

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of:	:	
	:	
Thomas Gallagher,	:	
	:	
Complainant,	:	
	:	
vs.	:	Case No. 21-0864-EL-CSS
	:	
The Cleveland Electric	:	
Illuminating Company,	:	
	:	
Respondent.	:	

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PROCEEDINGS

before Mr. James Lynn, Attorney Examiner, at the
Public Utilities Commission of Ohio, 180 East Broad
Street, Room 11-D, Columbus, Ohio, called at 1:26
p.m. on Tuesday, August 9, 2022.

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- - -

1 APPEARANCES:

2 Mr. Thomas P. Gallagher, Jr.

3 On behalf of the Complainant.

4 Benesch, Friedlander, Coplan & Aronoff, LLP
5 By Mr. Christopher A. Rogers
6 200 Public Square, Suite 2300
Cleveland, Ohio 44114

7 On behalf of the Respondent.

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24
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INDEX

- - -

WITNESS	PAGE
Thomas P. Gallagher, Jr.	
Direct Examination	5
Cross-Examination by Mr. Rogers	15
Princess Davis	
Direct Examination by Mr. Rogers	36
Cross-Examination by Mr. Gallagher	41

- - -

COMPANY EXHIBIT	IDENTIFIED	ADMITTED
1 Prefiled Testimony of Princess Davis (Confidential)	36	41

- - -

1 Tuesday Afternoon Session,
2 August 9, 2022.

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4 EXAMINER LYNN: Let's go on the record at
5 this time.

6 The Public Utilities Commission of Ohio
7 has assigned for hearing at this time Case No.
8 21-864-EL-CSS, Complainant Thomas Gallagher versus
9 The Cleveland Electric Illuminating Company. I am
10 Jim Lynn, the Attorney Examiner assigned to hear this
11 case.

12 And at this time we will have the
13 appearances of the parties beginning with
14 Mr. Gallagher. Mr. Gallagher, if you could just
15 indicate your name and address, please.

16 MR. GALLAGHER: My name is Thomas P.
17 Gallagher, Jr. My address 8484 Stearns Road, Olmsted
18 Township, Ohio 44138.

19 EXAMINER LYNN: Okay. And for the
20 Cleveland Electric Illuminating Company.

21 MR. ROGERS: Christopher Rogers from
22 Benesch Friedlander on behalf of the Company.
23 Address is 200 Public Square, Cleveland, Ohio.

24 EXAMINER LYNN: All right. Thank you.

25 Mr. Gallagher, you filed the complaint,

1 so you can begin if you would like to come up to the
2 witness stand.

3 MR. GALLAGHER: Okay.

4 EXAMINER LYNN: I will swear you in, and
5 you can begin with whatever statements you might
6 have.

7 (Witness sworn.)

8 EXAMINER LYNN: Have a seat, please.

9 - - -

10 THOMAS P. GALLAGHER, JR.

11 being first duly sworn, as prescribed by law, was
12 examined and testified as follows:

13 DIRECT EXAMINATION

14 EXAMINER LYNN: Okay. Mr. Gallagher,
15 although, of course, you filed a complaint, this is
16 for an official court record so if you could explain
17 again what brings you here today.

18 THE WITNESS: What brings me here today,
19 I noticed a lot of the responses from the
20 Illuminating Company are referring to an old case
21 that was due to a Settlement Agreement that we had.
22 In 2018, it was settled and a lot of information is
23 mentioned in the report about --

24 MR. ROGERS: Objection, your Honor,
25 relevance and subject to a confidentiality provision.

1 Our understanding is that these complaints are all
2 post that Commission case.

3 EXAMINER LYNN: Well, we will go off the
4 record for a minute.

5 (Discussion off the record.)

6 EXAMINER LYNN: We'll go back on the
7 record then.

8 THE WITNESS: I am here today because I
9 want to discuss the amount -- there was estimated
10 bills, three estimated bills in a row, and then they
11 took the meter off and replaced the meter. And when
12 they put the new meter on there, my bill has gone
13 down 42 percent with the new meter.

14 EXAMINER LYNN: Okay. Mr. Gallagher, you
15 mentioned three estimated bills. What period of time
16 was that from, from and to?

17 THE WITNESS: I am looking for it.
18 January of 2021. February -- no, not January, I'm
19 sorry. Excuse me. February, March, and April of
20 2021.

21 EXAMINER LYNN: Okay. So you are saying
22 those were bills that the charge was based on an
23 estimated usage by Cleveland Electric.

24 THE WITNESS: Right.

25 EXAMINER LYNN: Okay.

1 THE WITNESS: And when I contacted the
2 Illuminating Company or FirstEnergy, I -- the person,
3 the agent I was talking to said that there is
4 something wrong with the meter reading, that -- that
5 they would suggest --

6 MR. ROGERS: Objection, your Honor,
7 hearsay.

8 THE WITNESS: -- to replace the meter.

9 EXAMINER LYNN: Well, you are probably
10 going to say that's hearsay?

11 MR. ROGERS: Yeah.

12 THE WITNESS: Well, that phone call was
13 made on -- on the 4th.

14 EXAMINER LYNN: We will let that stand.
15 We will take that into account though that
16 Mr. Gallagher did call, and he had some concerns
17 about what was being charged. Mr. Gallagher, given
18 that the person you spoke to, of course, isn't
19 present here to confirm or deny it, well, we will
20 ignore that part of your comment, but when you say
21 you called in, because?

