

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

September 8, 2016
ILLINOIS COMMERCE COMMISSION
CHIEF CLERK'S OFFICE
16-0243

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

**COMPLAINANT RESPONSE/OPPORSTION TO
COMMONWEALTH EDISON'S MOTION TO DISMISS**

Quinshela Wade, ("Complainant") respectfully submitted her response in opposition to Commonwealth Edison Company ("ComED") motion to dismiss Complainant's Verified Complaint, Regarding ComEd charging an illegal unconstitutional refusal fee submitted together with Accompanying affidavits and exhibits.

Complainant incorporate all her complaint Motions Responses/ Reply and the complete ComEd tariff, as part of her response/opposition to ComEd Motion to dismiss. Complainant states she is not an attorney and request not to beheld at the same standard as a practicing attorney.

PRELIMINARY STATEMENT

The issue the Complainant brought before the commission was, ComEd charging a refusal fee, for not allowing ComEd to put a Smart Meter on her home.

Complainant File a Complaint with the Commission on April 4, 2016 Regarding ComEd Charging a \$21.53 "Refusal Fee", because the Complainant Refuse to allow ComEd to place a Smart Meter on her personal Property her "home". Before receiving ComEd's Motion to Dismiss, dated August 22, 2016. ComEd has answer the Complainant's Complaint thought ComEd response to Complainant motion for Summary judge May 11, 2016 and Complainant's Request for Default Judgment July 22, 2016 ComEd Responded June 20, 2016 Complainant had already file a Motion for Summary Judgment with a memorandum in support of her motion for summary judgment. ComEd had already responded to both the Motion for Summary Judgment and request for default judgment. before Complainant complaint receive ComEd motion to dismiss. On August 22, 2016. Both ComEd and the Complainant submitted a sword

Affidavit regarding the Request for Default Judgment. Complainant file her request for a default judgment after ComEd had fail to answer or plead .ComEd allege it file it motion to dismiss on May 18, 2016 however, Complainant Plaintiff certify under oath with an affidavit that she never receive a copy of ComEd Motion to dismiss, until August 22, 2016. and the Complainant was given to September 9, to reply to ComEd's motion to dismiss she received on August 22, 2016.

There are issue of material facts to be resolved as a matter of law, is ComEd a refusal fee legally the law. is ComEd refusal Fee mandated. Whether Refusal fee. Whether Complainant has a legal right to refuse Smart meter on her home, her personal property. Whether there is a law that require the Complainant to pay for refusing. ComEd to place a smart meter on her home, ComEd has no legal right to charge the Complainant a refusal Fee for refusing Smart Meter on her house. And whether a Smart meter Refusal Fee violation Complainant Constitution protected Rights, (yes). Whether ComEd is in violation for charging the complaint a refusal fee and taxes and late fee on the disputed part of Complainant Bill each month while the dispute is unresolved. (yes).

Contrary to ComEd attorney statement Under the law the commission can not promulgate regulation concerning citizen constitution protected right any such regulation do no have preemptive effect see, eg Hillsbrough County v. Automat ed Medical laboratories 471 U.S. 707, 713 (1975) The rate setting plan for Smart Meter Refusal Charge is illegal as it conflicts with the Illinois Public Utility Act section 16-124 Further, all customer language in the Illinois Public Utility act Section 16-108-6 refers to the utility company (ComEd AMI deployment Plan not the Customer's acceptance of the Smart Meter The \$ 21.53 is extortion - a crime of obtaining something such as money or information by using force threats or other unacceptable methods.

Any Smart meter refusal Charge impose upon the Complainant by ComEd is preempted and approval by the commission is preempted by federal law and there for violated the supreme clause of the U.S Constitution- The Supreme Clause is a Clause within Article VI of the U.S. constitution which dictated that federal law is the supreme law of the land and law statute ordinance that is contrary shall not stand.

All of ComEd's attorney arguments in it's motion to dismiss are incorrect as a matter of law, as shown by the relevant precedent and even by the Illinois Commerce

commission rules. Utility Public Act and Constitution protected right under both the State and Federal Constitution Therefore ComEd Motion to Dismiss must be denied.

