

ATTORNEYS FOR
THE CLEVELAND ELECTRIC
ILLUMINATING COMPANY

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I. INTRODUCTION

Complainant Gwendolyn Tandy has failed to demonstrate that The Cleveland Electric Illuminating Company (“CEI” or “the Company”) provided unjust, unreasonable, illegal, or inadequate service. The evidence in this case makes abundantly clear that CEI acted reasonably and lawfully towards Ms. Tandy—instead, it has gone out of its way to accommodate her. The evidence confirms that the only party acting unreasonably is Ms. Tandy. Despite lacking any reasonable basis to contest her bills, she has simply and consistently failed to pay what she owes. The real issue is that Ms. Tandy complains that CEI seeks to hold her accountable to pay for service for which she is responsible. Ms. Tandy’s position on this issue is untenable. Consequently, Ms. Tandy has not met her burden of proving that CEI provided unjust, unreasonable, illegal, or inadequate service, and the Commission should dismiss this case.

II. BACKGROUND AND PROCEDURAL HISTORY

Ms. Tandy has been a CEI customer since at least May 2001. During this time, Ms. Tandy has been customer of record on a number of accounts, recently including a pair of accounts ending 0079 and 7153. She has also been enrolled in the Percentage of Income Payment Plan Plus (“PIPP Plus”) program from November 2010 (when PIPP Plus replaced a predecessor program) until February 2012. (Reinhart Dir. at 4–5.) Prior to that, she was enrolled in the predecessor program, the Percentage of Income Payment Plan (“PIPP”).

In the past few years, despite her payment obligations as both a CEI customer, *see* Ohio Adm. Code 4901:1-10-12(B)(1), and participant in both the PIPP and PIPP Plus programs, *see* Ohio Adm. Code 122:5-3-02(C), Ms. Tandy has consistently failed to make full, timely payments to CEI on accounts for which she is responsible. (*See* Tr. 51–69.) As a result, CEI began notifying Ms. Tandy in January 2011 that her electric service was in jeopardy of being

disconnected. (*See, e.g.*, CEI Ex. 7.0 at 7.) CEI has not, however, disconnected Ms. Tandy's electric service and has made several attempts to explain her accounts to her. (*See, e.g.*, July 17, 2012 Complaint at 19–22 (June 28, 2012 Summary of Statement, and Detailed Statement of Account) and November 8, 2012 Complaint at 4 (July 29, 2012 Summary of Statement).)

Ms. Tandy nevertheless filed her complaint against CEI on July 17, 2012. In accordance with the August 23, 2012 Entry in this case, the parties appeared at the Commission for a settlement conference on September 12, 2012. The parties, however, were unable to reach a settlement agreement. On October 29, 2012, Ms. Tandy submitted additional information about her complaint, and by Entry dated November 1, 2012, this case was scheduled for hearing for December 4, 2012.

One week after the November 1 Entry, however, the Complainant amended her voluminous original complaint a second time with 56 pages of additional information that raised new issues and additional complaints. As a result, CEI moved to continue the December 4, 2012 hearing, and the Commission granted CEI's motion, rescheduling the hearing for 11:00 a.m., January 15, 2013.

At the hearing, Ms. Tandy was given ample opportunity to present her testimony, despite being almost an hour late. (*See* Tr. 1 (hearing called at 11:57 a.m.); Tr. 6 (Ms. Tandy: "I'm not quite ready"); Tr. 95 ("Just for the record, let me note that the hearing was scheduled to start at 11.")) CEI presented the testimony of Deborah Reinhart, Customer Compliance Lead for CEI's parent company, FirstEnergy Service Company. Her abundant opportunity to present testimony notwithstanding, Ms. Tandy failed to present any evidence to support her claims.

III. STANDARD OF PROOF

R.C. 4905.26 provides that any person may file a written complaint that any rate, charge, or service of a public utility is in any respect unjust, unreasonable, unjustly discriminatory, in violation of law, or inadequate. In every complaint proceeding filed under R.C. 4905.26, the complainant bears the burden of proving the allegations alleged in the Complaint. *Grossman v. Pub. Util. Comm.*, 5 Ohio St.2d 189 (1966); see also Entry at 3 (Nov. 1, 2012). Therefore, if Ms. Tandy fails to prove that CEI provided unjust, unreasonable, illegal, or inadequate service, then the Commission must rule in favor of CEI and dismiss the complaint.

