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BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
QUINSHELA WADE,)
)
Complainant,) Docket No. 16-0243
)
-vs-)
)
COMMONWEALTH EDISON COMPANY,)
)
Respondent.)

COMPLAINT AS TO CHARGING A
REFUSAL FEE, FOR REFUSING
SMART METER IN CHICAGO,
ILLINOIS.

Chicago, Illinois
April 27th, 2016

Met, pursuant to notice, at 11:00 a.m.

BEFORE:

MS. LESLIE D. HAYNES, Administrative Law Judge

SULLIVAN REPORTING COMPANY, by
Devan J. Moore, CSR
License No. 084-004589

1 APPEARANCES:

2 MS. QUINSHELA WADE
3 8051 South Dorchester Street
4 Chicago, IL 60619
5 appeared pro se;

6 MARK L. GOLDSTEIN, P.C., by
7 MR. MARK L. GOLDSTEIN
8 3019 Province Circle
9 Mundelein, IL 60060
10 (847)949-1340

11 -and-

12 GRAHAM & GRAHAM, LLP, by
13 MS. REBECCA A. GRAHAM
14 115 South LaSalle Street
15 Suite 2600
16 Chicago Ridge, IL 60603
17 (312) 505-8154
18 on behalf of ComEd.

19 ALSO PRESENT:

20 Aaron Jimenez, ComEd

21

22

1 JUDGE HAYNES: Pursuant to the direction of the
2 Illinois Commerce Commission, I now call Docket
3 16-0243. This is the complaint of Quinshela Wade
4 versus Commonwealth Edison Company.

5 May I have the appearances for the
6 record, please -- your name and address -- starting
7 with the Complainant?

8 Name and address?

9 MS. QUINSHELA WADE: Oh, I'm sorry.

10 JUDGE HAYNES: That's okay.

11 MS. QUINSHELA WADE: Quinshela Wade. My
12 address is 8051 South Dorchester, Chicago, Illinois
13 60619.

14 MR. GOLDSTEIN: For Commonwealth Edison
15 Company, Mark L. Goldstein, 3019 Province Circle,
16 Mundelein, Illinois 60060. My telephone number is,
17 (847) 949-1340.

18 MS. GRAHAM: Also for Commonwealth Edison,
19 Attorney Rebecca Graham, 115 South LaSalle Street,
20 Suite 2600, Chicago, Illinois 60603. My phone number
21 is, (312) 505-5814. And with us this morning is
22 Aaron Jimenez from ComEd.

1 JUDGE HAYNES: Thank you. Since this is the
2 first time the complaint is up I like to give
3 complainants a brief explanation of how complaints --
4 the process here at the Commission.

5 Usually at the first meeting I give
6 the parties an opportunity to talk off the record to
7 see if they can reach an agreement. And if that
8 isn't possible, then we talk about a date for when we
9 would hold the evidentiary hearing.

10 An evidentiary hearing is our version
11 of a trial since we're an administrative agency. So
12 if you're unable to reach an agreement, then we will
13 pick a date for the evidentiary hearing; and that is
14 where you would bring all -- the day that you would
15 bring all of your exhibits and anything that you
16 would have to support your claim. And, also, at the
17 first meeting sometimes the parties indicate that
18 they're going to file motions or something to that
19 effect, and so then we would also set a schedule for
20 that.

21 But I like to let party complainants
22 know that I don't issue a ruling today. And, in

1 fact, I don't even issue a ruling immediately at the
2 evidentiary hearing; but, rather, then I issue a
3 proposed order. So this is a process that can take
4 some time, and people sometimes don't realize that
5 coming in. So it's not a quick process here at the
6 Commission.

7 And so I looked at your complaint, and
8 I just want to make sure that I'm understanding
9 correctly that this only has to do with the smart
10 meter refusal charge?

11 MS. QUINSHELA WADE: Absolutely --

12 JUDGE HAYNES: Okay.

13 MS. QUINSHELA WADE: -- which arises out of the
14 smart meter.

15 JUDGE HAYNES: Right.

16 MS. QUINSHELA WADE: Although, a refusal of the
17 smart meter I guess arises out of -- a refusal charge
18 arises out of the refusal of a smart meter. I want
19 that to be clear.

