

Quinshela Wade)
-vs-)
Commonwealth Edison Company)
)

August 5, 2016

16-0243

RECEIVED

AUG - 8 2016

Complaint as charging a refusal fee,
For refusing Smart Meter on Complainant home in Chicago IL

ILLINOIS COMMERCE COMMISSION
CHIEF CLERK'S OFFICE

**COMPLAINANT'S RESPONSE/REPLY, TO COMMONWEALTH
EDISON COMPANY'S RESPONSE TO COMPLAINANT MOTION
FOR SUMMON JUDGMENT**

And a Affidavit

Quinshela Wade ("Complainant") Submit her response/reply to Commonwealth Edison Company ("ComEd") response to Complainant's Motion For Summary Judgment.

Complainant is not an attorney and is an idiot in legalese, and request not to be held at the same standard as a practice Attorney, Complainant is a Senior who is defending her health, rights, property life and liberty etc.

There is no need to restate all the information in Complainant's complaint and motion for summary Judgment in this motion.

The Complainant incorporate all her complaints and motions and exhibits as part of this motion. All the information would make this response/reply too voluminous .

Complainant file her complaint April 4, 2016, Mail her Motion for Summary Judgment and memorandum in support of her motion for Summary Judgment May 11, 2016 and a Request for a Default Judgment mail to the Illinois Commerce Commission on July 22, 2016 after ComEd fail to Plead and answer.

ComED Response to Complainant's Motion for Summary Judgment, Is Out side of the Scope of Complainant's Motions For Summary judgment and Complainant and Complaint.

ComEd's Statement About a Smart Meter Reading Charge , and all information relating to The Meter Reading Charge is unrelated to Complainant's Refusal Fee Complaint filed against ComED, April 4, 2016

Complainant Complaint/ claim is about a illegal Refusal Fee, and the illegal tax and illegal late fee attach to the Refusal fee. ComEd's is also in violation of Charging The Complainant a Refusal fee each month while this action is being investigated.

Each month the complainant subtract the disputed \$21.53 refusal fee. from her ComEd Bill each month. ComEd illegal charge the Complainant a late fee and taxes on the refusal fee, that she did not subtract..

COMPLAINT PROCEDURES

Pursuant to Section 280.220 Utility Complaint Process. The Complainant Timely paid the undisputed portion of the bill each month. The ComEd confirm the disputed portion of \$21.53 refusal fee. Pursuant to Section 280.220 of the Utility Complaint Process, ComEd fail to set aside the disputed amount of 21.53 in its records for the amount. While the complaint is pending. Pursuant to Section 280.220 of the Utility Complaint Process No late fees may be assessed on any amount in dispute while the complaint remains unresolved. ComEd has violated section 280.220 and has place late fee upon late fee on there illegal refusal fee while the \$21.53 Refusal Fee Remain unsolved Since Complainant complaint her comEd bill has increase. However the complainant use the same or less amount of electric.

ComEd Unrelated Response To Complainant Motion for Summary Judgment

ComEd is fogging the issue with totally unrelated information, bring up unrelated issue (Meter Reading Charge) shifting the issue into different, safer (for ComEd)ground, shift the focus from the real problem the “Refusal Fee” to “unrelated Meter Reading Charge”. The Meter Reading charge stated in ComEd’s Response is unrelated to Complainant Refusal Fee Complaint..

Disinformation

ComEd’s Response to the complainant Motion for summary judgment is plague with disinformation mixing some truth and observation with false conclusion and lies, revealing part of the truth while present it as the whole truth.

Complainant mail her Motion for summary and her motion in support of her motion for summary mail on May 13, 2016, . Complainants Denied ComEd distorted Augments on page two of it’s response.

Complainant denied ComEd distorted allegation under it’s heading “complainants case is contrary to the public the public utilities act and commission –approved Rider Nam”, under that heading, ComEd’s disinformation statements and allegation is out of the scope of the Complainant’s Complaint and Motion for summary judgment. ComEd Diverting the issue from the Refusal Fee to an unrelated Meter Reading Charge. Complainant’s complaint is not about Meter Reading Charges. Complainant’s Complainant complaint is about a Refusal Fee. Starting from Page 2, and ending on Page 7 all ComEd Response, is distort and is outside the scope of complainant complaint. ComEd response to

Complainant's motion for Summary Judgment is not relevant to complainant's refusal Fee Complaint, and Motion for Summary Judgment.

Refusal Fee verse Meter Reading Charge

Complainant Denied all ComEd response to Complainant's Motion For Summary Judgment because ComEd responses is outside the scope of or the complainant's Motion For Summary Judgment. ComEd deflect Complainant's Refusal Fee Complaint to a Reader Meter Charge.