IV. ARGUMENT

A great deal of time and energy has been spent responding to Ms. Tandy's complaints in this case. That effort has only confirmed that Ms. Tandy has received reasonable and adequate service from CEI. Her claims lack any merit, and she has failed to carry her burden of proving with evidence any of her allegations that CEI provided unjust, unreasonable, illegal, or inadequate service. Indeed, the record makes clear that it is Ms. Tandy who has disregarded her responsibilities. She failed to pay her bills; she failed to heed the requirements of the PIPP program; and she failed to notify CEI when she wished to end service to one of her properties.

Ms. Tandy has had ample opportunity to prove her claims against CEI. She has failed to do so. This case should be dismissed.

A. The evidence shows that the only real issue in this case is Ms. Tandy's chronic refusal to pay what she owes.

The evidence before the Commission shows that CEI has reasonably dealt with Ms. Tandy in her time as a customer. CEI evaluates and responds to her allegations below, but before it does so, it notes two critical points that show CEI is not at fault for Ms. Tandy's issues. First, even though this is a billing complaint, many of the typical issues in such a complaint are

not in dispute. Second, and related, the record shows that Ms. Tandy's fundamental problem with CEI is that it seeks to hold her accountable to pay the amount owed for her service.

1. There are no serious disputes in this case regarding responsibility for service or regarding the accuracy of CEI's meters, its meter readings, or its bills.

Despite the significant volume of Ms. Tandy's complaint filing, it is notable how many issues are not disputed. For example, Ms. Tandy has not disputed whether she was customer of record on all the accounts at issue; and indeed, her bills were for service consumed at properties for which she is responsible. She admits that she has owned the properties at both 1439 Sulzer Ave. and 1441 Sulzer Ave., Euclid, Ohio, at all relevant times during her complaint. (Tr. 39–40.) And there is no dispute that account ending 0079 is for service consumed at 1439 Sulzer Ave. and that her account ending 7153 is for service consumed at 1441 Sulzer Ave. Nor is there any dispute that Ms. Tandy established both accounts in her name.

Likewise, Ms. Tandy has disputed neither the accuracy of her meters nor whether they were correctly read. She briefly complained at hearing about receiving estimated meter readings. (*See* Tr. 79.) But estimated meter readings are permitted by the Commission's rules, so this is no ground for complaint. *See* Ohio Adm. Code 4901:1-10-22(B)(9).

Moreover, while Ms. Tandy obviously complains about her bills, she does not contest whether they accurately reflected the information derived from her meters. She identifies no misreading, no miscalculation, and no payments that CEI failed to properly credit. Not wanting to pay your bills is a far cry from showing that something is wrong with your bills.

Finally, despite numerous complaints that CEI misled her, Ms. Tandy has not disputed that CEI's bill format complies with the Commission's orders. Thus, any complaints that go to confusion regarding her bills must fail; CEI must format its bills as directed by the Commission, and it cannot be faulted if a customer raises any issue with that format.

In sum, numerous, common issues are not disputed here.

2. Ms. Tandy is complaining about her bills because she does not believe that she is required to pay them.

The root problem is that Ms. Tandy simply does not believe that she should be held responsible for her bills. Month after month, Ms. Tandy simply failed to pay the amount that was due, and for whatever reason, she made no attempt to catch up.

The evidence shows that Ms. Tandy essentially ignored the “Please Pay” amount in favor of paying what she wanted. (*See* Tr. 51–69.) Consider Ms. Tandy’s bills from the second half of 2011. Month after month, Ms. Tandy paid either nothing or less than was due—this of course caused her balance due to grow. But she simply allowed her account to fall behind. From May to June 2011, she owed \$30.71 and paid nothing. (CEI Ex. 7.0 at 21.) From June to July 2011, she owed \$73.71 and paid \$43.00. (*Id.* at 25.) From July to August 2011, she again owed \$73.71 and paid nothing. (*Id.* at 29.) For August 2011, she owed \$116.71 and paid nothing. (*Id.* at 33.) For September 2011, she owed \$159.71 but only paid \$43.00. (*Id.* at 37.) From October to November 2011, she again owed \$159.71 but paid nothing. (*Id.* at 41.) For November 2011, she owed \$202.71 and paid only \$57.90. (*Id.* at 45.) From November to December 2011, she owed \$173.81 but only paid \$29.00. (*Id.* at 49.) And on it goes. As her cross-examination confirmed, if Ms. Tandy pays at all, she pays much less than what is due. (*See* Tr. 51–69.)