It is axiomatic that individuals whose constitutional rights have been violated have a clear legal right to relief, therefore ComEd argument is without merit..

Complainant stand by her statement of Constitution violation by ComEd and yes including the thirteenth Amendment. only Slave and Criminal has no right to refuse or choose.

ComEd motion to dismiss do not meet the legal standard to be consider or granted, is not support by valid ground.

ComEd's motion to dismiss dose not asserts an affirmative defense or other matter that void or defeat the Complainant's claim. According to the Commission, "ComEd does not have a Commission Approved Refusal policy" (Commission order February 5,2014 pg 10). There can be no sanction or penalty of \$ 21.53 imposed upon the Complainant because she exercise her constitution rights, for refusing to allow ComEd to put a smart meter on her home.

Complainant deny all the allegation in comEd Motion to Dismiss
ComEd Motion to Dismiss all the statement regarding the **refusal fee in comEd's motion to dismiss is false and distorted.**

The Commission Order Dose not Support The Allegation In ComEd Motion to Dismiss.

The Illiois Commerce Commission Regarding submission Rider Nam Non AMI Metering, Order 13-0552. that contain 19 pages, ... Page 1 to page 18, contain proposal (not laws) Page 18 to 19, contain the 6 Commission order. Dated February 5, 2014. **The six orders of the commission dose not refer to A refusal Fee mandate, there is no refusal fee mandate or law**

FRAUDULENT STATEMENTS

In the course of representing ComEd, ComEd attorney Rebecca A Graham, make it difficult to response to ComEd Motion to dismiss by submitted a Motion to dismiss, that is Plague with deliberate deception , false misleading fraudulent statements of material facts and law to be relied upon and to secure unfair or unlawful gain, to deprive the complainant of a legal and constitutional rights. The outright twisted lies and deceptions in the ComEd's Motion to dismiss is numerous, directed to obstruct justice The entire ComEd Motion to dismiss should be stricken and denied. The Complainant Dispute ComEd Motion to Dismiss. An Attorney for ComEd has a duty not to present false and misleading information. nor present information in an attempt to

prejudice the Commission against the Complainant and the Complainant's Complaint file April 4, 2016 is not against the Commission. It is against ComEd.

With Respect To The Refusal Fee ComEd entire Defense is without Truth The Attorney Shall not assert a position that is not meritorious

ComEd motion to dismiss, intentionally direct attention away from Complainant's complaint against ComEd and Continue to Charge Complainant a Smart meter Refusal fee. incorporating issue outside the scope of Complainant claim as it's defence.. ComEd intentionally misquote misrepresent and misinterpretation Statements in the Complainant's Complaint. in the Commission 13-0552 order. using inapplicable cases laws , such as *Sheffler v Commonwealth Edison Co. 955 N.E.2d 1110, 1110(2011)*, *Adams V N Ill. Gas Co 211 Ill 2d 32.55(2004)*, and *Illinois Central Gulf R.R Co v Sankey Brothers. Inc . 67 Ill app. 3d 435, 439 (4th Dis 1978)*, The above cases ComEd use, is outside the scope of the Complainant Complaint, and not in any way in relation to the matter in the complainant's complaint. those cases are not in the scope of the law regarding ComEd Charging the complainant a monthly refusal fee, for refusing to allow ComEd to Place a smart meter on her home her personal property is a violation of law.

