BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

MARK SVINKIN,	)	
	)	
Complainant,	)	
	)	CASE NO. 19-2033-EL-CSS
vs.	)	
	)	
THE CLEVELAND ELECTRIC ILLUMINATING COMPANY,	)	
	)	
Respondent.	)	

THE CLEVELAND ELECTRIC ILLUMINATING COMPANY'S INITIAL POST-HEARING BRIEF

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I. INTRODUCTION

This matter originates from a written complaint filed by Mark Svinkin ("Complainant") against the Respondent The Cleveland Electric Illuminating Company ("CEI" or the "Company") on November 14, 2019, with the Public Utilities Commission of Ohio (the "Commission").[1]

In his Complaint, Complainant alleges that CEI inaccurately billed his account. Specifically, Complainant claims that he did not receive the Residential Generation Credit Rider ("Rider RGC") from May 2018 through September 2019, even though it appeared in the "Explanation of Terms" section of his bill until September 2019. He further contends that, if the Commission eliminated this Rider, CEI should have informed him. Complainant's second claim is that CEI improperly charged him for the distribution related component on his bills, as those charges are nearly identical to the supplier generation charges.

During the hearing, Complainant stated that he was no longer pursuing his claims concerning Rider RGC. This conforms to the fact that the Rider never applied between April 1 and October 30 of each year[2] and was phased out entirely effective October 31, 2018 pursuant to the Commission's order in Case No. 10-176-EL-ATA.[3]

Although Complainant maintained his concerns regarding the Distribution Related Component at the hearing, he failed to satisfy his burden of demonstrating that CEI provided unreasonable service by improperly applying its tariff to his bills. The uncontroverted evidence

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[1] *In the Matter of the Complaint of Mark Svinkin v. The Cleveland Electric Illuminating Company*, PUCO No. 19-2033-EL-CSS, Complaint (Nov. 14, 2019) ("Complaint").

[2] PUCO No. 13, Sheet 123, 10th Revised Page 1 of 1.

[3] *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of a New Rider and Revision of Existing Rider*, PUCO Case No. 10-176-EL-ATA, Opinion & Order, at 20 (May 25, 2011).

in the record demonstrates that CEI properly billed Complainant pursuant to its Commission-approved tariff.

Because the Complainant failed to sustain his burden to demonstrate that CEI provided unreasonable service, the Complaint should be dismissed with prejudice and/or CEI should be granted judgment in its favor on the Complaint.

II. STATEMENT OF FACTS

On November 14, 2019, Complainant filed a Complaint against CEI alleging inaccurate billing.[4] Specifically, Complainant contends that CEI failed to apply Rider RGC to his account between May 2018 and September 2018. Because Rider RGC appeared in the Explanation of Terms section on the back of his bill, he reasoned that he therefore was entitled to the Credit. [5] Additionally, Complainant contends that the supplier charges and the Distribution Related Component Charges are nearly identical and believes that he is paying double price for his electricity.[6] CEI filed its answer on December 5, 2019 and denied that it incorrectly billed Complainant regarding Distribution Related Component and Rider RGC.[7]

CEI filed a Motion to Dismiss the Complaint on August 3, 2021.[8] In denying CEI's Motion to Dismiss, the Commission determined that there were reasonable grounds to warrant a hearing into whether CEI accurately applied Rider RGC and the Distribution Related Component to Complainant's bills.[9] In response to the Commission's Entry, Complainant filed a response reiterating his belief that the Distribution Related Component is a double charge for the cost of

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[4] Complaint at 2.
[5] Complaint at 2-3.
[6] Complaint at 4-6.
[7] *In the Matter of the Complaint of Mark Svinkin v. The Cleveland Electric Illuminating Company*, PUCO No. 19-2033-EL-CSS, Answer (Dec. 5, 2019).
[8] *In the Matter of the Complaint of Mark Svinkin v. The Cleveland Electric Illuminating Company*, PUCO No. 19-2033-EL-CSS, Motion to Dismiss (Aug. 3, 2021).
[9] *In the Matter of the Complaint of Mark Svinkin v. The Cleveland Electric Illuminating Company*, PUCO No. 19-2033-EL-CSS, Entry, ¶ 12 (Nov. 8, 2021).

