FILE

### BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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RY DOCKETHEON

MARCENA UPP	)	Ó	بي
Complainant,	)		G
v.	Case No. 11-5427-EL-CSS		
THE TOLEDO EDISON COMPANY,	)		
Respondent.	) )		
	,		

## THE TOLEDO EDISON COMPANY'S MEMORANDUM CONTRA MOTION TO STAY DISCONNECTION AND TO REFRAIN FROM ESTIMATED METER READING

On December 6, 2012, Complainant Marcena Upp ("Complainant") filed a Motion requesting two forms of relief. First, she asked the Commission to "enforce a previous cease and desist order staying disconnection of service during the pendency of the formal hearing process." (Compl.'s Mot. p. 1.) Second, she asked the Commission to require The Toledo Edison Company ("Toledo Edison") to refrain from using estimated meter reading. (*Id.*)

With respect to the first requested form of relief, no cease and desist order has been issued in this case. Moreover, Toledo Edison has properly pursued disconnection for non-payment after Complainant missed a monthly payment in October 2012. With respect to the second form of relief, Toledo Edison has complied with the Commission's meter reading rules. *See* O.A.C. Rule 4901:1-10-05(I). In fact, Toledo Edison actually read Complainant's meter six times in 2012. For all of those reasons, Complainant's Motion should be denied.

#### I. BACKGROUND

Complainant's Toledo Edison bill payments have been chronically late or absent. In fact, Complainant did not make any payments to Toledo Edison from January to May 2012. See

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Detailed Statement of Account (attached hereto as Exhibit A). As a result, Toledo Edison pursued disconnection for non-payment in the summer of 2012. Complainant received notice of disconnection via her Toledo Edison bill dated June 16, 2012. See Customer Contact Log (attached hereto as Exhibit B), entry dated June 16, 2012. Toledo Edison attempted to disconnect service on June 20, 2012, but was unable to do so because of lack of access to the meter. Toledo Edison posted a notice of disconnection. See Customer Contact Log, entry dated June 20, 2012. Toledo Edison also contacted Complainant by telephone on June 28, 2012, to inform Complainant that, although her total balance was \$6,071.99, she could make a payment of \$551.35 in order to avoid disconnection. See Customer Contact Log, entry dated June 28, 2012.

Complainant initiated a \$551.35 payment on June 29, 2012. See Customer Contact Log, entry dated June 29, 2012. The day before, June 28, 2012, she had filed a Motion to Stay Disconnection During the Formal Hearing Process. Complainant asserted that Toledo Edison was required to refrain from disconnecting service while this case is pending under Ohio Administrative Code Rule 4901-9-01(E). That provision states:

If a person filing a complaint against a public utility is facing termination of service by the public utility, the person may request, in writing, that the commission provide assistance to prevent the termination of service during the pendency of the complaint. The person must explain why he or she believes that service is about to be terminated and why the person believes that the service should not be terminated. A person making a request for assistance must agree to pay during the pendency of the complaint all amounts to the utility that are not in dispute. The commission, legal director, deputy legal director, or an attorney examiner will issue a ruling on the request.

Toledo Edison responded on July 12, 2012, by pointing out that Complainant was not entitled to relief under Rule 4901-9-01(E) because she was not paying amounts not in dispute during the pendency of her case. (Toledo Edison's July 12, 2012, Response to Mot. to Stay Disconnection at 1.) Toledo Edison stated that the \$551.35 payment Complainant made on June 29, 2012,

satisfied her payment obligations for January-April 2012. Complainant owed an additional \$360.34 for May and June 2012. Toledo Edison agreed to defer that payment until after the conclusion of this case. As long as Complainant timely paid her "July bill and all future monthly bills that arrive prior to resolution of this matter" Toledo Edison also agreed not to disconnect service. In the event of non-payment, Toledo Edison reserved disconnection rights. (*Id.* at 1–2.)