ComEd Motion to Dismiss is Plague with False And Misleading Statement

- (a) It is a fact that the fraudulent statement in ComEd's motion to dismiss has no standing
- (b) It is a fact, charging a refusal fee is not law
- (c) It is a fact that the commission did not mandate a refusal fee
- (d) It is a fact that the that the statement in the commission order Regarding a refusal fee is not law or a mandate.
- (e) It is a fact that ComEd illegal charge Complainant a refusal fee because she would not allowing ComEd to put a Smart meter on her personal property her home.
- (f) It is a fact that ComEd illegal charge a late fee and taxes on the illegal refusal fee. Complainant timely pay her ComEd Bill each month. She subtract the \$21.53 Refusal fee each month from the bill
- (g) It is a fact, ComEd has and continue to be in violation for charge the Complainant a \$21.53 Refusal fee each month , while this matter is pending before the commission. Under the Illinois Commerce Commission (Commission") it state that once a complaint is File, all charge and fees in dispute must stop until the matter is resolved. ComEd continue to Charge a refusal fee. and place taxes and late fees the (Refusal Fee) that's in dispute, and has not been resolved ComEd don't follow the rules.
- (h) It is a fact that ComEd is in violation for attaching taxes and late fee on the illegal Refusal fee, while the issue is unresolved.

- (i) It is a fact that a refusal fee is not mandated by the federal government or the commission.
- (g) It is a fact that ComEd motion to dismiss is against the manifest weight of the evidence
- (h) it is a fact, ComEd motion to dismiss is outside the scope of Complainant Complaint, plagued with fraudulent statements, for the judge to rely on ComEd incorrectly alleging the complaint fails as a matter of law
 1. **Smart meter refusal fee is Illegal not mandated by the federal Government or the Commission.**
 2. ComEd's Exhibit A III, C.C 10 3rd Revised Sheets No. 44-447, Docket No. 13-0552, dated February 5, 2014(13-0552") only relate to reading meter Charge. Not to refusal fee.
 3. There is nothing in the tariff that mandate, a Refusal Fee, for refusing smart meter.

Complainant Dispute ComEd Entire Motion To Dismiss.

Complainant disputed all the Statement under ComEd title "BACKGROUND", in its motion to dismiss. Complainant never made the statement "Commission-approved" smart meter refusal fee of \$21.53" the word "Commission-approved" is a false statement made by ComEd's Attorney. However, Complainant maintains that having to pay ComEd a refusal fee, for refusing to allow ComEd to put a Smart Meter on her personal Property her home, does indeed violate her constitutional rights. Complainant has the legal right to decide what can and cannot be placed on her property her home.

Complainant Dispute ComEd's Statement under the Title "ARGUMENT"

ComEd fraudulently alleges that smart meter Refusal fee is mandated by ComEd's Commission-Approved tariff in Rider Nam. Smart Meter Refusal fee is Not Mandated By the Commission. In fact, Smart meter is not mandated, at all. Smart meter Bill 2685 July 11, 2013, 113 Congress 2013-2015, DIE ...Status... in the previous Congress Smart meter bill was introduced on July 11, 2013 in a previous session of Congress, but was not enacted. **Smart meter Refusal Fee is not Law.** And does not have the force of law or the statute. There is no law that requires ComEd to charge a refusal Fee, until a smart meter Bill is enacted by Congress it cannot be. ComEd Motion to dismiss, is fraudulent, ComEd continues to misuse and misrepresent the Word "Commission-Approved Tariff with respect to a refusal fee, when **There is no Commission- Approval Refusal Fee.**

Refusal Fee v Meter Reading Charge

ComEd cannot and has not submitted any legal evidence to support the legality of a \$21.53 Refusal Fee or in the statement it made regarding the Refusal Fee.

ComEd Motion to Dismiss, contains blatantly misleading or false allegations deceptively make it appear that ComEd attorney is address Complainant's Complaint regarding **Refusal Fee of \$ 21.53** , when in fact all the laws rule regulation and statement, case laws, exhibits and statement made in ComEd's motion to dismiss is related to a **Reading Meter Charge** of \$21.53. these are two separated charges the reading metering charge is outside scope of the Complainant refusal fee Complaint, it is not related.

Complaint denied all the allegation in ComEd Motion to Dismiss.