Ms. Tandy agreed that if a bill is accurate, she should pay what CEI says that she owes. (See Tr. 45 (“Q. Ms. Tandy, assuming your electric bill is calculated correctly, you would agree with me, wouldn’t you, that you should pay the amount CEI says that you owe. A. Yes.”).) But as just noted, Ms. Tandy has not placed into dispute the sort of facts that would call a bill’s accuracy into question, such as problems with her meter or with her readings. Ms. Tandy has simply failed to demonstrate that CEI’s billings were chronically incorrect, or incorrect at all.

B. Ms. Tandy's has not carried her burden of proving inadequate service.

As discussed above, Ms. Tandy does not contest whether she established service, whether service was consumed at property for which she is responsible, or whether her meters were accurate or correctly read. Her testimony on the stand and the bills in evidence clearly show that she has habitually failed to pay the full amount owed reflected on her bills.

Despite this, Ms. Tandy raises unfounded complaints: (1) that CEI did not properly account for her payments; (2) that CEI failed to recognize her reinstatement to the PIPP Plus program; (3) that one of her tenants was responsible for service; (4) that CEI said it would write off a certain balance but did not; (5) that certain account summaries were misleading; and (6) that CEI has caused her pain and suffering. But as the following discussion shows, none of her complaints has merit, and the Commission should dismiss the case.

1. CEI accurately billed Ms. Tandy and accounted for her payments from December 2010 through December 2012.

Ms. Tandy first complains that “CEI is not properly reflecting the payments made on her electric account.” (November 1, 2012 Entry at 1.) The evidence refutes this claim: Ms. Reinhart’s testimony and the supporting documentation show that this is not accurate. Whenever Ms. Tandy made a payment, it was accurately reflected on her account. The problem is that there were very few payments, and almost all were for less than the amount actually due.

a. CEI gave Ms. Tandy full credit for all payments.

Ms. Tandy claims that CEI has “added . . . payments rather than subtracting them” for 18 months. (July 17, 2012 Complaint at 1.) That is simply not the case.

Ms. Reinhart testified that Ms. Tandy’s balances “accurately reflect[ed] all previous metering, billing, and payment activity.” (CEI Ex. 1.0, Reinhart Dir. at 8.) CEI only “added” an amount due for PIPP Plus each month because that is how the program works:

CEI has only ‘added her PIPP payments’ to her account when she failed to pay them. In other words, if Ms. Tandy fails to make her PIPP Plus payment in a given month, the amount of the missed PIPP Plus payment will be ‘added’ to her balance due. Likewise, if she makes a payment, the amount will be subtracted from her balance due.

(*Id.*; see also Tr. 97 (“Q. Ms. Reinhart, the Examiner asked you whether a PIPP customer only owes the PIPP amount due and you answered yes. However, if a customer misses a PIPP amount due, do they continue to owe that payment in addition to any other new PIPP payments? A. That’s correct”).)

The PIPP Plus program rules, not surprisingly, confirm that payment is not optional under the program. Ohio Adm. Code 122:5-3-04(A)(3) (“PIPP customers shall be required to remit their monthly PIPP installment amounts directly to electric distribution utilities each month.”). See also Ohio Adm. Code 122:5-3-04(B)(2) (“Electric distribution utilities shall not be entitled to recover from the fund, and they shall not charge to the director, any deficiencies accruing as a result of a PIPP customer’s failure to pay monthly PIPP installment amounts. Such deficiencies also shall not be counted as customer arrearages for purposes of the arrearage crediting program provided by this rule.”). The problem is that Ms. Tandy seems to “expect that her monthly amount due will always and only be her PIPP Plus amount irrespective of whether she makes her PIPP Plus payments or not.” (Reinhart Dir. at 8.) That is neither a reasonable expectation nor consistent with Commission rules.

b. The issue is that Ms. Tandy refuses to accept her responsibility to pay for service.