On July 26, 2012, the Attorney Examiner issued an Entry that addressed Complainant's Motion. He found that "[i]n view of Toledo Edison's response to the complainant's motion for stay, the complainant's motion appears, in overall effect, moot." (Entry dated July 26, 2012, at p. 2.) He further found that "... the complainant should abide by the terms set forth in Toledo Edison's response. Specifically, the complainant should pay her July bill and future undisputed bills. Otherwise, the complainant will be subject to disconnection pursuant to the Commission's rules." (*Id.*) The Attorney Examiner did not issue a cease and desist order. (*See id.*)

Complainant paid her monthly bills in July, August, and September, 2012. *See*Detailed Statement of Account. Complainant did not, however, pay her October bill. As a result, Toledo Edison provided notice of disconnection via Complainant's November 13, 2012, monthly bill. *See* Customer Contact Log, entry dated November 13, 2012; (Compl.'s Mot. Ex. A.) Complainant received an additional notice at her home dated December 3, 2012. (Compl.'s Mot. Ex. A.) To date, Complainant has not paid her October 2012 bill. Instead, she has filed the pending Motion, which challenges Toledo Edison's ability to disconnect and suggests that her bills are disputed because Toledo Edison has used estimated meter reading. (*Id.* at 1–3.)

#### II. ARGUMENT

#### A. Toledo Edison's Efforts to Disconnect Are Appropriate.

Complainant makes several arguments in an effort to establish that Toledo Edison may not disconnect her electric service, but none are meritorious. First, she claims that the

Commission has issued a cease and desist order that prevents disconnection. (Compl.'s Mot. p. 1.) That is not the case. Instead, the Commission issued an Entry stating that "the complainant should pay her July bill and future undisputed bills. Otherwise, the complainant will be subject to disconnection pursuant to the Commission's rules." (Entry dated July 26, 2012.)

Second, Complainant claims that she has made all of her bill payments. (Compl.'s Mot. p. 3.) That is also untrue. As the Detailed Statement of Account attached to this Memorandum demonstrates, Complainant never paid her October 2012 monthly bill. A payment Complainant made on October 20, 2012, was a late payment on her \$209.37 bill from September 2012.

Detailed Statement of Account. Complainant indicates in her Motion that she was confused because she received two bills in October and was not sure which to pay. Complainant's October 2012 bill was originally issued on the 16<sup>th</sup> based on an estimated meter read. Detailed Statement of Account. After Complainant called in an actual meter read, the bill was adjusted and re-issued on the 18<sup>th</sup>. *Id*; Customer Contact Log, entry dated October 23, 2012.

Complainant contacted Toledo Edison to ask which bill to pay and was advised to pay the bill issued on the 18<sup>th</sup>. Customer Contact Log, entry dated October 23, 2012. Despite clear instructions from Toledo Edison. Complainant never paid the bill issued on the 18<sup>th</sup>.

Third, Complainant suggests that she was not required to pay her October and November bills because they are disputed. She explains that she called Toledo Edison to provide actual meter reads, but her calls were disregarded. (Compl.'s Mot. p. 2–3.) Once again, Complainant's assertion is not accurate. As noted above, her actual meter read provided by telephone in October prompted Toledo Edison to issue a new bill. Detailed Statement of Account; Customer Contact Log, entry dated October 23, 2012. Complainant provided an actual meter read (14,231 KWH) by telephone again on November 13, 2012. Customer Contact Log, entry dated

November 13, 2012. That actual meter read was used to generate her November bill. Detailed Statement of Account. In short, Complainant's October and November bills are not in dispute.

For all of those reasons, Toledo Edison's efforts to disconnect electric service at Complainant's home are appropriate. Toledo Edison has been informed, however, that Complainant's home has been foreclosed and that she must vacate the premises by December 29, 2012. (Compl.'s Mem. Opp. Mot. to Dismiss. p. 2.) Toledo Edison does not plan to disconnect service prior to that date. Complainant should be aware, however, that she is not automatically entitled to service at a new residence located in Toledo Edison's service territory. Toledo Edison's tariff explicitly states that Toledo Edison "may refuse to provide electric service, consistent with Ohio law, including without limitation, for those reasons specified in Chapters 4901:1-10 and 4901:1-18 of the Ohio Administrative Code." Tariff Sheet 4, § II(D). Ohio Administrative Code Rules 4901:1-10-19(C) and 4901:1-18-10(C) make clear that Toledo Edison may refuse service unless Complainant pays amounts that are not in "bona fide dispute." At minimum, that means she must pay the \$116.77 she owes for October and the \$105.87 that is due December 28, 2012. See Detailed Statement of Account. Before service may be provided, she may also be required to establish credit by paying a security deposit of up to 130 percent of her estimated average monthly bill for regulated services or furnishing a creditworthy guarantor. See O.A.C. Rule 4901:1-10-14; Tariff Sheet 4, § III(A)-(B).