ComEd Response address a **Reader Meter Charge**. Complainant did not file a complaint about a Reader Meter Charge. In fact ComEd.. Complainant never receive a bill nor any other correspondence about a Meter Reading Charge. Complainant Complaint is for a unconstitutional illegal REFUSAL FEE. Complainant file her complaint with the Illinois Commerce Commission regarding "REFUSAL FEES" of \$21.53, ComEd has charge and continue to charge the Complainant for Refusing Smart Meter on her Home. (See Complainant ComEd Bill). **(See exhibit A-1 and A-2)**. There is nothing on ComEd electric Bill that states ComEd is charging the Complainant for reading a non smart meter, all Complainant's ComED Bill states that the Complainant is being charge a unconstitutional illegal "refusal fee of \$21.53 for refusal Smart meter on her home",

ComEd responded to Complainant Motion for Summary judgment, ComEd do not dispute and could not dispute a well establish Illinois Constitutional Jurisprudence and the U.S Constitution. *There is no law requiring Complainant to have a smart meter on her home. There is no law requiring the Complainant to Pay a Smart Meter Refusal Fee. The only law that pertains to "smart" meters is the federal Energy Policy Act of 2005. It says that you may have what they call a "time-based" meter if you REQUEST one (page 372-373).*

SMART METER BILL 2685 July 11, 2013, 113th Congress 2013-2015, DIE Status: **Died in a previous Congress**Smart Meter bill was introduced on July 11, 2013, in a previous session of Congress, but was not enacted.

A law enacted by the legislative branch of a government is a law and even that law could be challenged in court. Smart meter refusal charge is not the law. Smart meter and Smart Meter refusal Charge/ fee is illegally being enforce upon the Plaintiff, under the color of the law, and the obligatory interpretation ComEd meaning of the Illinois Commerce Commission that all ComEd customer are to receive a smart meter

''''It appear that ComEd is try to obstruct justice by engaging the Commission, by falsely interpretation that the complainant's complaint is against the Commission. Complainant file her complaint with the Commission against ComEd for charging the complainant a illegal and unconstitutional Refusal fee for not allowing ComEd to put a smart meter on her home. Complainant did not file a complaint with the commission against the commission . Complainant has a right to protect herself and her property and defend against any action that violate her , state, federal and constitutional rights.

ComEd Did Not Serve A Motion To Dismiss On The Complainant

Therefore the complainant cannot address/ Reply to what she has no knowledge of/ **The complainant Quinshela Wade, Certify she Never receive a Motion to dismiss from ComED. (see Affidavit)** ComEd allege it file a Motion to Dismiss on May 18, 2016. The complainant do not believe ComEd file a Motion to dismiss. The complainant has no reason to believe that ComEd filed a Motion to Dismiss, because the Complainant never received a Motion to dismiss from ComED. The only document the Complainant ever receive form ComEd prior to July 22, 2016, was a Change of Address from ComEd Attorney Rebecca A Graham. Dated July 6, 2016, the envelope was address to the Complainant but the content inside the envelope was address to Ms . Elizabeth Rolando Chief Clerk. According to the change of address, no copies was service on the Administrative Law Judge or any of the other attorneys.

The complainant receive the change of address several day before mailing her request for a default judgment dated July 22, 2016. after ComEd fail to answer and plead.

Complainant has mail her request for a default judgment on July 22, 2016 before receiving ComEd's responding to Complainant's Motion for Summary judgment in the mail on July 27, 2016. ComEd envelope dose not indicated when comED mail it response to Complainant motion for summary judgment. However from July 27,2016, the day complainant receive ComEd response to summary judgment, to August 8, 2016 , the time for complainant to reply, on left the Complainant 12 Days to reply. Those days included the weekend days Complainant has no mean to receive any electronic transmission of documents. Putting the Complainant at a unfair advantage.

Engaging the Commission

''''It appear that ComEd is try to obstruct justice by engaging the Commission, by falsely interpretation that the complainant's complaint is against the Commission. Complainant file her complaint with the Commission against ComEd for charging the complainant a illegal and

unconstitutional Refusal fee for not allowing ComEd to put a smart meter on her home. Complainant did not file a complaint with the commission against the commission. Complainant has a right to protect herself and her property and defend against any action that violate her, state, federal and constitutional rights.

Commissioner Authority

ComEd Allege the Commissioner, have no authority address constitution issue regarding action within the Commissioner Jurisdiction, is without merit and is misplace with in this Smart Meter Refusal Fee case. Complainant disagree.