22 THE WITNESS: To pay my bill.

23 EXAMINER LYNN: You called in to pay a
24 bill. There had been estimated bills for several
25 months and --

1 THE WITNESS: I called in a reading.
2 They noticed the reading was abnormal, that this --

3 MR. ROGERS: Objection, your Honor. What
4 they said is also hearsay.

5 EXAMINER LYNN: Well, Mr. Gallagher, when
6 you -- okay. Again, I will agree to the objection
7 but how about this, and I am sure you are trying your
8 best on the testimony, you called in to pay the bill.
9 There was an estimated bill for several months so I
10 guess maybe you didn't make a payment for several
11 months?

12 THE WITNESS: No. I made the payment.

13 EXAMINER LYNN: You made the payment,
14 okay. So why did you call in then?

15 THE WITNESS: I called in to make the
16 payment.

17 EXAMINER LYNN: Okay. Oh, let's start
18 over. So there were three months of estimated bills
19 is what you said.

20 THE WITNESS: Yeah.

21 EXAMINER LYNN: And for each bill that
22 came to you, did you -- you then called in to say --

23 THE WITNESS: Correct.

24 EXAMINER LYNN: When the estimated bill
25 came in, you called to pay. And then when you

1 called, was it maybe for the third month of bills?

2 THE WITNESS: Yes.

3 EXAMINER LYNN: You called in and that --
4 okay. What happened there? Were you informed
5 that --

6 THE WITNESS: When I called in the
7 payment, I was informed that the reading -- that the
8 meter needed to be replaced, that it needed to be
9 replaced by and they gave me a date of April 14 to
10 replace the meter.

11 EXAMINER LYNN: Okay. And when you
12 called in -- so you were relying on the bills they
13 sent you, and they were estimated reads.

14 THE WITNESS: And they were real high.

15 EXAMINER LYNN: Okay. Keep going then.
16 I will ask one other question, did you provide any
17 actual readings to them or you --

18 THE WITNESS: Yes, I did --

19 EXAMINER LYNN: Oh, you did.

20 THE WITNESS: -- at that time.

21 EXAMINER LYNN: When you got -- when you
22 were calling in for the third bill, you provided an
23 actual read.

24 THE WITNESS: Yes.

25 EXAMINER LYNN: Okay. So for the prior

1 two bills when you called in and they were estimated
2 bills, you just -- you just paid the bill but maybe
3 on the third -- for the third month of bills, that's
4 when you provided an actual read?

5 THE WITNESS: Yes.

6 EXAMINER LYNN: Okay. And then you are
7 saying at that time you were informed that the meter
8 was going to be replaced.

9 THE WITNESS: Yes. It was suggested that
10 we replace the meter --

11 EXAMINER LYNN: Okay, okay.

12 THE WITNESS: -- because of the reading.

13 EXAMINER LYNN: Okay. In other words,
14 apparently when you provided the actual reading, some
15 concern must have come up on Cleveland Electric's
16 end.

17 THE WITNESS: Yes, it did.

18 EXAMINER LYNN: Okay. They said we will
19 replace that. Okay. And keep going. Keep going.

20 THE WITNESS: It was replaced -- when the
21 meter was replaced, the -- my electric bill had gone
22 down from a period of one year from April 14 of 2021
23 to 2022. I noticed a substantial amount of
24 difference on the amount of the money that I had to
25 pay for my bills.

1 EXAMINER LYNN: Okay. That meter was
2 replaced what month, Mr. Gallagher?

3 THE WITNESS: April 14.

4 EXAMINER LYNN: Of?

5 THE WITNESS: Of 2021.

6 EXAMINER LYNN: '21, okay. And you are
7 saying when that replacement occurred, then after
8 that, the bills that you got of usage that was
9 indicated was less than it had been, what, say prior
10 to the replacement meter, I guess.

11 THE WITNESS: Yes.

12 EXAMINER LYNN: Okay. Okay. Keep going.

13 THE WITNESS: And I continued to make
14 some -- or the payments to the new -- to the new
15 meter, from the new meter, and after I made all
16 these -- the payments, I had been calculating and
17 monitoring my meter -- monitoring the meter to see
18 how much usage I had on it and compared it to the
19 year before. And that's where I came up with the big
20 difference.

21 EXAMINER LYNN: Okay. So you were
22 comparing, I assume -- after the meter was installed,
23 you were comparing your usage -- usage according to
24 CEI to like the same month in a prior year or
25 something?

1 THE WITNESS: Correct.

2 EXAMINER LYNN: Okay. And you said it --
3 the usage that was indicated went down considerably
4 under the new meter. Keep going, please. Thank you.

5 THE WITNESS: Yes. And, like I said,
6 it -- that is basically why I am here today because
7 of the -- the big difference between the year before
8 and the present year. And I felt that this meter was
9 not working correctly.

10 EXAMINER LYNN: The one that had been
11 replaced.

12 THE WITNESS: Yes, the one that has been
13 replaced and it wasn't working correctly and when I
14 called that reading in, it alarmed -- it alarmed me
15 to -- that something is wrong with the meter and that
16 there would be some type of an adjustment to the
17 bill.

18 EXAMINER LYNN: Okay. So, let's see, so
19 after the meter was replaced and you noticed a -- a
20 considerably less usage than what had previously been
21 the case -- and it sounds as though when you noticed
22 that usage, did you contact Cleveland Electric to
23 say, hey, there's a difference here; I want to have
24 some refund of my charges? Is that how it went?