electricity, with numerous components that have nothing to do with the distribution of electricity.[10] Within that response, Complainant also expressed his belief that his claim involving Rider RGC was resolved.[11]

CEI timely filed the Expert Testimony of Juliette Lawless on January 11, 2022.[12] Because her testimony contained references to customer specific kilowatt per hour ("kWh") usage and resulting charges, CEI filed a Motion for a Protective Order.[13] Prior to the commencement of the formal hearing on January 18, 2022, Complainant agreed to make this information public.[14] CEI withdrew the Motion for Protective Order at the request of the Commission.[15] During the hearing, Complainant's testimony primarily concerned his belief that it was impossible that the cost to distribute electricity was higher than the cost to generate the electricity.[16] On cross examination, Complainant admitted that he did not know whether CEI followed its tariff,[17] or complied with the Commission's rules[18] and orders,[19] and Ohio statutes.[20]

III. LAW AND ARGUMENT

Pursuant to Section 4905.26, Revised Code, upon written complaint against any public utility, the Commission shall hold a hearing if it appears that there are reasonable grounds that practice affecting or relating to any service furnished by the public utility is unjust or

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[10] *In the Matter of the Complaint of Mark Svinkin v. The Cleveland Electric Illuminating Company*, PUCO No. 19-2033-EL-CSS, Response to Entry, at 2-3 (Dec. 1, 2021).
[11] *Id.* at 2.
[12] Prefiled Direct Testimony of Juliette Lawless ("Lawless Testimony"), Company Ex. 1.
[13] *In the Matter of the Complaint of Mark Svinkin v. The Cleveland Electric Illuminating Company*, PUCO No. 19-2033-EL-CSS, Motion for Protective Order (Jan. 11, 2022).
[14] Record of Proceeding ("Tr."), 4:22-5:16. Accordingly, CEI does not seek to file this brief under seal.
[15] Tr., 5:17-22.
[16] *See, e.g.*, Tr., 69:18-23.
[17] Tr., 48:20-51:5.
[18] Tr., 51:7-55:13.
[19] Tr., 58:10-19
[20] Tr., 59:17-63:1. Mr. Svinkin took the position that it was irrelevant and inappropriate for a customer to answer what rules or statutes CEI violated. Tr., 61:19-62:21. As established by the Supreme Court, it is the Complainant's burden of proof on these issues. *Grossman v. Pub. Util. Comm'n*, 5 Ohio St.2d 189, 190, 214 N.E.2d 666 (1966).

unreasonable.[21] As in all complaint proceedings, the burden of proof rests with the Complainant.[22] To prevail, the Complainant must prove, by the preponderance of the evidence, that the services provided were unreasonable.[23]

Here, Complainant failed to present any evidence that CEI incorrectly calculated the Distribution Related Component of his bill. Moreover, he failed to address Rider RGC and repeatedly stated that his claim regarding Rider RGC was closed. As demonstrated in the Testimony of Juliette Lawless, CEI only charged the Commission-approved tariffed rates. Because the undisputed evidence demonstrates that CEI charged Complainant only pursuant to its Commission-approved tariff, the Commission should render judgment in CEI's favor and/or dismiss the Complaint with prejudice.

A. Complainant's Claim Regarding Rider RGC Should be Disregarded in its Entirety as Moot.

Complainant's claim that CEI did not apply Rider RGC to his account between May 2018 and September 2019 should be disregarded by the Commission as moot.[24] Complainant failed to prosecute this issue and, at the hearing, indicated his desire not to pursue this claim as, in his opinion, this claim had been resolved in its entirety.

In a December 1, 2021 filing, Complainant indicated that the issue concerning his claim regarding Rider RGC has been resolved.[25] Although he premised his statement on a

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[21] R.C. 4905.26.

[22] *Grossman v. Pub. Util. Comm'n*, 5 Ohio St.2d 189, 190, 214 N.E.2d 666 (1966).