The commissioner do indeed has the Authority to uphold the Constitution within it jurisdiction. The Commissioner take and subscribe to the Constitution Oath of office. The Commissioner is bound to uphold the Constitution. Each statue impose clear and mandatory legal duty on the commission to uphold the constitution and not to impose a law that restrict infringe one's right under the constitution within it jurisdiction.

The commission has jurisdiction over ComEd to upon the law and to protect all ComEd customer constitutional Rights and to void/vacate any illegal act that is contrary to the constitution such as a constitution right to refuse smart meter on Complainant's property, and not be charge a penalty (refusal fee) for refusing. The commission can not obfuscate or mandatory by imposing a law, statue that dose not exist. ComEd and the Illinois Commerce Commission can not create a law or mandate forcing Complainant to pay an unconstitutional refusal charge/fee. There is no law that stated that Complainant have to pay a penalty for refusing a smart meter on her home her private property. There is no refusal Law. Plaintiff dose not have to pay to utilize her rights to refuse.

The United State Supreme Court rule in Marbury v. Madison, any law repugnant to the constitution are automatically null and void. Any law statue Code regulation etc that penalizing Complainant for exercising her constitutional right is repugnant to the constitutional. Under the law, the commission can not promulgate regulation concerning citizen constitution protected rights, any such regulation do not have preemptive effect. See, eg Hillsbrogh County v. Automated Medical laboratories 471 U.S 707. 713 (1985),

The Commission approval of ComEd's "Tariff Regarding Refusal Fee addressed only on page 13 of the Tariff "Dated February 5, 2014 Violate Illinois constitution Due process Clause (Art 1 sec 2 and Private Clause (Art 1 sec 6) It is

a familiar and well-established principle that the Supremacy Clause, U.S. Const., Art. VI, cl. 2, invalidates state laws that "interfere with, or are contrary to," federal law. *Gibbon v. Ogden*, 9 Wheat. 1, 22 U. S. 211 (1824) (Marshall). The commission has a legal duty under the Constitution and Illinois Law to comply with the United State constitution and the state of Illinois faithfully discharge the duty of office, as provided by the law, Prevent violation of the Constitution rights and protection of the citizen of and in Cook County Illinois Cp mst Art XIII sec 3 and 55 ILL Comp stat Sec 5/3- 6004 and 5/13-6021. Commission Approving Refusal Charge violate Plaintiff protected constitution rights, and infringe on her constitution rights.

Even Congress dose not have plenary power to enact statue that violated constitution protected rights.

ILL. CONST. art. I, § 6 ("The people shall have the right to be secure in their persons, houses, papers, and other possessions against unreasonable searches, seizures, invasions of privacy or interceptions of communications by eavesdropping devices or other means.") Congress sign the Constitution as officer of the government to uphold the constitution and as representatives of the people #566132. ComEd nor the Commission do not has authority or jurisdiction under the law to force Plaintiff to except any thing by force including imposing a \$21.53 refusal Penalty for refusal a Smart meter her home. There is no law that can penalizing the Plaintiff and, force the Plaintiff to pay a refusal fee for refusing ComEd a smart meter on her home, have under several laws and Constitution protect rights under 1st 4th, 14th, 9th and 13 amendment of the constitution of the United States, and under , Article VI paragraph 2 of the United State Constitution States: The constitution shall be the supreme law of the land. and the judge in all state shall be bound. (To uphold the constitution. Any law, that come in conflict with the constitution is a nullity, no judge can enforce it and no court can uphold it and it dose not exist in law, it bar no right to obey and is enforceable in any court. ComEd's Refusal Fee and the Commission approval is in conflict with the Constitution

SMART METER ARE NOT FEDERAL MANDATE

SMART METER BILL 2685 July 11, 2013, 113th Congress 2013-2015, DIE

Status: **Died in a previous Congress****Smart Meter** bill was introduced on July 11, 2013, in a previous session of Congress, but was not enacted. A law enacted by the legislative branch of a government is a law and even that law could be challenged in court. Smart meter refusal charge is not the law. Smart meter and Smart Meter refusal Charge/ fee is illegally being enforce upon the Plaintiff, under the color of the law. and the obligatory interpretation ComEd meaning of the Illinois Commerce Commission that all ComEd customer are to receive a smart meter

Any mandate between ComEd and the Commission , is only a MANDATE, and a MANDATE is not the law, and will never be, as a Mandate is only an instruction and cannot lawfully be force on anyone A On April 27, 2016, at the pre-hearing, ComEd obfuscate that the commission order falsely implying that \$21.53 was mandatory nature by implying there is a law ,statue that dose not exist changing the obligatory nature of words. While presenting only Two Page from ComEd Tariff. Order to falsely imply that there is a law and mandated approval by the commission. When No Such a law or mandated dose not exist. Federal or State. See exhibit A)

According to Illinois Public Utility Act forcing a customer to take a Smart Meter by charging a refusal fee is illegal. This section took effect in 1997 and has not been change. Smart meter refusal charge/fee is also a violation of Article VI Par 2 of the United State Constitution.