25 THE WITNESS: I did contact them shortly

1 after that. I am not sure when it was but --

2 EXAMINER LYNN: Okay.

3 THE WITNESS: When -- like I said, it's
4 considered hearsay, but they had told me that --

5 MR. ROGERS: Objection, hearsay.

6 EXAMINER LYNN: Okay. Well, we will ask
7 a different question, Mr. Gallagher. Again, when you
8 contacted them, you -- about this difference in the
9 usage from before the new meter to after, you
10 indicated that you felt this -- this is proof that
11 the prior meter was incorrect, and I want some refund
12 on my bill.

13 THE WITNESS: Correct.

14 EXAMINER LYNN: Okay. We will just leave
15 it at that. Okay. All right. Please continue. No
16 rush but please continue if there is anything else
17 you can think of.

18 THE WITNESS: Yeah. My notes here of
19 what I paid for the year of 20 -- April 20 -- or 2020
20 to April 2021, I had paid approximately \$2,664.35
21 in -- for my bill.

22 EXAMINER LYNN: So that was covering, I
23 guess, about a year's time?

24 THE WITNESS: Yes, one year's time.

25 EXAMINER LYNN: Okay.

1 THE WITNESS: And I feel that I am
2 overcharged 42 percent which comes up to \$1,119.02.

3 EXAMINER LYNN: All right.

4 THE WITNESS: And that's the calculations
5 I did when I was monitoring the meter.

6 EXAMINER LYNN: Okay. And,
7 Mr. Gallagher, just for -- you know, just for the
8 record and my own information too, what kind of a
9 heating system do you have in your home?

10 THE WITNESS: I have electric.

11 EXAMINER LYNN: You have electric heat.

12 THE WITNESS: And a fireplace insert.

13 EXAMINER LYNN: Okay. I would assume
14 maybe you have air conditioning in the summer?

15 THE WITNESS: No, I don't.

16 EXAMINER LYNN: Oh, okay. All right.
17 Okay. You can add anything else if you wish.

18 THE WITNESS: Well, it's a two-family
19 home -- I mean two people live in the home right now
20 at this point. We don't use that much power in the
21 house. And my bill has been so much lower than what
22 it was the prior year and the prior year.

23 EXAMINER LYNN: Okay.

24 THE WITNESS: And maybe even before that.

25 EXAMINER LYNN: Okay. All right.

1 THE WITNESS: That's my concern is why is
2 my bill so low? Nothing has changed at the house.

3 EXAMINER LYNN: All right.

4 THE WITNESS: And since they put the new
5 meter on there, it's a substantial amount of
6 difference between the two, the meter the year before
7 and the new meter.

8 EXAMINER LYNN: All right. Well, thank
9 you for making that clear. Please stay where you are
10 for the time being.

11 THE WITNESS: Right.

12 EXAMINER LYNN: Mr. Gallagher, any
13 questions of Mr. -- excuse me.

14 MR. ROGERS: Mr. Rogers.

15 EXAMINER LYNN: Mr. Rogers, any questions
16 of Mr. Gallagher?

17 MR. ROGERS: Yes, your Honor.

18 - - -

19 CROSS-EXAMINATION

20 By Mr. Rogers:

21 Q. Mr. Gallagher, you said you -- you said
22 you decreased by 42 percent; is that accurate?

23 A. Yes.

24 Q. How did you get to that calculation?

25 A. I calculated what I had spent in the

1 year -- the year before. I calculated the kilowatts,
2 and I calculated what you had charged me off of --
3 off of a list of my payment histories.

4 Q. So was it calculated based off how much
5 you paid or how much energy you used during?

6 A. Energy and how much I paid, both of them.

7 Q. When you were calculating based on how
8 much you paid, did you take into account changes in
9 the Company's tariff?

10 A. I did take into account from every bill
11 that you had sent me of what you were charging per
12 kilowatt and the tariffs were all on that and that's
13 what you charge us, so the answer is yes.

14 Q. And it's your contention that after April
15 of 2021, your bill went down; is that correct?

16 A. Right.

17 Q. And that went down for every month.

18 A. Yes.

19 Q. Do you know how much -- what your
20 kilowatt-hour usage for April 2020 was?

21 A. Yes, I do. Hang on a second. From 2020
22 your -- I've got to go back onto the -- your history
23 basically. That's the only method I have. And it is
24 on the history because I have the April -- it was an
25 estimated bill again in April. Oh, I'm sorry. My

1 mistake. It was an actual bill -- wait. It's not on
2 here so. The -- I have the 2021, the actual use of
3 April would be -- was an actual bill. It looks like
4 3,000 kilowatts. No, I don't have it here. My
5 calculations are in that other paperwork.

6 Q. Do you need to go grab that paperwork?

7 A. Yeah. I thought it was right here. It
8 is 2,196 kilowatts.

9 Q. Kilowatts or kilowatt-hours?

10 A. Kilowatt-hours.

11 Q. And which bill are you referring to?

12 A. What bill?

13 Q. What's the date of the bill?

14 A. I was referring to the bill of -- on the
15 history of the bill on February 18. It was a bill
16 that went back to -- said the history of April.