[23] *Ohio Bell Tel. Co. v. Pub. Util. Comm'n of Ohio*, 49 Ohio St. 3d 123, 126, 551 N.E.2d 145 (1990); *In the Matter of the Complaint of WorldCom et al. v. City of Toledo*, PUCO Case No. 02-3207-AU-PWC, 2003 WL 21087728, Opinion and Order, at 18 (May 14, 2003).

[24] After confirming that Complainant no longer wished to proceed with his claim regarding Rider RGC, CEI orally moved to dismiss his claim. Tr., 31:20-32:8, 36:7-15.

[25] *In the Matter of the Complaint of Mark Svinkin v. The Cleveland Electric Illuminating Company*, PUCO No. 19-2033-EL-CSS, Response to Entry, at 2 (Dec. 1, 2021).

misunderstanding that CEI applied a $300.97 credit to his bill to resolve this dispute,[26] he confirmed at the hearing that the lack of Rider RGC was no longer in dispute.[27]

> And I express my opinion, and in my understanding the question about residential credits, my complaint about residential credits, should be closed.[28]

Moreover, when CEI attempted to question Complainant on his claim regarding Rider RGC, he refused to answer:[29]

> Sir, Residential Generation Credit has nothing to do, no connection with the second problem. Please stop questions regarding such problem. Such problem is closed, stop, please.[30]

After confirming that Complainant read the pre-filed testimony of Ms. Lawless[31] and understood that CEI did not apply the $300.97 credit to resolve dispute regarding Rider RGC,[32] Complainant confirmed he had no further concerns regarding Rider RGC.[33] Based on Complainant's representations that he had no further concerns regarding Rider RGC, the Hearing Examiner terminated questioning on this topic: "we will not further in this hearing cover the matter of the Residential Generation Credit."[34] CEI's oral motion to dismiss was taken under advisement at the hearing.[35]

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[26] *Compare id.*, *with* Lawless Testimony, Company Ex. 1, 5:12-20 (stating that the $300.97 credit reflected his last two payments on his account).

[27] Tr., 6:9-7:5 ("I have no questions because Electric Illuminating Company make credit for me and this first complaint is closed…the Illuminating Company resolved the problem giving me credit."); *id.* 19:7-10 ("And I express my opinion, and in my understanding the question about residential credits, my complaint about residential credits, should be closed."); 28:5-9 ("Attorney Examiner: Right. The complaint that you filed mentioned the Residential Generation Credit, which you said you have not further questions about. Mr. Svinkin: It's closed."): 31:13-19 ("Attorney Examiner: Mr. Svinkin, so again, as we have mentioned before then, the only thing remaining on your mind is the distribution component and, you know, getting an answer as to why that is equal or more than the cost per kilowatt-hour of your electricity? Mr. Svinkin: Yes, sir.").

[28] Tr., 19:7-10.

[29] *See, e.g.*, Tr., 30:21-31:7 ("Mr. Rogers, question about residential distribution credit, a question about residential credits is closed.").

[30] Tr., 31:24-32:3.

[31] Tr., 32:12-19, 33:11-15.

[32] Tr., 33:20-24, 34:16-35:2.

[33] Tr., 35:23-36:2.

[34] Tr., 36:12-14.

[35] Tr., 31:20-32:8, 36:7-15.

Because Complainant failed to prosecute his claim, repeatedly stated that the issue was resolved, and refused to answer questions regarding this claim, the Commission should disregard this portion of the Complaint as moot.[36]

B. CEI Must Charge Customers the Rates Established in its Tariff

Complainant's primary argument is that he does not understand the Distribution Related Component charges,[37] which, in his subjective opinion, are too high.[38] Complainant failed to identify any charges that were not approved by the Commission.

Ohio law is clear: CEI must charge the rates set forth in its tariff and a complainant's challenge of those rates in a complaint filed pursuant to R.C. 4905.26 is unreasonable as a matter of law.[39] The Commission, as well as a public utility, must follow the filed rate doctrine as codified in R.C. 4905.32 and 4903.16.[40] Specifically, R.C. 4905.32 provides:

> No public utility shall charge, demand, exact, receive, or collect a different rate, rental, toll, or charge for any service rendered, or to

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[36] *In the Stuff of the Complaint of Angel M. Vazquez*, PUCO No. 20-401-EL-CSS, Entry ¶ 1 (Oct. 6, 2021); *In the Matter of AK Steel Corp. v. The Cincinnati Gas & Elec. Co.*, PUCO No. 02-989-EL-CSS, Entry, ¶ 5 (Dec. 12, 2002).