20 JUDGE HAYNES: And so how long has the smart
21 meter refusal fee been on your bill?

22 MS. QUINSHELA WADE: If I'm not mistaken,

1 around July. That's approximate.

2 JUDGE HAYNES: Sure. I'm sure the Company has
3 the exact date.

4 And so have the parties had an
5 opportunity to discuss settling? Do the parties want
6 to discuss settling this matter?

7 MS. QUINSHELA WADE: Well, they had already
8 said when I first came in here that they found no way
9 to resolve this.

10 JUDGE HAYNES: Okay.

11 MR. GOLDSTEIN: There are only two options, as
12 far as we can determine, Judge. One is for Ms. Wade
13 to accept a smart meter -- an AMI meter -- for her
14 premises; or maintain the same meter she has, and
15 then she's subject to the tariff charge of 21.53 a
16 month.

17 JUDGE HAYNES: And what is the tariff number?

18 MS. GRAHAM: (Tendering.)

19 MR. GOLDSTEIN: Ms. Wade has a copy of the
20 tariff.

21 MS. QUINSHELA WADE: I have one that's February
22 5th, 2014. Is that yours?

1 MR. GOLDSTEIN: I thought I saw a copy of it in
2 your paperwork.

3 MS. GRAHAM: Here's a copy for you, Ms. Wade
4 (tendering).

5 JUDGE HAYNES: And, pursuant to this tariff,
6 how long can the Company charge the refusal fee? Is
7 there an end date for this tariff?

8 MR. AARON JIMENEZ: Judge --

9 JUDGE HAYNES: Can you identify yourself for
10 the record, please.

11 MR. AARON JIMENEZ: Aaron Jimenez.

12 JUDGE HAYNES: Okay.

13 MS. QUINSHELA WADE: How do you spell your
14 name?

15 MR. JIMENEZ: J-i-m-e-n-e-z.

16 MS. QUINSHELA WADE: J-i-m what?

17 MR. JIMENEZ: -e-n-e-z.

18 So this rider only covers up to the
19 end of the AMI deployment. So when that is complete,
20 all customers will be required to continue receiving
21 service, to accept an AMI meter. There will no
22 longer be an option to keep the old Legacy meters.

1 MS. QUINSHELA WADE: To 2022.

2 JUDGE HAYNES: 2022 is the projected end date?

3 MS. QUINSHELA WADE: Yeah.

4 MR. JIMENEZ: I believe that is correct, yes.

5 JUDGE HAYNES: Okay. I'm sorry. Did the
6 parties say that they didn't want to have discussions
7 for settlement?

8 MR. GOLDSTEIN: There were only two options,
9 Judge. Either she retains the Legacy meter that she
10 already has until that end date, which is mandated,
11 or she accepts an AMI meter.

12 She's told us that she refuses to
13 accept the AMI meter. Therefore, she has to accept
14 the charge under the tariff. We have to follow the
15 tariff, Judge.

16 JUDGE HAYNES: The -- oh, I'm sorry. Go ahead.

17 MS. QUINSHELA WADE: I'm not going to accept
18 the meter. That's why I'm here. I refuse to accept
19 the meter.

20 MR. GOLDSTEIN: We understand that.

21 MS. QUINSHELA WADE: And I have no intention of
22 paying the \$21.53 because it's not written exactly

1 like that in the tariff. So it's not written in the
2 tariffs that it's mandatory for me to accept it, or
3 anybody else really.

4 JUDGE HAYNES: So, generally, I would schedule
5 an evidentiary hearing. But it sounds like there
6 really is no factual question here; it's just a
7 question of interpreting the tariff. And I'm
8 wondering if --

9 So the Commission, as this is a
10 Commission-approved tariff --

11 MS. QUINSHELA WADE: I understand that. I'm
12 understanding. I'm understanding that it's
13 Commission-approved, but that doesn't make it
14 necessary factual. I'm going to challenge this.