17 Q. And what was your usage in April of 2021?

18 A. 2021, 3,093.

19 Q. So did that go up or down?

20 A. That was an estimated bill.

21 Q. But did it go up or down?

22 A. It went up.

23 Q. But you are saying that bill went down
24 was your previous testimony.

25 A. Yes.

1 Q. How can you say your bill went down after
2 a meter was changed when your usage actually went up?

3 A. Because it was an estimated bill. It was
4 estimated for three months.

5 Q. And did you call --

6 A. It was estimated higher.

7 Q. What was the total meter reading on that
8 estimated bill in April 2021?

9 A. 3,093.

10 Q. The total meter usage, what would have
11 been read and provided to the Company?

12 A. That's what's on the history. You are
13 asking for the '21, 2021?

14 Q. Yes.

15 A. It's an estimated bill. I can't.

16 Q. When --

17 A. It was estimated, and then the meter was
18 removed.

19 Q. Are you familiar with how the amount of
20 usage per month is calculated?

21 A. How the usage per month is calculated?

22 Q. Yes.

23 A. Under the history I understand that
24 you -- when you estimate a bill, you go to the
25 previous year and you kind of match the estimate;

1 is -- is that what you are talking about?

2 Q. No. What I am saying is when you have a
3 reading on one month and then a reading on another
4 month, how do you calculate the time in between?

5 A. I do it from my bills. I am just doing
6 it from your bills that you send me.

7 Q. So have you ever looked at a meter?

8 A. Yes.

9 Q. Is there a number that is provided?

10 A. Yes.

11 Q. What was that number on the -- that would
12 have been displayed on the meter in April '21,
13 April 2021?

14 A. April 2021, the meter number is, get my
15 glasses, S335913010.

16 Q. Isn't that the meter number?

17 A. Yeah. Is that not what you asked?

18 Q. No. I am asking what the kilowatt-hours
19 the meter would have read in April 2021, the total
20 use as over the lifetime of that meter.

21 A. Well, they have it down here at 1,176.
22 That's -- that's the actual reading in May of --
23 because it was 25 on April 15 of 2020 with the new
24 meter.

25 Q. Isn't it true that on March 17, 2021, the

1 total lifetime of the meter kilowatt-hours used was
2 23,920?

3 A. I'm not sure.

4 Q. And on April 9, 2021, when you called
5 CEI, didn't you provide a meter reading -- didn't you
6 go out and read the meter yourself?

7 A. Yes.

8 Q. Didn't you provide a 26,810
9 kilowatt-hours?

10 A. Yes, I think that's the number.

11 Q. So doesn't it appear that the estimated
12 bills are actually lower than what was actually being
13 incurred?

14 A. Well, it was 3,000. How could that be
15 lower instead of 2,000?

16 Q. Isn't 26,000 higher than 23,000?

17 A. That was an estimated bill.

18 Q. But the estimated bill was actually lower
19 than what the actual reading that you provided CEI
20 is.

21 A. That is not correct.

22 Q. How is that not correct?

23 A. It shows it right here on -- here on this
24 paper 2,000 some kilowatts.

25 I thought I shut the volume off.

1 2,000 kilowatts was in April, May. See,
2 I can't go by your history here. April 2020, it was
3 296 -- or 2,196 kilowatts used.

4 Q. I am not talking about an amount of
5 kilowatts used. I am talking about what the meter
6 actually read at that time, and the amount that was
7 estimated was lower than the actual read that you
8 provided of that meter?

9 A. That's what alarmed -- that's what I
10 thought alarmed CEI of removing the meter. That was
11 the day that we decided that it was higher is what --
12 and that's what alarmed me and also when I talked to
13 the person, the agent.

14 MR. ROGERS: Your Honor, I move to strike
15 what the discussions with the agent were, hearsay.

16 A. It alarmed me --

17 Q. And why --

18 A. -- that it was higher, the reading was
19 higher.

20 Q. So you were being alarmed that the
21 estimated reading was lower than the actual reading?

22 A. No, it was higher than the actual
23 reading. You never got an actual reading on 2014 --
24 or 2020, sorry, on the 14th of April.

25 Q. And why do you say that?

1 A. Because I called it in.

2 Q. And does that not count as an actual
3 read?

4 A. The way you guys write it, it's an
5 estimated reading. It still shows up as an estimated
6 reading on my bill.

7 EXAMINER LYNN: That's when you have
8 called it in also.

9 THE WITNESS: Yes.

10 Q. Did you request to have your meter
11 tested?

12 A. The person said they would have the meter
13 tested.

14 Q. Did you request that?

15 A. No.

16 Q. Did you want your meter to be tested?

17 A. I authorized it if they wanted to do it,
18 yes.

19 Q. Do you recall what the results of
20 those -- that test was?

21 A. No, I don't. I didn't receive any
22 information until later on, and then alls I received
23 was something it was 99 percent accurate. That was
24 afterwards.

25 Q. Are you aware of what the requirements of

1 the Public Utilities Commissions are for the accuracy
2 of a meter?

3 A. It's probably that.

4 Q. Are you aware that's plus or minus
5 2 percent of 100 percent?

6 A. Yes.

7 Q. Is 99 percent within 2 percent of
8 100 percent?

9 A. I'm sorry, 99?

10 Q. Is 99 percent within 2 percentage points
11 of 100 percent?

12 A. Okay. Yes.

13 Q. Do you believe that your meter was
14 inaccurate?

15 A. Yes.

16 Q. What's your basis for that?

17 A. Because of the amount of the bills that
18 have been coming in right now and the amount of usage
19 that has been recorded for a year after the meter has
20 been replaced.

21 Q. Didn't you just testify that your usage
22 went up after the meter was replaced?

23 A. No. It went down.

24 Q. Didn't you testify that your -- didn't
25 you testify your April 2020 bill was 2,196

1 kilowatt-hours?