The record confirms that the real problem is that Ms. Tandy simply refuses to accept the proper accounting of her non-payments.

Take her September 1, 2011 bill for example. It states that Ms. Tandy did not make any payment against her previous bill. (Tr. 55 (“Q. Would you please turn to CEI Exhibit Page 35,

which is page 3 of your September 1st, 2011 bill. Would you agree with me that it says you previous bill was \$166.71? A. Yes. Q. Would you also agree with me that it says total payments/adjustments, \$0? A. Yes, that's what it says"); *compare* CEI Ex. 7.0 at 29 *with* CEI Ex. 7.0 at 33.) Because she paid none of the \$43 due, CEI correctly added that amount to her September 1, 2011 balance due, which was \$116.71, resulting in a total amount due of \$159.71.

The same issue holds regarding her November 2, 2011 bill. Ms. Tandy alleged that CEI added her \$43 PIPP Plus payment to her balance instead of subtracting it. (Tr. 28.) But the record showed that Ms. Tandy did not make any payment against her previous bill. (Tr. 56 ("Would you please turn to CEI Exhibit Page 43, which is page 3 of your November 2nd, 2011 bill. You agree with me that it says your previous bill was \$159.71, correct? A. Yes. Q. You agree with me that it says total payments/adjustments \$0, correct? A. Yes"); *compare* CEI Ex. 7.0 at 37 *with* CEI Ex. 7.0 at 41.) Because she paid none of the \$43 due, CEI correctly added that amount to her November 2 balance due, which was \$159.71, resulting in a total amount due of \$202.71. (CEI Ex. 7.0 at 41.)

In this and other situations, CEI did not treat a payment like a non-payment; there simply *was* no payment. There is no need to walk through every bill. CEI accurately accounted for all payments and non-payments on Ms. Tandy's account ending 0079 during the entire timeframe in question. (*See, e.g.*, Reinhart Dir. at 8; *see also* Reinhart Dir., Att. E (Detailed Statement of Account).) And the only, minor issue discovered on the account was identified and dealt with by the Company.¹ Ms. Tandy cannot credibly claim that CEI was not properly reflecting payments she made to her electric account.

¹ When Ms. Tandy was removed from PIPP Plus, her PIPP Plus amount due was \$9.09 greater than her current charges, but the higher amount was inadvertently left on the account. (Tr. 84.) The Company, however, later identified the issue and dealt with it. (Tr. 84 & 87; *see* CEI Ex.

c. Ms. Tandy has produced no evidence suggesting that CEI did not account for her payments.

Finally, not only has CEI demonstrated that it properly accounted for Ms. Tandy's payments, but Ms. Tandy has failed to produce any evidence to the contrary. Ms. Tandy has not submitted any receipts or other documentation showing that CEI did not account for her payments. She has not submitted any bank statement, canceled check, or other financial documentation that suggests CEI accepted payment but did not account for it. All Ms. Tandy offers is unsupported assertions.

As the party who bears the burden of proof and who thus must support her claims with evidence, Ms. Tandy's failure to present any evidence is fatal. *See, e.g., In re Complaint of James Locker v. Ohio Edison Co.*, Opin. & Order, Case No. 05-1469-EL-CSS, 2007 Ohio PUC LEXIS 179, at *30 (Feb. 28, 2007) ("claims" that have "not been adequately substantiated on the record" are "therefore[] denied").

For these reasons, Ms. Tandy's first claim, that CEI failed to properly account for her payments, should be rejected.

2. The evidence shows that Ms. Tandy was removed from the PIPP Plus program and has not been reinstated.

Ms. Tandy's next claim is that CEI failed to recognize her reinstatement in the PIPP Plus program, which she alternately states occurred on February 5, 2012 (July 17 Complaint at 1), or February 15, 2012 (*id.* at 2). The record conclusively rebutted this claim. Contrary to Ms. Tandy's assertions, she was removed from the PIPP Plus program and has not been reinstated.