ComEd misrepresent twist and divert attention away from Refusal fee to Reading meter Charge and using the Reading meter Rule in the Exhibit A attach to ComEd Motion to Dismiss in it's support is outside the scope of the complainant complaint. ComEd **Exhibit A** refer only to a **Reading Meter Charge** not a **Refusal Fee**. **those Exhibit should be stricken. ComEd motion to dismiss should be denied.**

Complainant's Claims are sufficiently stated and;

Complainant incorporate the complete copy of Commission Order Regarding ComEd Tarff (the agreement between ComEd and the Commission February 5, 2014) file with her complaint on April 4, 2016, with the commission against ComEd for Charging an illegal Refusal Fee. Complainant states as following;

- (a) Complainant has no duty to set out all of the relevant fact in her complaint” Specific fact are not necessary in a complaint ; instead, the statement need only give ComEd fair notice of what the claim is and the ground upon which it rest
- (b) The commission has jurisdiction over Complainant complaint against ComEd.
- (c) The complainant have a legal capacity to bring this matter before the commission
- (d) The complaint contain a cause of action upon which relief can be granted
- (e) The Complaint contain specificity facts sufficient to state a cause of action

ComEd' Motion to Dismiss, Is Legally Insufficient

- (a) **The commission has Jurisdiction despite ComEd Claim to the Contrary.**
- (b) ComEd do not have a valid legal argument supporting it Motion to dismiss, because **ComEd Motion to dismiss is basic on fraud and disinformation**
- (c) .ComEd tried to support it motion to dismiss with fact outside the scope of Complainant's \$21.53 refusal fee complaint, , with a \$21.53 Reader Meter charge. These are two separate charges.
- (d) The commission has not impose a refusal fee law, it dose not exist.

ComEd Motion to Dismiss is Plague with False And Misleading Statement

- (a) It is a fact that the fraudulent statement in ComEd has no standing
- (b) It is a fact, charging a refusal fee is not law
- (c) It is a fact that the commission did not mandate a refusal fee
- (d) It is a fact that the that the Commission order Regarding a refusal fee on page-----
- (e) It is a fact that ComEd illegal charge Complainant a refusal fee because she would not allowing ComEd to put a Smart meter on her home.
- (f) It is a fact that ComEd illegal charge a late fee and taxes on the illegal refusal fee. Complainant timely pay her ComEd Bill each month. She subtract the \$21.53 Refusal fee each month from the bill
- (g) It is a fact, ComEd has and continue to be in violation for charge the Complainant a \$21.53 Refusal fee each month , while this matter is pending before the commission.
- (h) It is a fact that ComEd is in violation for attaching taxes and late fee on the illegal Refusal fee.
- (i) It is a fact that a refusal fee is not mandated by the federal government or the commission.
- (j) It is a fact that ComEd motion to dismiss is against the manifest werght of the evidence.
- (k) It is a fact ComEd motion to dismiss is outside the scope of Complainant complaint plague with fraudulent statements, for the judge to rely on ComEd incorrectly allege the complaint fails as a matter of law .

Complainant file a Complaint April 4, 2016 against ComEd for charging her unconstitutional illegal Refusal Fee of \$21.53 for refusing to allow ComEd to Place a Smart meter on her personal property her home. Please note, Complainant complaint was directed against ComEd who illegal charge a refusal fee. and continue to charge a refusal fee not at against the commission, Complainant file her complaint with the commission against ComEd. Not against the Commission, as ComEd falsely allege, It appear that ComEd trying to put the commission against complainant.

The United States Constitution is The Charter of the Nation. It defines the framework of the government it establishes. It delegates authority to act in specific areas. It establishes the boundaries within which our national government may act. It is not a grant of unlimited power to act with unrestricted discretion. The primary purpose of our Constitution is to protect the people in their God-given unalienable rights.

In Response To ComEd. The Commission Has Jurisdiction

Complainant dispute ComEd' statement that the Commission has no jurisdiction over Complainant's complaint. Complainant stand by her statement in all her complaint, motion, response and reply. The commission has a legal duty under the constitution and Illinois law to comply with the U.S. Constitution and the State of Illinois to faithfully, discharge the duty of office and provide by the law, prevent violation of the constitution right and protection of the Citizen of an in cook county Illinois Const. Art x11 sec 3 and 55 Ill Comp Stat Sect 5/3-6004 and 5/13-6021. as in this instance case. Charging the Complainant a refusal fee is a violation of constitution rights. The Oath the Commission take to uphold the Constitution of the U.S and the State of Illinois do in deed give the Commission Jurisdiction over constitutional violations with in it jurisdiction.