2 A. 2022?

3 Q. April 2020.

4 A. 2020 was 2,196.

5 Q. And can you remind me again what your
6 April 2021 usage was?

7 A. That was the estimated bill and they
8 showed the usage was 3,093.

9 Q. And what was the -- called in, the meter
10 reading at that time?

11 A. You are asking for 2021, correct?

12 Q. 2021.

13 A. 2021. Okay the meter reading was 25.

14 Q. That was the estimated meter reading.

15 A. It was an estimated reading too, also.

16 Q. Now it's 25,000?

17 A. 25 kilowatt. 25 was the reading on
18 meter, and it was estimated.

19 Q. Is that based on the new meter that was
20 installed?

21 A. Yes.

22 Q. Are you aware what the actual -- what the
23 meter reading was for your old meter when it was
24 taken off?

25 A. The actual reading of the old meter? On

1 April 3, it was 26,988.

2 Q. And what date did you say that was?

3 A. On April 13. That's when the old -- the
4 new meter was placed on the 14th. They estimated a
5 bill on the 14th to -- that doesn't make sense here
6 but I don't know if I have a copy of this. No, I
7 don't; but, yes, it was on the 14th was the reading,
8 the meter was replaced, and they estimated for one
9 day's use 25 kilowatts with the new meter.

10 Q. But your old meter had read 26,988.

11 A. Yes.

12 Q. And what was the estimated -- what was
13 the actual read that you provided on April 9, 2021,
14 again?

15 A. I'm not sure.

16 Q. Wasn't it 26,810?

17 A. That's what I was going by, this
18 paperwork here, yes.

19 Q. So doesn't your meter readings roughly
20 correspond with each other?

21 A. Well, I am going right off your bill. I
22 don't know how you guys do your bill.

23 Q. What type of lightbulbs do you have in
24 your house?

25 A. LEDs.

1 Q. When did you last replace them?

2 A. They are good for a long time. I
3 probably put them in about seven years ago.

4 Q. And when was your furnace installed?

5 A. There is no furnace.

6 Q. Your electric heating system?

7 A. Yes.

8 Q. When was that installed?

9 A. 2000 -- I'm sorry, 1992 -- 2000 -- 1992,
10 sorry.

11 Q. So that system is 30 years old?

12 A. Yes.

13 Q. When was the last time you had that
14 maintained?

15 A. I maintain it every year.

16 Q. Do you maintain it?

17 A. Yes.

18 Q. Personally?

19 A. Yes.

20 Q. Do you have any specialized training
21 in --

22 A. Yes. I am a licensed certified
23 electrician, state-certified electrician.

24 Q. How does your heater compare to the
25 efficiency of modern appliances?

1 A. I heat the house two different ways. I
2 heat with -- also with a fireplace, and my
3 appliances, they are rated -- they are very good, in
4 good shape, and they are maintained every year.

5 Q. Have you inspected them?

6 A. Yes.

7 Q. Do you have any proof of your
8 inspections?

9 A. I inspect them. I am a licensed
10 electrician, and I inspect them.

11 Q. Do you have a copy of your license?

12 A. I can give you my license number. 23858
13 is my state certification, electrical contractor's
14 license.

15 Q. When was your house built?

16 A. '92.

17 Q. Since 1990 -- did you build your house?

18 A. No.

19 Q. Were you the original owner of the house?

20 A. No.

21 Q. Have you ever looked at the wiring behind
22 the walls?

23 A. Yes.

24 Q. When?

25 A. Well, I have rewired a couple things like

1 new fittings and new outlets and new LED can lights,
2 a couple things like that, and I inspected all the
3 electrical.

4 Q. Have you taken apart the wall to look at
5 the wiring behind the walls?

6 A. Yes, I have torn some walls down, not all
7 of them but I have torn some of them down and has
8 modern electrical in it. It's not knob and tube or
9 anything. It's actually a Romex 12-2.

10 EXAMINER LYNN: Could you explain what
11 that is?

12 THE WITNESS: 12-2 is two conductors and
13 with a ground.

14 EXAMINER LYNN: I see. Thank you.

15 Q. Do you use any space heaters in your
16 house?

17 A. No.

18 Q. Do you use any electric blankets?

19 A. No.

20 Q. Do you use any computers?

21 A. I have a laptop.

22 Q. How old is that laptop?

23 A. Probably around seven years old.

24 Q. How often do you have that laptop on?

25 A. I barely have it on. I hardly even use

1 it. Use it on the road.

2 Q. Do you have it plugged in at night to
3 charge?

4 A. No.

5 Q. Where do you charge it?

6 A. I charge it at -- at my jobsite, and I
7 also charge it when I am on the road. I charge
8 through -- it through my vehicle because I use it for
9 my construction business.

10 Q. What's your current outstanding bill?

11 A. I think it's -- I'm not sure what the
12 outstanding bill is. I just made payment on it, but
13 I am a little bit behind on it, yes.

14 Q. What's a little bit behind?

15 A. Well, I figured that the difference of
16 what is going on here with this case, I'm probably
17 around \$400 behind, somewhere in there, but it
18 says -- the bill says 1,800.

19 Q. So according to the bill, you haven't
20 paid \$1,800 worth of your charges.

21 A. I haven't paid any of it since this case
22 started, of the \$1,200 that was on the bill.

23 Q. Even though at least \$400 of that is not
24 in dispute.

25 A. That is not disputed, correct. Could

1 possibly be a little bit more, I'm not sure.

2 Q. What was your outstanding balance when
3 you initiated this case?

4 A. 1,200, somewhere around 1,200.

5 Q. Have you been paying any of your bills
6 since you started this case?

7 A. I have been paying what the usage -- I
8 have been trying to pay the usage, the new usage.
9 It's just this winter was a little hard on all my
10 other bills.