Smart Meter refusal charge/ fee is illegal, Section 16-124 states “ An electric utility shall not require a residential or small commercial - retail customer to take additional metering or metering capability as a condition of taking delivery service” (source PA.90-561,eff12-16-97. Further, the “ all customer” language in the Illinois public Utility Act Section 16-108.6 refers to the Utility Company AMI Deployment Plan, not to customer’s acceptance of meter, The crime of obtaining something such as money, and

According to the Commission Docket No. 13-0552, meeting minutes for the February 5, 2014 Commission, meeting in Chicago the Commission sets a refusal charge for the purpose of “incentivizing” (Forcing). Smart meter Acceptance. such action is illegal. COMMISSIONER del Valle: The statement added to the commission Analysis and conclusion section on page 13 of the proposed Order. It read as follow; **“Purpose of this charge (refusal charge) is primarily to motivate (“force”) customer to switch while also avoiding that socialization of costs incurred by**

customers' refusals". In the interest of transparency and to insure that this tariff (ComED tariff) has the desired effect, the Commission directs ComEd to make it absolutely clear that the charge is a penalty assessed as a consequence of customer refusal. The Commission recommends smart meter refusal charge as the language. (See ___ ICC Order 13-0552 pg 13) this is a clear violation of Plaintiff protected Constitution rights.

The Commission rate setting for Smart Meter Refusal Charge is illegal as it conflicts with the Illinois Public Utilities Act. Section 16-124 Further , the all customer language in the Illinois public utility Act Section 16- 108-6 refers to the utility company's (ComEd)AMI deployment Plan not the customer's acceptance of the Smart meter. Admitting that the refusal Charge of \$21.53 is to " motivate", mean they both ComEd and Commission purpose is "extortion" the crime of obtaining something such as money or information by using force, threats or other unacceptable methods

Any Smart Meter Refusal Charge impose on the Complainant by ComEd and approval by the Commission is preempted by federal law, and therefore violates the Supremacy Clause of the U.S. Constitution - The Supremacy Clause is a clause within Article VI of the U.S. Constitution which dictates that federal law is the "supreme law of the land" – and law statute ordinance that is contrary shall not stand.

Force and BlackMail

As part of a ruling Commission issued on February 5, 2014 "customer can refuse to have smart meter installed at a cost of \$21.53 per month, The ComEd and Commission set a unconstitutional refusal charge for the purpose of forcing Smart meter acceptance. The Commission further States" that the purpose of this charge (\$21.53) is primarily to motivated(force blackmail) Customers to switch, (Commission order February 5, 2014*Exhibit A pg 13, 14 and 10 thru 18.*)

Nowhere in the entire statute is the Commission granted the authority to regulate any thing, which are unauthorized by the statute, or in conflict with the Unite States Constitution. Such action is void. Thus, the Act statute must contain a strong indication of legislative intent to authorize the Commission to create a refusal Charge law, There is no such indication. of a force refusal charge law.

The Illinois General Assembly Passed Smart Grid Legislation 1652 & HB 3036

U.S. Energy Policy Act of 2005, sec 1252 smart Meter, Authorizes utility companies to offer consumers time-base rates via smart meter upon customer request only, Not by force or Penalty for refusing.

The fourth amendment, states "The right of the people to be secure in their persons, house, papers and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Penalizing the Complainant for Refusing Smart Meter is unconstitutional, it violate Plaintiff Constitutional rights. ComEd Forcing the Complainant to except Smart meter or pay a penalty, take away Complainant right and Constitution rights to refuse, it also violation my 13th amendment. The Complainant is not slave, is not a criminal. Complainant have a right to refuse a smart meter on my home without being penalize . It is unconstitutional and Illegal to penalizing Plaintiff for exercising her constitutional rights to refuse.

A copy of the Illinois Commerce Commission order February 5, 2014 re: Commonwealth Edison tariff filed September 20 2013.(exhibit A), ComEd index of filing with The Illinois Commerce Commission , 2016 year to Date (Exhibit B)and (C). Was attach to the Complainant's motion for summary judgment

The Commission Order with respect to Refusal Fee is Repunnant to the Constitution.