15 JUDGE HAYNES: I understand that. And I'm just
16 trying to think about how to deal with this. It's
17 not like there's some question of whether you have a
18 meter or not.

19 It's clear that you don't have the
20 smart meter, and it's clear that they're charging you
21 the monthly fee. So it's not a factual question.
22 It's just what your legal arguments would be

1 regarding whether these charges are appropriate for
2 you, I think, if I'm understanding you correctly.

3 MS. QUINSHELA WADE: Yes. Exactly.

4 JUDGE HAYNES: So although I started with
5 saying we needed to schedule an evidentiary hearing
6 today, because that's what we normally do in
7 complaint cases, it sounds more like this is
8 something that either should be dealt with in briefs
9 or motions or something because there is no -- it
10 doesn't sound like there's any factual dispute.

11 MS. QUINSHELA WADE: I disagree with that, when
12 you use the word "factual".

13 JUDGE HAYNES: Okay.

14 MS. QUINSHELA WADE: Because I believe I will
15 have -- or I will present factual information.

16 JUDGE HAYNES: Okay. So could you explain
17 that. Because at the evidentiary hearing I'm trying
18 to think about what you would present that would be
19 beyond a legal argument regarding the tariff.

20 MS. QUINSHELA WADE: Well, it doesn't make any
21 sense for me to present this information now.

22 JUDGE HAYNES: I don't mean today. I mean in a

1 brief, a written...

2 MS. QUINSHELA WADE: I'll present a motion.
3 I'll present a brief, if it's necessary, with my
4 argument in it. Since this is going to have to go to
5 another date it just seems to me that it really
6 wouldn't make that much sense to discuss it now.

7 JUDGE HAYNES: Oh, no. I'm sorry. We do not
8 have to do this today -- discuss all of your
9 arguments regarding this. I guess what I'm trying to
10 say is it would be better to do it in a --

11 I mean, we could have our oral
12 arguments. You could present it to me orally. We
13 could pick another date where you would present all
14 of your legal reasons for doing it. So I guess I'd
15 leave that up to the parties. All I'm saying is that
16 it doesn't seem like there's any facts that are in
17 dispute.

18 MS. QUINSHELA WADE: You wouldn't know that
19 until after I present something, and I have not
20 presented anything where you can make a determination
21 that I don't have any facts. I believe I do.
22 Because if I felt that I didn't have any, I wouldn't

1 come here.

2 And I really would provide (sic) to
3 put it in a brief. I have no problem with doing
4 that -- or a motion, whichever one. In other words,
5 I want it in paper. I want it in writing.

6 JUDGE HAYNES: That sounds good. And I'm not
7 at all trying to --

8 MS. QUINSHELA WADE: I understand.

9 JUDGE HAYNES: -- to not give you your right.
10 When I read your complaint, it sounds like you have a
11 legal argument about why this shouldn't be applied to
12 you, not that --

13 I think that if you're comfortable
14 doing this on paper -- at least addressing the legal
15 part first -- it makes more sense to me, because it
16 is a Commission-approved tariff and it's not --

17 The Commission, because we've approved
18 it, it's something that -- you would need to address
19 the tariff itself unless you have some argument about
20 why it wouldn't apply to you. I don't know what your
21 argument would be, so I feel like it would be better
22 addressed through a written filing.

1 MS. QUINSHELA WADE: That's fine.

2 MR. GOLDSTEIN: Perhaps the way to proceed,
3 Judge, would be to have ComEd file a written motion
4 to dismiss; let Ms. Wade respond to that; and then we
5 will probably reply.

6 JUDGE HAYNES: Okay.

7 MS. QUINSHELA WADE: I object to that. You can
8 do whatever you want to do. I'm saying I'm objecting
9 to it -- even the consideration of filing a motion to
10 dismiss.

11 But I'm just saying I'm objecting.
12 You can do what you want to do. I understand you can
13 do what you want to do. I'm just saying I disagree
14 with your statement.