11 Q. You received a disconnection notice from
12 CEI prior to initiating this case?

13 A. I received a disconnection notice on
14 every one of the things during the case.

15 Q. Isn't it true you started receiving those
16 prior to initiating this case?

17 A. I don't recall. I could look at it. I
18 do have that bill here. I think I made a \$400
19 payment. The balance was \$688, and the payment I
20 made was \$450. This was on April -- in April on the
21 April bill, April 19 of 2021.

22 Q. Do you know how the weather compared
23 between April 2020 and April 2021?

24 A. Well, here it says the average
25 temperature was 46 degrees, and it was 53 degrees in

1 this year which would be 2021. This is from '20 to
2 '21. It was 46. It was 53 degrees in '21. And I am
3 sure you want to know what '22 is. No, I don't have
4 that.

5 Q. So just to confirm in April 2020, the
6 afternoon temperature was 46 degrees?

7 A. Yes.

8 Q. And April of 2021, the average
9 temperature was 53 degrees?

10 A. Yes.

11 Q. April 2021 was warmer than April 2020.

12 A. Correct.

13 Q. And you have an electric heating system.

14 A. No, but I have a fireplace heating
15 system.

16 Q. And you also testified you have an
17 electric heating system?

18 A. Yes.

19 Q. So couldn't some of -- to the extent that
20 any decrease in usage occurred between April 2020 and
21 April 2021, couldn't that be accounted for by a
22 warmer temperature?

23 A. No. It's been the same for many years,
24 up and down one or two degrees. It does not make a
25 difference on the way I heat my house.

1 Q. What temperature do you set your electric
2 heater to?

3 A. I set it for around 65 degrees.

4 Q. So why do you say that the variation in
5 temperature wouldn't make a difference?

6 A. Because I use on -- my fireplace insert
7 to -- actually basically I turn the temperature down
8 on the thermostat so I can subsidize it with the
9 fireplace insert.

10 Q. And you just testified you keep it at 65
11 degrees?

12 A. I keep it -- it goes up to about
13 75 degrees in the house.

14 EXAMINER LYNN: But you have a thermostat
15 set at 65.

16 THE WITNESS: Yeah, even sometimes set
17 lower than 65, sometimes at 50.

18 Q. Do you have any proof your usage was
19 lower than what was calculated by your bill -- your
20 meter?

21 A. I'm sorry?

22 Q. Do you have any device connected to your
23 electrical system to independently measure your
24 usage?

25 A. No.

1 Q. Do you have any other -- do you have any
2 proof that your usage is anything other than what was
3 calculated by CEI?

4 A. No.

5 Q. Is your only evidence that you don't
6 believe you used that much energy as is calculated?

7 A. There is no reason why it should be any
8 different than -- because the use has not changed.
9 My usage has always been the fireplace insert heats
10 the house. I have no air conditioner. I live in the
11 middle of the woods, so it's a very shaded property,
12 insulated house.

13 Q. But all you have is your belief.

14 A. No, not my belief. I am an electrician
15 and a contractor and I had -- tried to make my house
16 as efficient as it can go.

17 MR. ROGERS: Objection, your Honor. Move
18 to strike. Mr. Gallagher hadn't qualified himself as
19 an expert in his testimony per Commission rules.

20 A. I'm a licensed contractor too. I have
21 my -- my contractor is Thomas Construction, LLC.

22 EXAMINER LYNN: We will let that stand.

23 MR. ROGERS: May we have a moment off the
24 record?

25 EXAMINER LYNN: I'm sorry?

1 MR. ROGERS: May we take a moment off the
2 record?

3 EXAMINER LYNN: Before we go off the
4 record, Mr. Gallagher, earlier you provided a license
5 number as an electrician.

6 THE WITNESS: Yes.

7 EXAMINER LYNN: Is there a contractor
8 license as well?

9 THE WITNESS: Yes. Well, I have a -- a
10 Thomas Construction, LLC, that I have had for since
11 1995 or something.

12 EXAMINER LYNN: Okay. Is there a license
13 or anything for that? But is it like registered with
14 the Secretary of State or something?

15 THE WITNESS: I am registered with the
16 Secretary of State.

17 EXAMINER LYNN: Okay. All right.

18 Mr. Rogers, you want to go off the
19 record?

20 MR. ROGERS: Yeah, go the off the record
21 for a second.

22 EXAMINER LYNN: Pause for a moment.

23 (Discussion off the record.)

24 EXAMINER LYNN: Okay. Back on the
25 record, please. Thank you.

1 MR. ROGERS: I have no further questions
2 for Mr. Gallagher.

3 EXAMINER LYNN: Mr. Gallagher, you can
4 take your seat for the time being. Thank you.

5 THE WITNESS: Okay.

6 EXAMINER LYNN: And, Mr. Rogers, if you
7 have a witness as well.

8 MR. ROGERS: Yes, your Honor. We -- the
9 Company calls Princess Davis to the stand.

10 EXAMINER LYNN: Ms. Davis, if you would
11 like to come up here.

12 MS. DAVIS: I am going to bring my phone
13 only because it adjusts my hearing aids if I need to.

14 EXAMINER LYNN: Do what you need to do.
15 Thank you. All right. Ms. Davis, if you could raise
16 your right hand, please.

17 (Witness sworn.)