On the merits, Complainant was never entitled to the Residential Generation Credit ("RGC") after March 31, 2018. By its terms, Rider RGC "is effective for service rendered beginning October 31 through March 31, per kWh, for all kWhs, consumed by the customer during each such billing period." PUCO No. 13, Sheet 123, 10th Revised Page 1 of 1. Accordingly, Complainant was never entitled to the Residential Generation Credit between April 1 and October 30 of each year. Moreover, pursuant to the Commission's order in Case No. 10-176, CEI phased out Rider RGC over a six-year period, effective October 31, 2018. *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of a New Rider and Revision of Existing Rider*, PUCO No. 10-176- EL-ATA, Opinion & Order, at 20 (May 25, 2011). CEI filed its revised tariff with the Commission on September 28, 2018, reflecting the completed phase-out of the Residential Generation Credit effective October 31, 2018. *In the matter of the application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Approval of a New Rider and Revision of an Existing Rider,* PUCO No. 10-0176-EL-ATA, Revised Tariff Pages (Sept. 28, 2018) (recognizing that the credit was "0.0000¢" effective October 31, 2018). Accordingly, Complainant was never entitled to Rider RGC after March 31, 2018 and CEI should also prevail on the merits of this claim. Moreover, granting Complainant entitlement to this credit would discriminate against other customers in violation of R.C. 4905.33(A), and violate CEI's tariff, which set the credit rate at 0.0000¢.

[37] Tr., 42:15-18.

[38] Tr., 69:18-23 ("My general assessment shows that price is too high, and nobody cannot [sic] explain that why [sic].").

[39] *In re Complaint of Reynoldsburg*, 2012-Ohio-5270, ¶ 49, 134 Ohio St.3d 29, 979 N.E.2d 1229; *see also In the Matter of the Complaint of Ned Bushong v. American Electric Power Company*, PUCO Case No. 18-1828-EL-CSS, Opinion & Order, ¶ 26 (Oct. 07, 2020).

[40] *Keco Indus., Inc. v. Cincinnati & Suburban Bell Tel. Co.*, 166 Ohio St. 254, 257, 141 N.E.2d 465 (1957).

> be rendered, than that applicable to such service as specified in its schedule filed with the public utilities commission which is in effect at the time.
>
> No public utility shall refund or remit directly or indirectly, any rate, rental, toll, or charge so specified or, any part thereof, or extend to any person, firm, or corporation, any rule, regulation, privilege, or facility except such as are specified in such schedule and regularly and uniformly extended to all persons, firms, and corporations under like circumstances for like, or substantially similar, service.

In sum, a utility has no discretion in the matter, and indeed must collect the rates set by the Commission in the utility's tariff unless an aggrieved person secures a stay of such order by affirmative act.[41] If a stay is not ordered, "a public utility may charge only the rates fixed by its current, Commission-approved tariff."[42]

Accordingly, to prevail, Complainant must demonstrate that CEI did not charge him pursuant to his tariff. But Complainant did not meet this burden. The uncontroverted evidence demonstrates that CEI only billed Complainant pursuant to the rates established in its Commission-approved tariff. Complainant submitted no evidence or testimony to the contrary.[43]

The Distribution Related Component is comprised of several riders and charges. For example, Complainant's January 2020 bill contained the following Riders and Charges under the Distribution Related Component:

- Rider AMI (PUCO No. 13, Sheet 106).
- Rider DCR (PUCO No. 13, Sheet 124).
- Residential Rate Distribution Charges (PUCO No. 13, Original Sheet 10).
- Rider DUN (PUCO No. 13, Sheet 99).

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[41] *Id.* ("[A] utility has no option but to collect the rates set by the commission and is clearly forbidden to refund any part of the rates so collected.")

