The parties were unable to reach resolution because Mr. Liu could not explain which account or accounts had been overbilled; he could not explain the wrongdoing by ComEd, other than general assertions as those found in the Complaint that ComEd acted wrongly and fraudulently. At that status, ComEd offered, off the record, to remove all charges from his account and zero the account balance. Parties were unable to reach any kind of resolution. Next, ComEd filed a Motion to Dismiss. At the April 10, 2013, status hearing, ComEd requested participation from the Administrative Law Judge ("ALJ") to attempt

resolve the matter. The specific details of that hearing will be memorialized in the transcript, yet to be published to e-Docket. In summary, ComEd apologized to Mr. Liu, agreed to waive all charges on his account, and requested that the Complaint be dismissed. The ALJ took ComEd's Motion under advisement and requested ComEd file proof that it reduced the balance on Mr. Liu's account to zero. Subsequently to ComEd making that filing, Complainant filed his Motion to Strike. Respondent had hoped to rely solely on its pleadings and other documents already filed in this case, however, the severity of Complainant's allegations require ComEd to respond to each numbered paragraph, as follows:

### **Argument**

1. The complaint was filed on June 4, 2012. ComEd did not answer or otherwise plead until October 3, 2012 by way of its Motion to Dismiss. The Motion speaks for itself and outlines the basis for which ComEd believes the Complaint should be dismissed. The discussion held on the record regarding a statute of limitations was not deceptive, and neither ComEd nor its counsel is bound by arguments not included in its written pleading.
2. ComEd need not explain its strategy, reasoning, and/or legal basis for challenging (or not) the ruling of the ALJ. Further, that ruling did not include any requirement for ComEd to file an Answer to the Complaint.
3. ComEd believes that Complainant has misunderstanding the procedure for Respondent filing an Answer to a Complaint. ComEd includes 83 Ill. Admin. Code 200.180(a) which states: "Whenever the Hearing Examiner issues a ruling that a complaint provides a clear statement on the subject matter, scope of complaint, and basis thereof, answers to formal complaints shall be filed with the Commission within 21 days after the date on which the Commission serves notice of the Hearing Examiner's ruling upon the respondent, unless otherwise

ordered. If any respondent fails to file an answer, when required under this Section, allegations of fact as to the respondent will be considered admitted. If respondent does not file an answer when no filing requirement exists, issue as to the respondent will be considered joined. Answers shall contain an explicit admission or denial of each allegation of the pleading to which they relate and a concise statement of the nature of any defense."

4. Again, ComEd believes that Complainant has misstated the law. ComEd has never been ordered to answer the complaint.
5. At the April 2013 pre-hearing conference, the ALJ ruled that ComEd need not respond to discovery.
6. ComEd believes that Complainant misstates the law, but even assuming arguendo that in this section of his Motion Complainant has properly stated the law, ComEd submits that the documents filed by Complainant in November 2012 were not proper under applicable law, were not proper at a Commission complaint proceeding, and ultimately the ALJ ruled that ComEd need not respond to discovery.
7. ComEd believes that Complainant misstates the law, but even assuming arguendo that in this section of his Motion Complainant has properly stated the law, ComEd submits that the documents filed by Complainant in November 2012 were not proper under applicable law, were not proper at a Commission complaint proceeding, and ultimately the ALJ ruled that ComEd need not respond to discovery.
8. Complainant states no authority for this assertion. At the April 2013 hearing, parties engaged in a pre-hearing conference with ALJ whereby ComEd apologized to the Complainant on the record and agreed to waive all charges on customer's account. At that hearing, Complainant

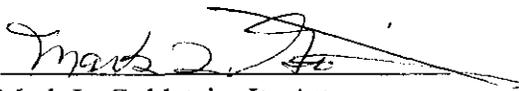
could not explain which account or accounts he believed had been double-billed or over charged.

9. This section of the Motion is unclear, but ComEd made the filing at the request of ALJ Jorgenson. ComEd denies any allegation that this is not a business record or that it has been used for deceptive purposes.
10. The transcript from the April 2013 hearing has not been posted to e-Docket, nor does Complainant cite to it in his Motion. Neither ComEd nor its counsel were or are trying to delay this matter, hence ComEd's attempt to resolve the matter at the first status, and later at the pre-hearing conference where it agreed to waive all charges on the account.
11. The document is a business record, and it is not fraudulent. Complainant does not detail what makes this statement fraudulent.
12. ComEd maintains that there has been no double-billing or overcharging.
13. The document is a business record, and it is not fraudulent. Complainant does not detail what makes this statement fraudulent.
14. This section of the Motion is unclear; Counsel for ComEd has no access to ComEd's billing system. The billing of Mr. Liu's accounts and the closing of accounts were addressed at the April 2013 hearing.
15. ComEd keeps two years of billing records. ComEd is not concealing or withholding anything from the Complainant or the Commission. The statement was filed at the request of the ALJ.
16. The statement was filed at the request of the ALJ; there was no order to include an explanation.

17. The “transfer” charge on this particular account was as a result of internal billing adjustments to bring the account to zero which is what ComEd agreed to do and the balanced reflected on the account.
18. ComEd submitted the document requested by the ALJ. ComEd answered all questions the ALJ posed at the April 2013 hearing regarding closed and open accounts. As detailed in its Motion to Dismiss and at the pre-hearing conference, there is only one open, active account in Mr. Qi Ji Liu’s name; that is account 90751-13100 for service at 2913 S. Union Ave, Unit 1FB, Chicago, IL 60616.
19. ComEd submitted the document requested by the ALJ. ComEd answered all questions the ALJ posed at the April 2013 hearing regarding closed and open accounts. As detailed in its Motion to Dismiss and at the pre-hearing conference, there is only one open, active account in Mr. Qi Ji Liu’s name; that is account 90751-13100 for service at 2913 S. Union Ave, Unit 1FB, Chicago, IL 60616.
20. ComEd has attempted to resolve this complaint with the Complainant and the ALJ. ComEd has zeroed the account balance and provided the ALJ proof of that action. The ALJ accepted and took under advisement our Motion to Dismiss.
21. ComEd is not trying to “get away” with anything. It follows all laws and regulations required of it.
22. ComEd and its counsel have not provided false statements. There is no merit, factual, or legal support for Complainants contention that ComEd or its counsel be sanctioned.

For these above reasons, Commonwealth Edison Company respectfully request that the Commissions deny Complainant's Motion to Strike Respondent's Filing Dated April 12, 2013 and grant ComEd's Oral Motion to Dismiss.

Respectfully submitted,  
Commonwealth Edison Company

By:   
Mark L. Goldstein, Its Attorney  
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Mundelein, IL 60060  
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**CERTIFICATE OF SERVICE**

I certify that on April 26, 2013, I served the foregoing Respondent's Response Complainant's Motion to Strike Respondent's Filing Date April 12, 2013 by causing a copy of same to be placed in the U.S. Mail, first class postage affixed, addressed to each of the parties indicated below:

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

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

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

  
Mark L. Goldstein