

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

<b>Super Mexi Corporation</b>	:	
<b>-vs-</b>	:	
<b>Commonwealth Edison Company</b>	:	
	:	<b>13-0542</b>
<b>Complaint as to false accusations of tampering with meters and billing/charges in Chicago, Illinois</b>	:	

**RESPONDENT’S REPLY BRIEF**

Now comes the Respondent, Commonwealth Edison Company (“Respondent” or “ComEd”), by and through its attorney, Rebecca A. Graham, and files this Reply Brief to the Initial Brief filed by Complainant, Super Mexi Corporation, and in support thereof states:

Complainant’s Initial Brief (“Initial Brief”) consists entirely of mischaracterizations of the evidence in the record and conclusions that are unsupported by the evidence in the record. For one, Complainant improperly uses the Initial Brief as a means to add new facts and testimony to the record that were not presented at the evidentiary hearing. The Initial Brief contains many examples of this, but these are the most egregious:

1. “This rebilling showed much contradiction from what the site was billed in prior years and in fact was over 50% higher in kwh [SIC] usage than the years of 2010 and 2011 when there was no evidence of any tampering.” (Initial Brief at 2).
2. “After the complainant was served with a tampering penalty fee on their invoice for over \$545.23, the Complainant was directed by ComEd officials to file a complaint with ICC alleging that was no evidence of tampering with their meters and alleging the irregular and defective billing on their property.” (Initial Brief at 2).
3. “Now I have lived in Chicago almost all my life, and I have never known February to be warmer than it is in July of that year.” (Initial Brief at 9).

4. “So why would McCann lie about what he saw? I think what he saw was a meter that was not working and was not recording anything. He himself broke the yellow seal and opened the meter and did something to get it going again. I think the meter was still not working properly and thats [SIC] why the meter was later completely exchanged out for another meter on June 4th 2014 (transcripts p. 150) by ComEd Technician Demon Page.” (Initial Brief at 4).

There is nothing in the record to support any of these statements. Nowhere in the record is there any evidence that Complainant’s bill increased by 50%. Nowhere in the record is there any evidence that “ComEd officials” directed Complainant to file its Complaint and informed it what to allege. Nothing in the record supports conclusions about Chicago weather (which is also irrelevant), and nothing in the record supports the theory that Walter McCann was lying about the tampering with the meter he saw when he visited Complainant’s property or that he himself tampered with the meter. It is improper for Complainant to introduce facts and testimony that are not in evidence and draw conclusions therefrom.

Additionally, Complainant mischaracterizes the testimony that was presented at the hearing. There are many examples of this, but the most egregious come from Complainant’s misstatements regarding ComEd’s witnesses, Walter McCann and Demon Page. Complainant’s most egregious misstatements regarding Walter McCann’s testimony are:

1. “He later changed his testimony on cross to say that in fact [the meter] was not going backwards but it was only frozen and not moving forward at all.” (Initial Brief at 3).
2. “Thus he testified that the first time he discovered that there may be tampering was when he got inside the meter and saw the jumper cables.” (Initial Brief at 3).
3. “Thus if the only way to tamper a meter is to get inside the meter, than how can a meter

have jumper cables inside the meter without the yellow security seal being broken off.”  
(Initial Brief at 4).

Mr. McCann did not change his testimony about the meter running backward. He stated that he knew the meter was running backward because the indicator arrow was facing in the opposite direction. (Tr. at 119). He said the meter reading was frozen at 4635 and that he did not stay long enough to see anything happen with the kWh reading. (Tr. at 119-120). Further, Mr. McCann never testified that he went inside the meter. He opened the meter fitting and saw the jumper cables. He stated that the jumper cables were on a row of switches, not on the meter itself. (Tr. at 98, 142-143). Complainant’s erroneous conclusion from the evidence that the jumper cables were “inside the meter” reveals a complete disregard for the facts in evidence.

Complainant’s most egregious misstatement regarding Demon Page’s testimony is: “He admitted that after he made a visual examination of the unhampered meter, it was he himself whom broke the seal to get into the meter.” (Initial Brief at 5). Complainant fails to distinguish between the seal that is placed on a meter fitting by ComEd (Tr. at 159) and a T-Bar seal that is placed on the meter itself by the factory. (Tr. at 180). The missing T-Bar seal indicated tampering (Tr. at 180-182, 191-193) which has nothing at all to do with the seal on the meter fitting.

No matter how Complaint tries to twist the evidence, the bottom line is that Complainant has failed to meet its burden of proof. Complainant’s entire case hinges on conjecture and hearsay. Complainant’s witness Paul Hansen presented testimony based entirely on speculation and a research proposal, as ComEd’s rebuttal witness Andrew Morris testified. Likewise, Complainant’s witness Saed Mohamad provided testimony that is entirely irrelevant, contradictory, and based on hearsay.

By contrast, ComEd’s evidence that Complainant benefitted from tampering and was

properly rebilled for services once the tampering was discovered is overwhelming. Walter McCann's testimony that in December of 2012 he observed a jumper cable between the A and C phase of the meter causing it to run backward at the Property (Tr. at 94-148) was not contradicted by any other evidence. Frank Lopez's testimony about the tampering that occurred with the meter (Tr. at 176-195) was not contradicted by any other evidence. Demon Page's testimony that on June 4, 2014 he observed that the meter had no forward rotation (Tr. at 151) is consistent with Mr. Lopez's testimony that the meter's current sensor was unplugged from the circuit board on the meter, causing it not to show kilowatt usage. (Tr. at 179-180). Alexis Bullard's testimony regarding the rebilling on Complainant's account was supported by ComEd's business records and shows that the billing was correct and consistent with subsequent billing for service at Complainant's property. (Tr. at 202).

Complainant is not entitled to any credits on its electric bill. Complainant owes ComEd the entire amount currently due on the account, which was over \$73,000 in December of 2014. Whether on a factual or legal basis, Complainant has not sustained its burden of proof.

Wherefore, the Respondent, Commonwealth Edison Company, respectfully requests that the Complaint filed on September 24, 2013 be denied.

Respectfully submitted,  
Commonwealth Edison Company

By: /s/ Rebecca A. Graham

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**CERTIFICATE OF SERVICE**

I, Rebecca A. Graham, an attorney, certify that a copy of the foregoing RESPONDENT'S  
REPLY BRIEF was served on the following parties by U.S. Mail and/or electronic transmission  
on July 13, 2015.

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