[42] *In the Matter of the Application of Ohio Power Company to Update its Gridsmart Phase 2 Rider*, PUCO Case No. 17-1156-EL-RDR, Consideration of the Application for Rehearing, ¶ 19 (April 25, 2018) (emphasis added).

[43] Tr., 37:10-14 (noting that he is unable to analyze Ms. Lawless' testimony, "Maybe it's correct.").

- Rider DSE (PUCO No. 13, Sheet 115).
- Rider TSA (PUCO No. 13, Sheet 91).
- Rider PUR (PUCO No. 13, Sheet 109).
- Rider SKT (PUCO No. 13, Original Sheet 92).
- Rider USF (PUCO No. 13, Sheet 90).[44]

As Ms. Lawless testified, CEI properly calculated each of these Riders in Complainant's bills since May 2018.[45]

1. **CEI Properly Applied Rider AMI**

Rider AMI is the Advanced Metering Infrastructure / Modern Grid Rider, charged pursuant to PUCO No. 13, Sheet 106. It allows CEI to "recover costs associated with the Ohio Site Deployment of the Smart Grid Modernization Initiative in Case No. 09-1820-EL-ATA."[46]

Ms. Lawless testified that she reviewed Complainant's bills since May 2018 and "they were all charged pursuant to the applicable Sheet 106."[47] For example, in Complainant's January 10, 2020 bill, he was charged as follows:

> Effective October 1, 2019, the charge was $0.514. PUCO No. 13, Sheet 106, 38th Revised Page 1 of 1. This charge was prorated from December 6, 2019 through December 31, 2019 at $0.40. Effective January 1, 2020, the rate monthly charge increased to $0.941, which was prorated at $0.20 for use from January 1, 2020 through January 7, 2020. PUCO No. 13, Sheet 106, 39th Revised Page 1 of 1.[48]

Accordingly, CEI properly calculated Rider AMI. Complainant submitted no evidence or testimony, as is his burden, to demonstrate that CEI did not properly apply Rider AMI to his bills.

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[44] Lawless Testimony, Company Ex. 1, 6:5-18.
[45] *See* Lawless Testimony, Company Ex. 1, 15:2-21.
[46] PUCO No. 13, Sheet 106, 47th Revised Page 1 of 1.
[47] Lawless Testimony, Company Ex. 1, 8:11-12.
[48] Lawless Testimony, Company Ex. 1, 8:4-10.

2. CEI Properly Applied Rider DCR

Rider DCR is the Delivery Capital Recovery rider, charged pursuant to PUCO No. 13, Sheet 124. It is a rider to "recover costs associated with delivery plant investments made since the date certain in Case No. 07-551-EL-AIR, exclusive of any delivery plant investments being recovered elsewhere."[49]

Ms. Lawless testified that she reviewed Complainant's bills since May 2018 and "they were all charged pursuant to the applicable Sheet 124."[50] For example, in Complainant's January 10, 2020 bill, he was charged as follows:

> Effective December 1, 2019, PUCO No. 13, Sheet 124, 32nd Revised Page 1 of 1 provided the Residential Service charge at 0.9071¢ per kWh. For the 3,195 kWh used during this billing period, Mr. Svinkin incurred charges of $28.98.[51]

Accordingly, CEI properly calculated Rider DCR. Complainant submitted no evidence or testimony, as is his burden, to demonstrate that CEI did not properly apply Rider DCR to his bills.

3. CEI Properly Applied the Residential Rate Distribution Charges

The Residential Rate Distribution Charges rider has two components, a flat rate $4.00 monthly charge, and a variable Energy Charge of 2.9510¢ per kWh used. The Residential Rate Distribution Charges rider is charged pursuant to PUCO No. 13, Original Sheet 10. The flat rate service charge is not included as part of the Distribution Related Component.[52]

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[49] PUCO No. 13, Sheet 124, 40th Revised Page 1 of 1.
[50] Lawless Testimony, Company Ex. 1, 9:1-2.
[51] Lawless Testimony, Company Ex. 1, 8:20-23.
[52] Lawless Testimony, Company Ex. 1, 9:3-7.