Look no further than Ms. Tandy's admission at hearing:

7.0 at 72 (an adjustment of (\$9.09) is made on September 24, 2012, as indicated on Ms. Tandy's October 8, 2012 bill, to correct her "Amount Due".) Ms. Tandy was far more than \$9.09 behind on her accounts, so the issue resulted in no harm to Ms. Tandy.

Q. So is your answer yes, you are not currently enrolled in PIPP Plus[?]

A. That's correct.

Q. Thank you.

(Tr. 44.) Nevertheless, to confirm Ms. Tandy's answer, CEI Exhibits 4.0 through 6.0 illustrate the chain of events that led the Ohio Department of Development ("the ODOD")² to drop Ms. Tandy from the PIPP Plus program.

Before turning to the exhibits, however, a brief outline of the electric PIPP Plus program is instructive. PIPP Plus is an extended payment arrangement whereby eligible customers make monthly payments to their utility based on a percentage of their income, instead of based on their monthly electric usage. (*See* Reinhart Dir., Att. B (at 1 of the attachment).)

An electric customer is eligible for PIPP Plus if she, among other things, has an annual household income that is 150% or less than the federal poverty guideline for her corresponding household size. Ohio Adm. Code 122:5-3-02(B)(1) and (C). In order to determine program eligibility, the ODOD verifies an application completed by the PIPP Plus applicant that is based upon complete and truthful income information provided by her. *See* Ohio Adm. Code 122:5-3-03(B)(3). If it can be verified that the applicant, among other things, meets the income criteria for the PIPP Plus program, she will be eligible. *Id.* If eligible, ODOD determines the applicant's PIPP Plus installment amount in relation to her income. *See* Ohio Adm. Code 122:5-3-04(A)(1).

The ODOD's reliance on complete and truthful income information is of paramount importance. Indeed, even after enrollment, where an allegation of incomplete or untruthful income information is made, the ODOD will investigate the allegation. *See* Ohio Adm. Code 122:5-3-02(I). Where the ODOD determines that the PIPP Plus customer has not been truthful

² As of September 28, 2012, ODOD was renamed the Ohio Development Services Agency. 2012 Am.Sub.S.B. No. 314.

about her income, her enrollment is immediately terminated. *See id.* Moreover, so serious is such fraudulent behavior that the customer is also “ineligible to participate in the PIPP program for twenty-four months . . . and until any demand for restitution is satisfied.” *See id.*

These rules essentially narrate what happened with respect to Ms. Tandy’s PIPP Plus enrollment. On November 14, 2011, the ODOD sent Ms. Tandy a letter instructing her to verify her income. (CEI Ex. 4.0.) The ODOD had discovered that Ms. Tandy was receiving unreported rental income from 1441 Sulzer Ave. (*see* CEI Ex. 5.0), a property that she admits to owning and renting. (Tr. 39–40; July 17 Complaint at 7.)

The ODOD instructed Ms. Tandy to submit her income tax returns to support her declaration of income for the 2010–12 heating seasons in order to remain eligible for the PIPP Plus program. (CEI Ex. 4.0.) Evidently, Ms. Tandy failed to comply. (CEI Ex. 5.0.) On December 12, 2011, the ODOD sent Ms. Tandy another letter notifying her that it “consider[ed] her past energy assistance for [the 2010–12 heating seasons] to be noncompliant” and “demand[ed] payment of restitution for benefits improperly received.” (*Id.*)

The ODOD then instructed CEI to remove Ms. Tandy from the PIPP Plus program as of February 1, 2012. (Reinhart Dir. at 4; Tr. 90 (“Q. And did you receive notification from [the] Ohio Department of Development of Ms. Tandy’s removal from PIPP? Q. Yes, we did”).) A few days later, on February 5, ODOD sent Ms. Tandy a letter informing her that she has “been dropped from PIPP Plus.” (CEI Ex. 6.0; July 17 Complaint at 4 & 49.)

Given this chain of events, it is not surprising that CEI has no record of Ms. Tandy being reinstated in the PIPP Plus program, neither on February 5 nor on February 15. (Reinhart Dir. at 5.) The ODOD found that Ms. Tandy had committed enrollment fraud. And given that Ohio Adm. Code 122:5-3-02(I) provides that “any . . . customer found to have fraudulently enrolled in

the PIPP program shall be ineligible to participate in the PIPP program for twenty-four months . . . and until any demand for restitution is satisfied,” it is hard to imagine that Ms. Tandy would have been reinstated less than a week after she was dropped.