#### B. Toledo Edison Is Permitted To Utilize Estimated Meter Reading.

Complainant also asserts that Toledo Edison should be ordered to refrain from using estimated meter reading. She explains that a "remote reader practice is being utilized in her neighborhood." (Compl. Mot. p. 3.) Complainant is correct that an Automated Meter Reading ("AMR") meter was installed at her home approximately one year ago. When an AMR meter is installed, a meter reader is able to use a handheld to pick up a wireless read as he or she walks

past a meter. In other words, a meter reader still must travel his or her route to obtain a read.

Although Toledo Edison strives to obtain as many actual meter reads as possible, actual reads are

not obtained every month. During months when a metering route is not read, Toledo Edison

utilizes an estimated read. See Tariff Sheet 4, § VI(G) ("The Company attempts to read meters

on a regular basis, but there are occasions when it is impractical or impossible to do so. In such

instances the Company will render an estimated bill based upon past use of service.") The

Commission's rules generally require actual meter readings once each calendar year. O.A.C.

Rule 4901:1-10-05(I)(1). Upon a customer's request, a meter may be read two additional times

per year. O.A.C. Rule 4901:1-10-05(I)(2). In any event, Toledo Edison is in full compliance

with the applicable rules because Complainant's meter has been read six times in 2012. Toledo

Edison may continue to utilize estimated reading under Ohio Administrative Code Rule 4901:1-

10-05(I).

III. CONCLUSION

For all of the above reasons, disconnection need not be stayed. Moreover, Toledo Edison

may utilize estimated billing pursuant to Ohio Administrative Code Rule 4901:1-10-05(I).

Toledo Edison respectfully requests that Complainant's Motion be denied.

Dated: December 21, 2012

allews E. Harat

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(Counsel of Record)

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Email: cdunn@firstenergycorp.com ATTORNEYS FOR RESPONDENT

7

#### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was delivered to the following persons by first class mail, postage prepaid, this 21st day of December, 2012:

Marcena Upp 4801 Imperial Drive Toledo, OH 43623

Allison E. Haedt

An Attorney For Respondent

## **EXHIBIT A**



# **DETAILED STATEMENT OF ACCOUNT**

MARCENA UPP Customer Name:

Account Number:

110076714101

Service Address:

4801 IMPERIAL DR TOLEDO OH 43623

<b>5</b> 8	11,943.44		11,955.44	12,113.27	12,228.31	12,339,59	2,469.83	12,504.83	2,699.93	2,148.58	2,361.88	12,148.58	2,481.76	2,148.58	12,357.95	12,541.98		12,357.95		12,474.72	2,265.35	12,364.82	12,376.82	2,277.35	12,383.22	 	
Accolint Balance	11,9		11,9	12,1	12,2	12,3	12,4	12,5	12,6	12,1	12,3	12,1	12,4	12,1	12,3	12,5		12,3		12,4	12,2	12,3	12,3	12,2	12,3		
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# **EXHIBIT B**