15 MR. GOLDSTEIN: We can do whatever we want to
16 do.

17 MS. QUINSHELA WADE: I know. We all can.

18 JUDGE HAYNES: With my leave, Mr. Goldstein.
19 However, I think that the Company filing a motion to
20 dismiss would lay out the arguments regarding whether
21 the Commission can charge -- well, whatever --
22 whatever arguments you want to lay out. But I think

1 that that would be helpful, and it would give
2 Ms. Wade an opportunity to put your arguments in your
3 response to ComEd.

4 And so what we would do is pick dates
5 for the Company to file a motion to dismiss and for
6 you to file a response to that; and the Company then
7 would reply. And if I agreed with the Company, then
8 I would present that to the Commissioners as an
9 order. And if I don't agree with the Company, then
10 I'd set another status hearing, like today; and then
11 we'd pick a date for an evidentiary hearing.

12 And if the Commission agrees with the
13 Company, you can take that order and appeal it.
14 Because they are the final decision-makers, and they
15 are also the ones that adopted this meter refusal
16 rate.

17 So I guess the question, then, is how
18 long the Company would need to...?

19 MS. GRAHAM: 3 weeks?

20 JUDGE HAYNES: May 18th?

21 MR. GOLDSTEIN: Yeah.

22 JUDGE HAYNES: And, Ms. Wade, how long would

1 you like to have to respond to their motion?

2 MS. QUINSHELA WADE: Okay. I'm not an
3 attorney, and I need a little time.

4 JUDGE HAYNES: Absolutely. You tell me how
5 long you want. And this will, I assume, raise legal
6 issues. So you brought up an attorney -- or the fact
7 that you're not an attorney. You may want to hire an
8 attorney.

9 MS. QUINSHELA WADE: I'm fine. I already have
10 one, but I'm not going to hire him to come in.

11 How long could I have? I just want to
12 give myself some time. And then I can contact them
13 when I'm finished with my response to whatever they
14 file -- decide that they're going to file.

15 JUDGE HAYNES: Right. So they're going to file
16 a motion to dismiss on May 18th. And then that'll
17 be -- they'll send it to you. They'll send it to me.
18 And they'll file it at the Commission just like your
19 complaint was filed at the Commission.

20 And then when you respond to that
21 motion to dismiss, you would also have to send it to
22 the Company, and me, and file it with our Clerk's

1 office here at the Commission. And you can --

2 How much time do you want? You can
3 tell me.

4 MS. QUINSHELA WADE: Okay. 60 days?

5 JUDGE HAYNES: That's fine.

6 MS. QUINSHELA WADE: 90 days?

7 JUDGE HAYNES: 3 months?

8 MS. QUINSHELA WADE: Yeah.

9 JUDGE HAYNES: So the end of the summer? Are
10 you saying August?

11 MS. QUINSHELA WADE: July.

12 JUDGE HAYNES: Okay. So 2 months?

13 MS. QUINSHELA WADE: Yeah.

14 JUDGE HAYNES: So we'll make it July 19th
15 because that's the -- oh, no. I'm sorry. July 20th
16 for your response to the Commission's motion to --
17 not the Commission's -- the Company's motion to
18 dismiss.

19 And then how about the beginning of
20 August sometime for your reply?

21 MS. GRAHAM: Can we make it August 8th, which
22 is the following Monday?

1 JUDGE HAYNES: That's fine. But the Company is
2 going to file a motion to dismiss on May 18th.
3 You'll respond July 20th. And the Company will reply
4 to your response on August 8th.

5 And then I will either issue a ruling
6 denying the motion to dismiss, and in that ruling I
7 would set a date for another status hearing; or I
8 will issue what's called a proposed order, and that
9 would only be if I agreed with the Company. And in
10 that proposed order it would explain the reasons why
11 and, also, it would have dates at the bottom for you
12 to file a response to that, to my proposed order,
13 which is the ruling.

14 And then I would present that to the
15 Commission. And then the Commission -- the
16 Commissioners are the final decision-makers here at
17 the Commission, and you would get served a copy of
18 their order.

19 Are there any questions?

20 MS. QUINSHELA WADE: No.

21 JUDGE HAYNES: No? Okay. Then I will issue a
22 ruling with those dates, and I will continue this

1 matter generally. Okay. Thank you.

2 SINE DIE.

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