Certainly Ms. Tandy has provided no evidence to that effect. In fact, the only evidence that Ms. Tandy offered to support her claim of reinstatement in February 2012 is a Notice of Determination from the ODOD. (Complainant’s Ex. 4.) This Notice of Determination shows that as of *November 3, 2011*—several months before she was dropped—Ms. Tandy was eligible for the PIPP Plus program with CEI. (*Id.*) But the Notice of Determination preceded—and subsequently nullified by—the ODOD’s finding that Ms. Tandy committed enrollment fraud. (*See* Tr. 20; *compare* Complainant’s Ex. 4 with CEI Ex. 4.0, 5.0 & 6.0.)

It is clear that Ms. Tandy’s second claim, regarding PIPP enrollment and reinstatement, is conclusively refuted by the record and must be rejected.

3. Ms. Tandy was responsible for the \$256.79 balance from 1441 Sulzer Ave.

Ms. Tandy’s next claim is that “[t]he CEI bill dated March 5, 2012, incorrectly includes payments/adjustments totaling \$256.79, plus late fees, without an explanation.” (November 27, 2012 Entry at 2.) As before, this claim lacks merit and must be rejected.

Ms. Tandy’s claim concerns a February 17, 2012 transfer of \$269.08 from her account at 1441 Sulzer Ave. (account ending 7153) to her account at 1439 Sulzer Ave. (account ending 0079). This balance in question was for service consumed at 1441 Sulzer Ave. from September 9, 2010, to July 5, 2011. (Reinhart Dir. at 6.) Ms. Tandy’s only argument against the transfer is that her tenant (a Mr. Tinsley McCreary) is responsible for the balance, not her. (*See, e.g.*, July 17 Complaint at 1, 2, 6, & 7.)

a. The record shows that Ms. Tandy is responsible for the balance accrued at 1441 Sulzer Ave.

The evidence, however, is to the contrary. Ms. Tandy admits that she has owned the property at 1441 Sulzer Ave. since at least 2010. (Tr. 39–40.) And Ms. Tandy “established this account in her name on September 8, 2010.” (Reinhart Dir. at 6.) It was not until June 23, 2011, that Ms. Tandy contacted CEI regarding the termination of service. (*Id.*) In accordance with Ohio Adm. Code 4901:1-18-08, CEI promptly notified the tenant to apply for service in his or her name lest electric service be disconnected. (*Id.*) The tenant did not apply for service, and Ms. Tandy’s account was closed on July 5, 2011, with a balance due of \$269.08. (*Id.*) The final bill for service consumed as of July 5, 2011, shows that she is the customer of record. (CEI Ex. 8.0.)

Ms. Tandy argues that she should not have been the customer of record as of February 2011. (*See, e.g.*, July 17 Complaint at 7.) But Ms. Tandy “did not contact CEI to terminate service in February 2011” so she “remained the customer of record.” (Reinhart Dir. at 6.) Ms. Tandy agreed that she should have contacted CEI if she wanted to close an account she had opened. (Tr. 69 (“Q. Ms. Tandy, you would agree with me that once you’ve established service at an account that if you want to cancel service that you should contact the company, correct? A. Sure. Yes”).) But Ms. Tandy did not do so, and she has not submitted any evidence showing that she did.

b. CEI properly transferred the balance to Ms. Tandy’s account at 1439 Sulzer Ave.

In short, the \$269.08 balance on account ending 7153 is Ms. Tandy’s debt and her responsibility. It appears to CEI that Ms. Tandy is contesting her responsibility for the balance, and not whether it was properly transferable. But even if she contested the transfer, that complaint would fail, as the transfer was permitted by CEI’s tariffs.

