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ILLINOIS COMMERCE COMMISSION

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

ORIGINAL
ILLINOIS COMMERCE
COMMISSION

Richard Clayton)
-vs-)
Commonwealth Edison Company)
)
Complaint as to billing/charges)
in Plainfield, Illinois.)

12-0072
12-0478

2013 MAY -6 A 10:55
CHIEF CLERK'S OFFICE

RESPONDENT'S INITIAL BRIEF

Now comes the Respondent, Commonwealth Edison Company ("Respondent" or "ComEd"), by and through its attorney, Mark L. Goldstein, and files its Initial Brief.

Background

On August 15, 2012, Complainant Richard Clayton ("Complainant") filed a complaint as to billing and charges in Chicago, Illinois. ComEd provides electric service to Complainant at 26W430 National Street, Milton Township, Illinois. The complaint alleged overbilling and inflated charges by ComEd and that ComEd failed to provide the Complainant with information regarding his meter, reads, and names of ComEd personnel. On December 13, 2012, a status hearing was held with both parties present. ComEd made an offer to settle, that offer was rejected. On March 19, 2013, an evidentiary hearing was held where the issues were narrowed, in that, Complainant testified that he is only disputing the estimated billing which is above or below his calculation of average usage at 900 kilowatts. ComEd also notes that page 78 of the transcript refers to "Mrs. Katherine Clayton" testifying for ComEd, but that is a Scribner's error, Trishaun Funches, a Senior Business Analyst, was testifying for ComEd as noted on all pages prior and after.

Complaint Must Be Denied for Failure to Meet Burden of Proof

Complainant has the burden of proof to establish that ComEd erred in its billing of the customer. Complainant narrowed the issue of the original filed complaint, on cross-examination, to that of the January, February and April bills (Tr. 63-64). However, the record is unclear as to which

bills the customer is referring to, as there is no reference to a corresponding Exhibit, but ComEd believes that the Complainant is disputing the billings for service as follows:

- 1) Service from November 16, 2011 to December 16, 2011 in the amount of \$126.58 for estimated usage of 1631 kw and referred to by the Complainant as the "December estimate" and by ComEd as the "January bill." (Tr. 20 & 63-4; Complainant's Exhibit 2).
- 2) Service from December 16, 2011 to January 20, 2012 in the amount of \$156.46 for estimated usage of 1894 kw and referent to by the Complainant as the "January estimate" and ComEd as the "January bill." (Tr. 20 & 63-4; Complainant's Exhibit 2).
- 3) Service from January 20, 2012 to February 20, 2012 in the amount of \$93.74 for estimated usage of 900 kw and referred to by Complainant as "February bill". (Tr. 22; Complainant's Exhibit 2).
- 4) Service from March 21, 2012 to April 20, 2012 in the amount of \$110.06 for estimated usage of 1203 kw and referred to by Complainant and ComEd as the "April bill." (Tr. 63-4; Complainant's Exhibit 2.)

Complainant testified that ComEd erred in failing to properly read the meter and record the readings. Complainant testified that ComEd's calculation of the estimated usage was in error because it did not represent his average usage. Complainant's calculations resulted in an average bill of 989 kilowatts (Tr. 22 12-3). Further he stated that the "February bill" was estimated with lower usage than his calculated average of 989kW. (Tr. 22 14-7) However, when asked to clarify his position on cross-examination, the January, February and April bills were wrong because one was calculated too high or too low, because the bills were either above or below his calculated average of 989 kilowatt usage (Tr. 64-65). The deficiency here is that Complainant pointed to no tariff, standard, rule or regulation which requires ComEd to bill estimated usage based strictly on a monthly average.

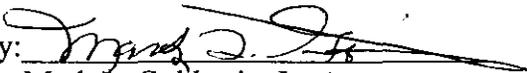
ComEd's witness Funches explained that customers are likely to receive estimated bills that are higher than normal average bill. (Tr. 89) However, ComEd follows the billing standards filed with the Illinois Commerce Commission in determining estimated usage and explained that Complainant oversimplified the calculation of usage. (Tr. 75).

Conclusion

Complainant provided no testimony nor written evidence to support his complaint that ComEd incorrectly calculated the estimated billings for "February and April 2012."

WHEREFORE, Commonwealth Edison Company respectfully requests that the Illinois Commerce Commission deny the complaint filed by Richard Clayton on August 15, 2012.

Respectfully submitted,
Commonwealth Edison Company

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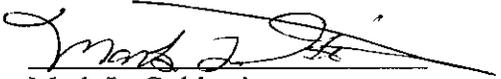
CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2013, I served a copy of the attached Respondent's Initial Brief in the captioned docket, by causing a coping thereof to be placed in the U. S. Mail, first class postage affixed, to each of the parties below:

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