The Illinois Commerce Commission February 5, 2014 order States " It IS FURTHER ORDER that any motion petition objections and other matters in this proceeding which remain outstanding are hereby disposed of consistent with the conclusion herein." **The Plaintiff is not a party to tariff the tariff is a agreement between ComEd and the commission That statement dose not apply to the plaintiff. Such statement would be a violation of plaintiff constitution rights**

The Illinois Commerce Commission States " IT IS FURTHER ORDERED that subject to the provisions of section 10-113 of Public Utility Act and 83 Ill. ADM code 200.880, this order is final; it is not subject to the administrative review law". By order of the Commission this 5th day of February 2014. (signed DOUGLAS P. SCOTT, Chairman.) **The Plaintiff is not a party to the private agreement between ComEd and**

the commission The above statement dose not apply to the plaintiff. Such statement would be a violation of plaintiff constitution rights The constitution give the Plaintiff the right to petition the government, and that right can not be taken away by anyone.

The United State Supreme Court rule in Marbury v. Madison, any law repugnant to the constitution are automatically null and void. Any law statue Code regulation etc that penalizing Plaintiff for exercising her constitutional right is repugnant to the constitutional. And is illegal.

Complainant is not a party to ComEd Tariff. ComEd enter into an tariff agreement without Complainant's approval or knowledge. The complainant dispute that the Tariff has the force of the law, or can transform a duty not impose by law into a law.

. The Commission has jurisdiction over Commonwealth Edison to uphold the law and to protect all ComEd customers Customer Constitution Rights and to void/vacate any illegal act that contrary to the Constitution.

Conclusion

For the reason stated above an in all complainant's complaints and Motion for Summary judgment should be granted.

The evidence , in combination with the legal argument and precedent previously present and in light of the fact that ComEd could not produce any contrary evidence sufficient to create a dispute with respect to any material fact conclusively demonstrated that ComEd can prevail. Therefore Summary judgment should be granted to the Complainant..

This case call for a matter of fact and law whether a refusal Fee is mandatory or purely voluntary and the answer is, there is no mandatory refusal fee . a mandatory refusal fee is a violation of constitution rights.

Standard Governing Summary Judgment

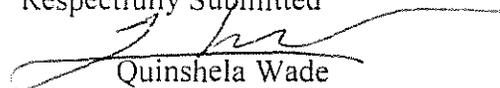
Summary judgment is proper and should be granted when the pleadings deposition affidavit and other matter on file show there is no genuine issue of material fact and that the movant is entitled to judgment as a matter of law. 735ILCS 5/2-10005(c) Elliott v. Williams 347 Ill. App 3d 109,112 (1st Dist, 2004)

Complainant's undisputed facts is entitle to Summary Judgment as a matter of law. Complainant's complaints and motion file with the Illinois Commerce Commissioner is factual and legal adequate . has legally demonstrated why her claims are warranted summary judgment.

WHEREFORE the plaintiff requests Summary Judgment as a matter of law, be granted, (2) instruct, ComEd to discharge all \$21.53, illegal and unconstitutional refusal fee Charges,... (3) issue Cease and desist order stopping ComEd from extorting an illegal Smart Meter refusal charge of \$21.53 each month because Plaintiff refuse to allow ComEd to install Smart meter on her home. and (4) refund the taxes and other fees added to the refusal Fees. And grant whatever additional relief is necessary and just. (4) Plaintiff request a hearing on this motion

For all the reason stated above, I Quinshela Wade Demanding a Trail By Jury if Summary Judgment is denied.

Respectfully Submitted



Quinshela Wade
8051 S. Dorchester
Chicago Illinois 60619

CERTIFICATE OF MAILING

I Quinshela Wade certify that a true and accurate copy Mail to **August 7 2016 To: Illinois Commerce Commission** Chief Clerk, 527 E. Capitol Avenue, Springfield Illinois 62701,....

Leslie D Haynes, Administration Law Judge Illinois Commerce Commission 160 N. LaSalle St., Ste C-800, Chicago IL 60601,

Rebecca A Graham Atty for Commonwealth Edison Company, 33 N. LaSalle Suite 2200 Chicago IL 60613

Mark L Goldstein Atty for Commonwealth Edison Company 3019 Province Circle Mundelein, IL 60060,

Thomas S. O'Neil Sr, Vice President & General Counsel Common wealth Edison Company, 440 S. La Salle St Ste. 3300 Chicago IL, **in the United State mail before 5:00 p.m.**