Ms. Lawless reviewed Complainant's bills since May 2018 and "they were all charged pursuant to the applicable Sheet 10."[53] For example, in Complainant's January 10, 2020 bill, he was charged as follows:

> Pursuant to PUCO No. 13, Original Sheet 10, Page 1 of 1, the Energy Charge was 2.9510¢ per kWh. For the 3,195 kWh of electricity Mr. Svinkin used, he was properly billed $94.28 on this bill.[54]

Accordingly, CEI properly calculated the Residential Rate Distribution Charges. Complainant submitted no evidence or testimony, as is his burden, to demonstrate that CEI did not properly apply the Residential Rate Distribution Charges to his bills.

4. **CEI Properly Applied Rider DUN**

Rider DUN is the Distribution Uncollectible Rider, charged pursuant to PUCO No. 13, Sheet 99. It is a charge per kWh of electricity used. Rider DUN is revised quarterly, with updated charges effective on January 1, April 1, July 1, and October 1 of each year.[55]

Ms. Lawless reviewed Complainant's bills since May 2018 and "they were all charged pursuant to the applicable Sheet 99."[56] For example, in Complainant's January 10, 2020 bill, he was charged as follows:

> Pursuant to PUCO No. 13, Sheet 99, 42nd Revised Page 1 of 1, Mr. Svinkin was charged $0.92 for the 2,517 kWh he used from December 6, 2019 to December 31, 2019, at a rate of 0.0367¢ per kWh. Pursuant to PUCO No. 13, Sheet 99, 43rd Revised Page 1 of 1, effective January 1, 2020, he was charged $0.09 for the 678 kWh used from January 1, 2020 to January 7, 2020 at a rate of 0.0134¢ per kWh.[57]

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[53] Lawless Testimony, Company Ex. 1, 9:14-15.
[54] Lawless Testimony, Company Ex. 1, 9:11-13.
[55] PUCO No. 13, Sheet 99, 51st Revised Page 1 of 1.
[56] Lawless Testimony, Company Ex. 1, 10:4-5.
[57] Lawless Testimony, Company Ex. 1, 9:22-10:3.

Accordingly, CEI properly calculated Rider DUN. Complainant submitted no evidence or testimony, as is his burden, to demonstrate that CEI did not properly apply Rider DUN to his bills.

5. **CEI Properly Applied Rider DSE**

Rider DSE is the Demand Side Management and Energy Efficiency Rider, charged pursuant to PUCO No. 13, Sheet 115. It has two components, DSE1 and DSE2. DSE1 is to recover costs associated with customers taking service under the Economic Load Response Rider. DSE2 charges are associated with the programs implemented by the Company to secure compliance with the energy efficiency and peak demand reduction requirements in Section 4928.66, Revised Code. Both Rider DSE1 and Rider DSE2 are updated semi-annually, effective January 1 and July 1 of each year.[58]

Ms. Lawless reviewed Complainant's bills since May 2018 and "they were all charged pursuant to the applicable Sheet 115."[59] For example, in Complainant's January 10, 2020 bill, he was charged as follows:

> Pursuant to PUCO No. 13, Sheet 115, 23rd Revised Page 1 of 3, effective July 1, 2019, Mr. Svinkin was charged $1.74 for the 2,517 kWh he used from December 6, 2019 to December 31, 2019, at a rate of 0.0690¢ per kWh. Pursuant to PUCO No. 13, Sheet 115, 24th Revised Page 1 of 3, he was charged $0.41 for the 678 kWh used from January 1, 2020 to January 7, 2020 at a rate of 0.0612¢ per kWh. …
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> Pursuant to PUCO No. 13, Sheet 115, 23rd Revised Page 1 of 3, effective July 1, 2019, Mr. Svinkin was charged $18.34 for the 2,517 kWh he used from December 6, 2019 to December 31, 2019, at a rate of 0.7286¢ per kWh. Pursuant to PUCO No. 13, Sheet 115, 24th Revised Page 1 of 3, he was charged $1.22 for the 678

[58] PUCO No. 13, Sheet 115, 28th Revised Page 1 of 3.
[59] Lawless Testimony, Company Ex. 1, 11:6-7.