18 EXAMINER LYNN: Great. Thank you.

19 Mr. Rogers, go ahead.

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PRINCESS ROGERS

being first duly sworn, as prescribed by law, was
examined and testified as follows:

DIRECT EXAMINATION

By Mr. Rogers:

Q. Ms. Davis, could you state and spell your
full name for the record.

A. I'm sorry?

Q. Can you state and spell your full name
for the record.

A. Yes. Princess Davis, P-R-I-N-C-E-S-S,
Davis, D-A-V-I-S.

Q. And by whom are you employed and in what
capacity?

A. FirstEnergy and I am an advanced customer
service compliance specialist.

MR. ROGERS: Your Honor, at this time I
would like to hand the witness what has been marked
as Company Exhibit 1.

EXAMINER LYNN: Go ahead. Thank you.

(EXHIBIT MARKED FOR IDENTIFICATION.)

EXAMINER LYNN: We will go off the record
for just a moment.

(Discussion off the record.)

EXAMINER LYNN: Mr. Rogers, please

1 continue.

2 Q. Ms. Davis, I have handed you what has
3 been marked as Company Exhibit 1. Do you recognize
4 this document?

5 A. Yes.

6 Q. What is it?

7 A. The direct testimony for today's hearing.

8 Q. And did you prepare this or cause this to
9 be prepared at your direction and with your input?

10 A. Yes.

11 Q. Is this document -- if I asked you the
12 same questions contained in this document here today,
13 would your answers be the same?

14 A. Yes.

15 MR. ROGERS: And, your Honor, I would
16 like to briefly ask Ms. Davis some additional
17 questions based on Mr. Gallagher's testimony.

18 EXAMINER LYNN: All right. Go ahead.

19 Q. Ms. Davis, you were here during
20 Mr. Gallagher's direct testimony, were you not?

21 A. Yes.

22 Q. Did you hear Mr. Gallagher testify that
23 his usage decreased between 2020 and 2021?

24 A. I'm sorry. Say that again.

25 Q. Did you hear Mr. Gallagher testify that

1 his usage went down between 2020 and 2021?

2 A. I believe he was indicating that his
3 usage went up. I may be confused.

4 EXAMINER LYNN: Mr. Rogers, can I state
5 that are you asking if Mr. Gallagher indicated that
6 after the meter was replaced, the usage went down; is
7 that your question?

8 MR. ROGERS: Yes, correct.

9 A. Oh, I'm sorry. Yes.

10 Q. How would you respond to that testimony
11 from Mr. Gallagher?

12 A. There are some months that his usage did
13 decrease but overall the usage on the new meter is in
14 line with the old meter. For instance, we did obtain
15 an actual reading in January of 2021 and another
16 actual reading in April of 2021. That daily usage
17 between January and April averaged approximately
18 116 kilowatts per day. This year for 2022 from
19 January to March, I didn't have calculated for April
20 because of the last date of the hearing, but for
21 January to March, the daily average was approximately
22 118 kilowatts per day based on the actual readings.

23 Q. And you are saying that -- that was based
24 on the 2022?

25 A. 2022 compared to 2021.

1 EXAMINER LYNN: Ms. Davis, I have a
2 question for you. You were indicating there were a
3 few actual reasons -- you indicated in 2021 actual
4 reads. This was, I assume, an analogue meter at that
5 time?

6 THE WITNESS: I believe so, yes.

7 EXAMINER LYNN: And so that would have
8 been in my day we would call it meter reader; someone
9 would go around and actually physically see that?

10 THE WITNESS: Yes.

11 EXAMINER LYNN: Okay. I just wanted to
12 make that clear.

13 THE WITNESS: That was in January of 2021
14 and then we did estimate as Mr. Gallagher said and
15 then when we exchanged the meter, we got an actual
16 reading.

17 EXAMINER LYNN: Help me out again, you
18 said there were a couple actual reads in what months?

19 THE WITNESS: January of 2021 and then in
20 April of 2021.

21 EXAMINER LYNN: And that's a read done by
22 a CEI --

23 THE WITNESS: CEI technician, yes.

24 EXAMINER LYNN: All right. And then
25 after -- when the meter was replaced, it was what

1 kind of a meter? Did you mention that before?

2 THE WITNESS: I don't believe that that's
3 included in my testimony, but I would -- I believe,
4 based on my experience, it is a digital meter because
5 we are no longer installing analogue meters.

6 EXAMINER LYNN: Okay. Digital, does that
7 mean it's read by, say, someone from the street can
8 point a device at it or something?

9 THE WITNESS: We still have to have a
10 meter reader technician obtain those readings unless
11 it is a smart meter, and I don't believe
12 Mr. Gallagher has a smart meter.

13 EXAMINER LYNN: So actually someone goes
14 around and actually physically walks the property.

15 THE WITNESS: Yes.

16 EXAMINER LYNN: Takes a look at the meter
17 even with a new meter, the one that's on there
18 currently.

19 THE WITNESS: Right, correct.

20 EXAMINER LYNN: Go ahead,
21 Mr. Gallagher -- Mr. Rogers.

22 MR. ROGERS: I have no further questions
23 for Ms. Davis at this time.

24 EXAMINER LYNN: Okay.

25 MR. GALLAGHER: I have a question. She

1 said that was not an estimated reading in January.

2 - - -

3 CROSS-EXAMINATION

4 By Mr. Gallagher:

5 Q. You said that was an actual reading. In
6 what year was that?

7 A. For which?

8 Q. The January.

9 A. What year are you asking me? January of
10 2022 or 2021?

11 Q. 2021.

12 A. In January was an actual reading.

13 MR. GALLAGHER: It was an actual reading.
14 Okay. I have no further questions.

15 EXAMINER LYNN: All right. Okay.

16 Mr. Rogers, anything additional on your part?

17 MR. ROGERS: Nothing further at this
18 time, your Honor, although we move to admit Company
19 Exhibit 1 into the record.