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ate	Time Class		Action	Cont Account	User
(OF (OD)	Contact Text	A &	Meter Obstruction - No Access	110076714101	David - T. Vilas
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			o cut at pole first reported 06/20/2012		
/05/201			Notif - Company Use Only	110076714101	Douglas J Kigar
	This is an ongoin	g formal com	plaint while pending the customer is to pay		-
	current bills. Del	borah L. Rei:	nhart is reviewing this account on a		
			k for nonpay pay when she requests.		
2/18/201			General Inquiry	110076714101	Deborah L Reinhart
	•		tomer has to be out as of 12/29. Closed		
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1/13/201			General Inquiry	110076714101	C12477
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	transferred to bi		In merel reading		
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crew on it's way 07/13/2011		
07/13/201214:30 CIC Contacts ALERT! Sensitive Account per Tim O. (planner) service will be restored here today. crew on their way now 07/13/2011	110076699930	Rebecca J Giltz
06/29/201216:42 Contract Account Create Dunning Lock Created dunning lock until 07/02/2012 MARCENA UPP paid 551.35 to stop the disco per the notes on the account. Put hold on account. AMA #	110076714101	C11004
18717120274 D6/29/201216:35 CIC Contacts General Inquiry	110076714101	Melvin Butler Jr
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06/28/201210:34 CIC Contacts Dunning Explanation sw MARCENA UPP-adv current bill 6071.99 -disc amt 5733.89 du e 7/2/12 -faxed med cert to 419-841-6338 ttempted to give hotline numbe she stated she already had it	110076714101	Jordan D Jones
-adv with dispute was quoted needed to pay \$551.35 by legal for PUCO dispute	110076714101	GC Connell Pursons Pake
06/28/201210:00 Dunning "Auto Dial" Listened to entire msg-correct househol Phone attempt 01 - Listened to Entire Message - Correct Household Confirmed 06/20/201224:00 Credit & Collections Disconnection Notice	110076714101	CS General Purpose Batc  Douglas J Kigar
LS: Disconnection Notice here today 06/20/2012. Past Due \$ 551.35 ( NO ACCESS ) SPOKE WITH GREG SNYDER LINE DEPT CANNOT CUT AT POLE. 06/26/2012	1100,0,11101	bougino o Niger
De/20/201211:17 CIC Contacts Dunning Explanation  s/w MARCEMA UPP-bp, ver last 4 of ss#, Recta  -daughter Redacted, DR. SHURTZ F-419-  841-6338, RVWD ACCT & NOTES & CDL'S ON ACCT,  W/SUP, BP HAS 1 MED CERT AVAIL, READ MED	110076714101	Shannon L Smith
CERT SCRIPT, SSMITH  06/20/201211:05 CIC Contacts ALERT! Sensitive Account per Carrie Dunn, legal, cust needs to pay \$551.35 (Jan, Feb, March & Apr 2012 bills), PUCO formal complaint filed 10/11/11, cust mtr exchanged 12/16/11, under formal complaint ruling, cust must pay current monthly charges from filing date (in this case legal is using meter ex date) to prevent disconnect, per legal, Carrie Dunn yb	110076714101	17762
06/20/201210:55 CIC Contacts General Inquiry Marcena Upp 110076714101 needs med cert faxed to	110076714101	47767
dr. Verif. Trsfd to credit. 06/20/201210:36 General Complaint Supervisor Call	110076714101	Valerie A Maione
marcena upp said that we can't shut her off because of formal hearing that is scheduled with puco next month. i provided med cert info p/yvonne brawley's recent note and sent info to Carrie Dunn for follow up as necessary. offered to call cust back after researching, but she stated she isn't supposed to talk to the utility.		
06/20/201210:25 CIC Contacts General Inquiry  MARCENA UPP is calling to sp w/ supervisor is  calling about medcert , said she is at hearing w/puco , tran to valerie  maione	110076714101	Christopher L Taylor
06/18/201209:02 CIC Contacts Dunning Explanation left Marcena Upp vm regarding #2 med cert expired 6/17/12, advised cust needs to contact cust serv asap to maintain elec serv and med cert eligibility yb	110076714101	17762
06/17/201211:43 Contract Account Medical Certificate Medical Certificate 3 2 ESPIRES 06/17/2012	110076714101	C11103
06/16/201218:40 Form Letters Disconnection Notice - OH Residential 06/16/201215:12 CIC Contacts General Inquiry MARCENA UPP called regardin outage. She is only one out. advised will be there between now and 4:30.	110076714101 110076714101	CCSBILL95 Kimberly E Urbach
also explained how to check breakers. 06/16/201214:19 Operating-DMC Lights-None ERT: 06/16/12 04:30 PM	110076714101	EAILOGINWM6
05/21/201213:06 Meter Meter-Exchange 05/18/201223:26 CIC Contacts General Inquiry	110076714101 110076714101	Shirley Rittichier Tammy L Krasuna
per tman on upon arrival  05/18/201217:27 CIC Contacts  sw steve from rdo - adv just needs meter put in - they  were unablt to block at pole - gave ert within the hour-  passed this information on to Mike Yonkura from	110076714101	Dustin R Valentine
PUCO - was calling to get restoral time.  05/18/201217:18 Disconnection Dunning Disconnection Document Created  per sup back thompson same day.	110076714101	Dustin R Valentine
per sup barb thompson same day  05/18/201217:08	110076714101	Sharmba L Varner
acct# 110076714101  05/18/201212:40 CIC Contacts Status of Existing Notification	110076714101	Douglas J Kigar
NEEDS A METER SENT TO WESTERN METER SERVICES TO UNBLOCK  05/18/201212:14 Credit & Collections Reconnection Process-Recon started Reconnect at Pole will be created for reconnection on 05/18/2012 . Medical Co Reconnection amount negotiated for 35,00  Disconnect amount negotiated for 5603.65  CSR negotiated amount 5638.65  Advised Breakers Off:No RCVD SIGNED MED CERT BEFORE CUTOFF-UNABLE TO REACH BP TO ADV TO TURN OFF BREAKERS-PLCD SAME DAY RECONN-LP	110076714101 ondition	C11103