> kWh used from January 1, 2020 to January 7, 2020 at a rate of 0.1798¢ per kWh.[60]

Accordingly, CEI properly calculated Rider DSE. Complainant submitted no evidence or testimony, as is his burden, to demonstrate that CEI did not properly apply Rider DSE to his bills.

6. CEI Properly Applied Rider TSA

Rider TSA is the Tax Savings Adjustment Rider, charged pursuant to PUCO No. 13, Sheet 91. It is a credit applied to all customers. It is updated annually, and unless ordered otherwise, becomes effective on a service rendered basis on January 1 of each year.[61]

Ms. Lawless reviewed Complainant's bills since May 2018 and "they were all charged pursuant to the applicable Sheet 91."[62] For example, in Complainant's January 10, 2020 bill, he was charged as follows:

> Pursuant to PUCO No. 13, Original Sheet 91, Page 1 of 1, effective September 1, 2019, Mr. Svinkin was credited 0.5828¢ for each kWh used. Accordingly, for the 3,195 kWh used, he received a credit of $18.62.[63]

Accordingly, CEI properly calculated Rider TSA. Complainant submitted no evidence or testimony, as is his burden, to demonstrate that CEI did not properly apply Rider TSA to his bills.

7. CEI Properly Applied Rider PUR

Rider PUR, pursuant to PUCO No. 13, Sheet 109, is the PIPP Uncollectable Rider. It is updated quarterly with changes effective on January 1, April 1, July 1, and October 1 of each year.[64]

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[60] Lawless Testimony, Company Ex. 1, 10:17-21, 11:1-5.
[61] PUCO No. 13, Sheet 91, 3rd Revised Page 1 of 1.
[62] Lawless Testimony, Company Ex. 1, 11:17-18.
[63] Lawless Testimony, Company Ex. 1, 11:14-16.
[64] PUCO No. 13, Sheet 109, 51st Revised Page 1 of 1.

Ms. Lawless reviewed Complainant's bills since May 2018 and "they were all charged pursuant to the applicable Sheet 109."[65] For example, in Complainant's January 10, 2020 bill, he was charged as follows:

> Pursuant to PUCO No. 13, Sheet 109, 42nd Revised Page 1 of 1, Mr. Svinkin was charged $0.13 for the 2,517 kWh used between December 6, 2019 and December 31, 2019, at a rate of 0.0052¢ per kWh. Pursuant to PUCO No. 13, Sheet 109, 43rd Revised Page 1 of 1, Mr. Svinkin was charged $0.05 for the 678 kWh used between January 1, 2020 and January 7, 2020, at a rate of 0.0075¢ per kWh.[66]

Accordingly, CEI properly calculated Rider PUR. Complainant submitted no evidence or testimony, as is his burden, to demonstrate that CEI did not properly apply Rider PUR to his bills.

8. **CEI Properly Applied Rider SKT**

Rider SKT is a two-part rider, charged pursuant to PUCO No. 13, Original Sheet 92. The first part is the State kWh Tax Rider and is applied consistent with Section 5727.81, Ohio Revised Code. The second part is the Ohio Commercial Activity Tax established in Section 5751.02 of the Ohio Revised Code and is applied to the charge calculated pursuant to the first part of Rider SKT.[67]

Ms. Lawless reviewed Complainant's bills since May 2018 and "they were all charged pursuant to the applicable Original Sheet 92."[68] For example, in Complainant's January 10, 2020 bill, he was charged as follows:

> For the first 2,000 kWh used, he was charged a rate of 0.465¢ per kWh, for a charge of $9.30. For the remaining 1,195 kWh, he was charged at a rate of 0.419¢ per kWh, for a charge of $5.01. …For this bill, the CAT rate was 0.26%. This resulted in a charge of

[65] Lawless Testimony, Company Ex. 1, 12:7-8.
[66] Lawless Testimony, Company Ex. 1, 12:2-6.
[67] PUCO No. 13, Original Sheet 92, Page 1 of 1.
[68] Lawless Testimony, Company Ex. 1, 12:20-21; *see also id.* 13:8-9.