CEI's Commission-approved tariff permits it to transfer a balance when a customer, like Ms. Tandy, "fails to pay in full any final bill for service rendered by the Company at one location, and . . . the customer is receiving Like Service³ at a second Company location." *See* CEI Schedule of Rates for Elec. Service, Elec. Service Regs., Sheet No. 4, Item VI.D. Ms. Reinhart testified that "[t]he service provided under these two accounts was for like service." (Reinhart Dir. at 6; *see also* Tr. 98 ("Q. Does the Company consider Account [ending 0079] and Account [ending 7153] to be for like service? A. Yes. Q. Has the Company ever confirmed with staff its understanding of how those sorts of accounts are categorized? A. Yes").) This is confirmed by the bills, which show that both accounts were receiving residential service. (*Compare* CEI Ex. 8.0 with CEI Ex. 7.0 at 57 ("Residential Service" is indicated directly above the "Account Summary" section on both bills).) As a result, CEI was permitted to "transfer [the] unpaid balance of the final bill to the service account for such second location." *See* Elec. Service Regs., Sheet No. 4, Item VI.D.

Ms. Tandy raised no issues regarding the presence or absence of a landlord reversion agreement ("LRA") prior to or during the hearing, and Ms. Reinhart did not address the matter in her direct testimony. On the stand, however, the Attorney Examiner asked Ms. Reinhart whether CEI "had [an LRA] in the past" with Ms. Tandy. (Tr. 96.) Ms. Reinhart did not know. (*Id.*) CEI would point out that whether there was an LRA is not applicable to this case. An LRA applies when a tenant is the customer of record for electric service at a leased premises, and then the tenant relocates from that property; an LRA "reverts" the electric service into the landlord's

³ " 'Like Service' refers to an end use within the *broad categories* of residential, commercial or industrial service, without regard to whether the customer is receiving generation service from the Company." "Electric Service Regulation," Sheet No. 5, Item VI.D., "Transfer of Final Bill" (emphasis added).

name, making the landlord the customer of record until a new tenant occupies the premises and establishes electric service in her name. *See, e.g., In re Complaint of James Locker v. Ohio Edison Co.*, Opin. & Order, Case No. 05-1469-EL-CSS, 2007 Ohio PUC LEXIS 179, at *5 (Feb. 28, 2007) (“Mr. Locker testified that under the LRA [with CEI’s sister company, Ohio Edison] if service at one of his properties was taken out of the tenant’s name, electric service was automatically placed in Mr. Locker’s name Mr. Locker stated that he entered into the LRA with Ohio Edison to avoid property damage in the event a tenant moved out without notice.”).

Here, electric service was *never in a tenant’s name*. Ms. Tandy was the customer of record at 1441 Sulzer Ave. for the entire period in dispute. An LRA was not necessary to tie the balance to Ms. Tandy; it was her balance to begin with. Her third complaint should also be rejected.

4. CEI never told Ms. Tandy it was writing a transferred balance off of her account at 1439 Sulzer Ave.

Ms. Tandy’s next allegation is that CEI continued to charge her for a \$269.08 balance that it said it would write off of her account ending 0079. (*See* July 17 Complaint at 7–8 (“I was told it was written off”).) Again, this is demonstrably false.

Ms. Tandy was *not* told that the \$269.08 transferred amount would be written off of her account ending 0079, at 1439 Sulzer Ave. “The transferred balance, \$269.08, was written off . . . the account the balance was transferred *from*,” namely, the account ending 7153, at 1441 Sulzer Ave. (Reinhart Dir. at 7.) That is, Ms. Tandy’s \$269.08 account balance was written off account ending 7153 before it was transferred to her account ending 0079 on February 17, 2012. (*Id.*) (*Compare* Reinhart Dir., Att. C (Detailed Statement of Account for account ending 7153 with July 17 Complaint at 21 (Detailed Statement of Account for account ending 0079) (the \$269.08 balance was not written off of account ending 0079 for service consumed at 1439 Sulzer Ave.).)

Consequently, this claim must also be rejected.

5. Ms. Tandy's allegations regarding the June 28, 2012 and July 29, 2012 Summaries of Statement also lack merit.

Ms. Tandy also claims that the June 28, 2012, and July 29, 2012 Summaries of Statement (“the Summaries”) are misleading and that she cannot understand them. (July 17 Complaint at 1 & 19; November 8 Complaint at 2 of 6.) Before responding to these allegations, CEI provides the following description of the Summaries.