The Complainant object to ComEd statement that the Commission has no jurisdiction to prevent violation of Constitution right as in this instance matter.
The Complaint object to ComEd, Statement, that the Tarff have the force of the law with respect to the refusal fee. Complainant object to ComEd false statement that ComEd attorney incorrectly allege that the Commission has no Jurisdiction to address Constitutional violations committed by ComEd. A commissior, Judges and Attorney all take a oath to uphold the Constitutions of the United State and the state of Illinois. And any issue that is before them that is contrary to the constitution is void of no legal force or effect and shall not stand Article VI (2). The commission has a duty to uphold the Constitution, any law rule regulation code statue, that is repugnant to the constitution must be address by the commission with in it's area. In addition ComEd attorney also have taken an oath to uphold the constitution as in this instance case has fail. When one fail to uphold the constitution , they have violate their oath of office.

The rule is that comEd can not discontinue Electric service because of refusal of Smart Meter on Complainant home, this would be a violation. As long as the complainant pays

her Electric bill as she has always done ComEd cannot retaliate and threaten the Complainant with an illegal discontinuation of service.

ComEd threatens to discontinue Complainant electric service if complainant continues to defend against the illegal refusal fee. Complainant timely pays the non-disputed portion of her ComEd bill each month. She subtracts the disputed part of \$21.53, which should not have been added to her bill until the dispute is resolved. ComEd still owes Complainant the illegal late fees and taxes on the disputed part of the bill.

CONCLUSION

ComEd has not produced any evidence to support the statements made in ComEd's motion to dismiss regarding a refusal fee being the law or mandated.

ComEd's Motion to Dismiss under Pursuant to Illinois Administrative Code Section 200.190(a) and 83 Ill Admin Code 200.10 set adopted at 38 Ill.Reg. 21331 is without merit and is laced with false and misleading disinformation. Pursuant to 83 Illinois Administrative Code section 200.680 Complainant objects to ComEd's motion to dismiss pursuant to Section 200.190(a) and 83 Ill Admin Code 200.10 set adopted at 38 Ill.Reg. 21331. ComEd's Motion has no standing even under the State and Federal statute for a motion to dismiss. In addition, ComEd's Motion to Dismiss and ComEd (exhibit A) is outside the scope of the Complainant's Complaint and is irrelevant, immaterial, unduly repetitious, and inadmissible as evidence. **Rules Electric Utility's Smart Meter Opt Out Fees Violate State Law ..**

I Demand a trial by Jury

ComEd's merciless motion to dismiss is clearly intended more for its desired public relation value than as a serious filing with the remotest possibility of success in law. ComEd devotes almost no attention to the serious allegations in the Complainant's Complaint. Instead, ComEd dwells at length on cover-up of the illegal action of ComEd violating Complainant's Constitutional right to refuse Smart Meter on her home, on "inexplicable" statements.

The Complainant adequately having pleaded facts sufficient to make a cause of action arising from the ComEd ultra vires Action, and ComEd having failed to sufficient

refute Complainant's Complain this case should not be dismiss. ComED has not establish a defense as a matter of law.

The Complainant pleads with particularly fact giving rise to strong inference" that ComEd made false and misleading statement with deliberate conscious recklessness.

For all the reason set forth above, complainant ComEd Motion to dismiss should be denied. And Complaint motion on file should be granted her motion for summary judgmentn Complainant has requested a Trial by Jury in this case

Respectful Submitted

Quinshela Wade 9/8/2016
8051 S. Dorchester
Chicago Illinois 60619

CERTIFICATE OF MAILING

I Quinshela Wade certify that a true and accurate copy Mail to ^{September 8, 2016} ~~September 8, 2016~~,
2016To: 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.**