11:44 Contract Account Med Cert Paperwork Received Medical Certificate Paperwork Received-05/18/12-06/17/12-RCVD #2 SIGNED MED CERT- STATUS (#1 MED CERT 07/12/2011)-CLLD BP TO ADV, LFT MSG ON VM-PLCD SAME DAY RECONN-LP	110076714101	C11103
05/18/201210:42 Credit & CollectionsGeneral Inquiry/Other  MARCENA UPP - verf infocalled to have medical cert sent to a 2nd doctor - she stated that she did not know which doctor would sing the form - i adv her she needs to contact her doctors office and figure out which one will sign the form - adv she has until 330mraser	110076714101	Michele Raser
05/18/201210:23 CIC Contacts General Inquiry MARCENA UPP faxed med certificate for child Redanted faxed to 4198416338 read script	110076714101	Bonnie L Head
O5/17/201220:34 CIC Contacts General Inquiry  MARCENA UPPupset claim that she shouldn't be shut off at all because she has a claim attorny for first energy is Haet e sd that this is a serious issueadvised that she was su ppose to make pmts on the account and that is why she was di sconnected she is not paying current bills which are not in legal dispute per rep Yvonne L Brawley notesshe wanted to sw a supervisor because she claim that her child will die if her service isn't on advised can take her # and a supervisor can call her back then she sd that she did not have a phone bec ause service is off and that she is using someones phone ask ed for a supervisors number advised that we do not give supe rvisors # we can take a contact phone# to have a supervisor to give her a call back, suggest to either call 911 or take child to the hospital if neededshe sd that she will chal the police right now and say they stole meter sd maki ng report now and hung up	110076714101	Yolanda R Gibbons
05/17/201220:11 Master Data Change Personal Data Changed MARCENA UPP updated phne#(419)245-2922		Yolanda R Gibbons
05/17/201213:47 Meter Meter-Remove Meter-Remove must be turned on by Western Meter Services	110076714101	Douglas J Kigar
05/17/201213:47 Credit & Collections Service Disconnected Service blocked at meter was removed. Disconnect R-05173, Needed \$440.06 past due + \$35 R/C = \$475.06 Total	110076714101	Douglas J Kigar
05/17/201211:22 CIC Contacts ALERT! Sensitive Account per Carrie Dunn, legal, cust needs to pay \$440.06 (Jan, Feb & March 2012 bills), FUCO formal complaint filed 10/11/11, cust mtr exchanged 12/16/11, under formal complaint ruling, cust must pay current charges from filing date to prevent disconnect, per legal, Carrie Dunn, customer needs to pay current charges from meter ex date to prevent disconnect,	110076714101	17762
\$440.06, total balance cust owes from mtr ex date \$681.58 yb 05/16/201200:00 Credit & CollectionsService Disconnected Not able to block at pole	110076714101	BA Jeffery A Ling
05/15/201219:57 Form Letters Disconnection Notice - OH Residential 05/14/201207:25 CIC Contacts Dunning Explanation sent email to Jeff Ling requesting cut at pole be issued for asap per Allison Haedt 6 Carrie Dunn, legal dept **customer not paying current bills which are not in legal dispute** yb	110076714101 110076714101	CCSBILL95 17762
05/14/201207:15 Contract Account Contract Account Changed deleted dunning lock per Allison Haedt & Carrie Dunn, legal dept, disconnection can now be worked per legal dept, hearing to take place sometime this summer also	110076714101	17762
04/18/201211:11 CIC Contacts ALERT! Sensitive Account dunning lock til 5/18/12 PUCO formal complaint issue, tentative settlement agreement per Allison Haedt, legal dept yb	110076714101	17762
04/14/201218:21 Form Letters Disconnection Notice - OH Residential 02/08/201215:39 Contract Account Contract Account Changed 60 day legal lock per Deb Reinhart, compliance yb	110076714101 110076714101	CCSBILL95 17762
01/26/201210:02 PIPP / PAC Provide Program Information pulled 12/16/11 HEAP file, only rovd PIPL Dropdid not rov a PIPL apprv1	110076714101	Michele K Figueroa
01/24/201215:31 Credit & Collections Disconnection Phone Attempt - Unsuccess Phone attempt 05 - AMD Detected - Left Message	110076714101	CS General Purpose Batc
01/11/201219:26 Form Letters Disconnection Notice - OH Residential	110076714101	CCSB1LL95