> $0.04 on Mr. Svinkin's bill for the amounts charged for Rider SKT ($14.31).[69]

Accordingly, CEI properly calculated Rider SKT. Complainant submitted no evidence or testimony, as is his burden, to demonstrate that CEI did not properly apply Rider SKT to his bills.

9. **CEI Properly Applied Rider USF**

Rider USF is the Universal Service Fund Rider, charged pursuant to PUCO No. 13, Sheet 90. It applies to all applicable rate schedules for the exclusive purpose of providing funding for the low-income customer assistance programs and for the Consumer Education program authorized under Section 4928.56 of the Ohio Revised Code, and for paying the administrative costs of the low-income customer assistance programs and the Consumer Education Program.[70] Rider USF is revised annually, with updated charges effective on a bills rendered basis on January 1.[71]

Ms. Lawless reviewed Complainant's bills since May 2018 and "they were all charged pursuant to the applicable Sheet 90."[72] For example, in Complainant's January 10, 2020 bill, he was charged as follows:

> Pursuant to PUCO No. 13, Sheet 90, 19th Revised Page 1 of 1, for the 3,195 kWh used, he was charged $7.59 at a rate of 0.23743¢ per kWh.[73]

Accordingly, CEI properly calculated Rider USF. Complainant submitted no evidence or testimony, as is his burden, to demonstrate that CEI did not properly apply Rider USF to his bills.

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[69] Lawless Testimony, Company Ex. 1, 12:17-19, 13:6-7.
[70] PUCO No. 13, Sheet 90, 21st Revised Page 1 of 1.
[71] Lawless Testimony, Company Ex. 1, 13:12-13.
[72] Lawless Testimony, Company Ex. 1, 13:18-19
[73] Lawless Testimony, Company Ex. 1, 13:16-17.

C. The Commission Approved the Format of CEI's Bill

Complainant testified repeatedly regarding his opinion that CEI's bills lack transparency.[74] Complainant's position ignores that CEI's tariff is a publicly accessible document.[75] Moreover, the Commission approved CEI's bill format, and did not require a detailed breakdown of the distribution related component.[76] This bill format complies with the bill requirements set forth in Ohio Adm. Code 4901:1-10-22 and 4901:1-10-33. Neither Ohio Adm. Code 4901:1-10-22(B) nor Ohio Adm. Code 4901:1-10-33(C) require a detailed breakdown of the Distribution Related Component.

Complainant failed to present any evidence or testimony that CEI's bill format does not comply with the Commission's rule, regulations, or orders regarding the format of electrical bills. Accordingly, he failed to satisfy his burden.

IV. CONCLUSION

The record here is clear. CEI only applied charges authorized by the Commission in CEI's tariff. For the foregoing reasons, the Complaint should therefore be dismissed with prejudice and/or CEI should be granted judgment in its favor on the Complaint.

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[74] *See, e.g.*, Complaint at 5; Tr., 20:14-19.
[75] R.C. 4905.30(A).
[76] Ohio Adm. Code 4901:1-10-22(B); *In the Matter of the Application for Changes to Electric Service Bill Format*, PUCO No. 16-0252-EL-UNC (Feb. 1, 2016). "If an application for sample bill approval is not acted upon within forty-five calendar days, said sample shall be deemed approved on the forty-sixth day after the filing." Ohio Adm. Code 4901:1-10-22(D).

Respectfully submitted,

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CERTIFICATE OF SERVICE

On February 23, 2022, the foregoing document was filed on the Public Utilities Commission of Ohio's Docketing Information System. The PUCO's e-filing system will electronically serve notice of the filing of this document on all parties of record in this proceeding. A service copy has been sent by U.S. Mail on this 23rd day of February 2022 to the Complainant at the following address:

Mark Svinkin
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Complainant

/s/ Christopher A. Rogers
One of the Attorneys for The Cleveland Electric Illuminating Company

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Case No(s). 19-2033-EL-CSS

Summary: Brief The Cleveland Electric Illuminating Company's Initial Post-Hearing Brief electronically filed by Mr. Christopher Rogers on behalf of THE CLEVELAND ELECTRIC ILLUMINATING COMPANY