CEI sent the Summaries as “cover sheets” to help Ms. Tandy understand the attached detailed account statements, which Ms. Tandy had requested. (Tr. 90–91 (questions by the Attorney Examiner: “Q. Would you agree that the statement of accounts, that the information provided does not allow the customer to determine, by subtracting the balance of the statement and the payments made, down to what is the ending balance of the statement? A. Well, this is a cover sheet . . . of the account statement—account summary. Q. Okay. So there’s additional detail that would have been provided to the customer along with this? A. That’s right, yes”).) For a statement of account to be accurate, it must be exhaustive, and because of the abundance of data, the statements themselves sometimes require explanation. In recognition of this fact, the Summaries were sent to help Ms. Tandy understand her accounts.

a. It would create all the wrong incentives if the Commission sanctioned a company based on its good-faith, extra efforts to help a customer.

Based on this context alone, these claims should fail. Unless it were shown that a company intentionally misrepresented facts, it would create untoward incentives if the Commission sanctioned a company for its good-faith, extra efforts to help a customer. It would teach companies *not* to offer additional, non-routine explanation to customers beyond their Commission-approved bills and unadorned statements of account. Otherwise, they would risk a finding of inadequate service if the customer failed to understand the additional explanation.

CEI believes that the Summaries did what they set out to do and what they needed to do: they summarized the accompanying detailed account statements and defined the terms therein. And the record showed that if Ms. Tandy “didn’t understand something on a document that the company sent [her],” she could “call the company and ask them for an explanation or for additional information.” (Tr. 98.) Issuing the Summaries is not grounds for a finding of inadequate service.

b. Ms. Tandy’s specific complaints regarding the Summaries lacks merit.

Ms. Tandy’s allegations confirm that there should be no finding of inadequate service. First, as discussed above, Ms. Tandy has made clear her belief that she should not be held accountable for any arrearages based on her missed or incomplete payments. So there is probably no way that CEI could have sent her a satisfactory summary, so long as it reflected her accountability for missed payments. In other words, Ms. Tandy’s problem is not with the Summaries; it is that the Summaries accurately reflect that Ms. Tandy is responsible for arrearages.

As to any specific complaints, the only contention made at the hearing was that the ending balance of \$384.73 on the June 28, 2012 Summary did not correspond to her bills. (*See* Tr. 36.) But the Detailed Statement of Account shows that this figure is accurate. (Reinhart Dir., Att. E.) It states that her account balance as of June 7, 2012 (which is the last entry date before June 28, 2012) is \$384.73—*exactly* as indicated on Ms. Tandy’s June 28, 2012 Summary. And as discussed above, CEI acknowledged that there was a \$9.09 discrepancy between the statement balance and a bill balance—relating to her removal from PIPP—but the Company has already corrected that issue. (Tr. 84.)

Beyond that specific complaint, Ms. Tandy raised no other specific complaint regarding the Summaries at the hearing. This allegation should also be rejected.

6. Ms. Tandy has not shown any wrongdoing, and her claim for damages exceeds the Commission's power to grant.

Ms. Tandy also included various claims for damages. (November 27 Entry at 2.) Because Ms. Tandy showed no wrongdoing on the part of CEI and supported none of her allegations with evidence, she has not supported any finding in her favor of any kind. And more to the point, the Commission does not have jurisdiction to enter an award of damages in this case. *See, e.g., In re Complaint of Buckeye Energy Brokers, Inc.*, Entry, Case No. 10-693-EL-CSS, 2011 Ohio PUC LEXIS 58, at *9 (Jan. 18, 2011) (“the attorney examiner notes that it is not within the Commission’s jurisdiction to award monetary damages”), and *In re Complaint of Mary Bajus*, Entry, Case No. 09-603-TP-CSS, 2010 Ohio PUC LEXIS 413, at *5 (April 14, 2010) (“it is not within the Commission’s jurisdiction to award monetary damages or compensation for emotional . . . loss”). Her claims for damages must be rejected.

V. CONCLUSION

Ms. Tandy has not carried her burden of proving unjust, unreasonable, illegal, or inadequate service. For the reasons explained above, CEI respectfully requests that the Commission dismiss the complaint.

Dated: February 12, 2013

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Post-hearing Brief was served by U.S. mail to the following person on this 12th day of February, 2013:

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