20 EXAMINER LYNN: Okay. We'll --

21 Mr. Gallagher, you have no further questions, so we
22 will admit that into the record then.

23 MR. GALLAGHER: Okay.

24 (EXHIBIT ADMITTED INTO EVIDENCE.)

25 EXAMINER LYNN: All right. Any questions

1 by either of the parties?

2 MR. ROGERS: Yes, your Honor, as a
3 preliminary matter, but Ms. Davis's testimony was
4 based -- was filed under seal based on the inclusion
5 of meter reads and I think statement accounts, et
6 cetera.

7 EXAMINER LYNN: Right. You had asked for
8 a protective order.

9 MR. ROGERS: Correct.

10 EXAMINER LYNN: Yes, and we will address
11 that. I certainly will grant that. Mr. Gallagher,
12 the protective order is -- you know, there was two
13 versions of her testimony submitted, and the one
14 that's in the public record, you know, that anyone
15 can look at, would include some information about
16 your usage. It's considered personal information so
17 that's actually deleted from the version that anyone
18 in the public can see. That's why CEI asked for a
19 protective order. So we will certainly grant that,
20 yes. We will allow the testimony you gave today, but
21 certainly we will grant that request, yes.

22 MR. GALLAGHER: Does that include any
23 information that FirstEnergy put on like public
24 record?

25 EXAMINER LYNN: Well, again, it's Mr. --

1 Mr. Rogers, would you like to address that?

2 We will go off the record for a minute.

3 (Discussion off the record.)

4 EXAMINER LYNN: Back on the record.

5 MR. ROGERS: As you granted the
6 protective order for this information, any
7 information we rely on in our brief, can the
8 protective order extend to that, or would you like us
9 to file a new protective order?

10 EXAMINER LYNN: I think it would extend
11 to that as well. Mr. Rogers mentioned a brief which,
12 Mr. Gallagher, that's basically a written summary of
13 the arguments the parties make at a hearing. It's
14 not mandatory. It's optional. You know, you
15 could -- and with that being said, Mr. Rogers, it
16 sounds as though you do want to submit a brief?

17 MR. ROGERS: Yes, your Honor.

18 EXAMINER LYNN: Okay. Again,
19 Mr. Gallagher, you can choose to do so or not but
20 let's look ahead down the road and see possible
21 dates. Let's see, ask our court reporter, Karen
22 Gibson, I believe it takes maybe a couple weeks to
23 get this submitted, transcript submitted, and she is
24 saying yes.

25 With that being said, Mr. Rogers, a

1 transcript wouldn't be ready until maybe like the
2 last full week of August. So looking at your own
3 calendar, what would be a suitable date for you to
4 prepare a brief?

5 MR. ROGERS: At least a month from the
6 transcript. That's not going to be due until the
7 last week of August. I would ask for probably the
8 last week in September.

9 EXAMINER LYNN: Okay. Like by
10 September 30?

11 MR. ROGERS: September 30 would work far
12 me.

13 EXAMINER LYNN: Mr. Gallagher, you can
14 submit something or not. It's up to you. Just a
15 written summary of the arguments that are made.

16 MR. GALLAGHER: Of what was said today?

17 EXAMINER LYNN: Exactly, what was said at
18 the hearing and it doesn't have to be done.

19 MR. GALLAGHER: Okay.

20 EXAMINER LYNN: Similarly we allow
21 parties time to do a reply brief too, again if you
22 wish. And, Mr. Gallagher, I am assuming that would
23 maybe perhaps be a couple of weeks after the initial
24 brief, or would you need more time depending on
25 what's going on in October?

1 MR. GALLAGHER: That does -- does it have
2 to be down here or?

3 EXAMINER LYNN: Oh, no. It would be
4 filed in the case docket.

5 MR. GALLAGHER: It is a long trip for me.

6 EXAMINER LYNN: Oh, sure, it is. It can
7 be filed in the case docket sent in by U.S. Mail.

8 MR. GALLAGHER: Right.

9 EXAMINER LYNN: Mr. Rogers.

10 MR. ROGERS: Probably at least two weeks,
11 your Honor, so October 14 probably would be my
12 suggestion.

13 EXAMINER LYNN: That's fine. Okay. Then
14 we will have the briefs. Initial briefs would be
15 September 30 and reply briefs October 14.

16 Okay? Are there --

17 MR. ROGERS: Did you admit the Exhibit 1?

18 EXAMINER LYNN: We will admit that into
19 evidence. I believe I did earlier.

20 MR. ROGERS: I didn't hear you. I
21 apologize, your Honor.

22 EXAMINER LYNN: All right. Thank you
23 very much, everyone, for attending and you all had to
24 drive a long distance. Appreciate the effort for it.
25 Thank you.

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We will go off the record.

(Thereupon, at 2:28 p.m., the hearing was
adjourned.)

- - -

CERTIFICATE

I do hereby certify that the foregoing is
a true and correct transcript of the proceedings
taken by me in this matter on Tuesday, August 9,
2022, and carefully compared with my original
stenographic notes.

Karen Sue Gibson, Registered
Merit Reporter.

(KSG-7323)

- - -

**This foregoing document was electronically filed with the Public Utilities
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Case No(s). 21-0864-EL-CSS

Summary: Transcript of the Thomas Gallagher hearing held on 08/09/22.
electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and
Gibson, Karen Sue Mrs.