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March 12, 2013

Secretary
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: C-2011-2273645

PUC Commission:

The Complainant hereby requests an opportunity for oral argument before the Commission to support the exceptions which he has filed with the Commission in the case cited above.

Sincerely,

Jay Larry Moyer

Before the
Pennsylvania Public Utility Commission

Jay Larry Moyer	)	
	)	
v.	)	C-2011-2273645
	)	
PPL Electric Utilities Corporation	)	
	)	

Complainant's Brief on Exceptions

Pursuant to the Pennsylvania Public Utility Commission's ("Commission's") rules of practice and procedure, Complainant submits its exceptions to the January 23, 2013, Initial Decision issued by Administrative Law Judge Fordham in these proceedings. The Initial Decision erroneously dismisses the complaint, and that determination is based on fundamental misunderstandings of the evidence presented during hearing proceedings; erroneous interpretation and application of PPL's tariff; and disregard for previous Rulings by the Commission.

I. Background

a. In October, 2008, Charles Reichner, owner of Heat Shed, a solar installer, submitted an application to PPLEU on behalf of Jay Larry Moyer, the above Complainant, to install a 4.75 kwh, ground-mount pv solar system on a hillside approximately 600 yards from Mr. Moyer's house, situated at 73 Woods Road, Klingerstown, PA 17941, which is in the PPLEU service area. PPLEU gave written indication that the system would be installed under provisions of virtual meter aggregation. The Company required that there be some evidence of "usage" on the host account, though no specific amount was prescribed. The Complainant objected, asserting that no such explicit requirement appeared in the tariff.

The Company did not clarify the "requirement" in writing or document the basis of its claim. Nevertheless, the Complainant agreed to comply with the Company's condition, and a lighting module, as well as an electric receptacle, were added to the installation. Inspection, approval, and interconnection were completed in March, 2009, and the system began operating under terms of the tariff which became effective on July 17, 2007.

b. For more than a year, in spite of repeated assurances that credits would be forthcoming, the Complainant received no credit for generation, and none was applied to the satellite account or credited in the billing process, as the tariff requires. Eventually, in April, 2010, the Complainant received two checks from PPL ($435.90 and $56.98) which were identified as "compensation" for 2009, and the Complainant accepted them as final settlement for overcharges he had paid, and for missing credits from March to December, 2009.

c. Several times, in subsequent months, unidentified "excess credit" appeared on the monthly paper bill for the satellite account, along with a lump sum expressed in dollars and cents. Neither the satellite bill nor the host bill, however, reported the amount of electricity generated or the number of kilowatt hours of credit being applied to the satellite account. In those sporadic occasions when a credit was added, it was designated only as "excess credit", with no other explanation or supporting details.

d. In 2011, the Respondent abruptly reversed its previous approval, and stopped offering credits of any kind, asserting that the system was not qualified. Soon after credits were halted, PennFuture began representing the Complainant. Attorney John Baillie sent a letter to the Respondent (c/o George Beam, Pricing and Contracts Group), seeking

redress. After Mr. Beam made a personal visit, met with the Complainant, and surveyed the facility, the Respondent agreed to resume credits, but continued to maintain that the system did not "qualify". In November, 2011, Mr. Baillie, on behalf of the Complainant, filed a formal complaint against PPLEU.

e. A hearing before Cynthia Williams Fordham, Administrative Law Judge, was held on August 15, 2012, and an Initial Decision was issued on January 23, 2013.

f. Central issues which prompted the formal complaint remain unresolved or unaddressed by the Initial Decision. These lingering, inter-related issues involve the Respondent's billing process; interpretation of the tariff (and PUC requirements) for virtual metering; and the amount of compensation due to the Complainant.

III. Exceptions

Exception # 1: The Initial Decision disregards previous policies and positions advanced by the Commission.

The Commission's position is clear, "... it should be the policy of the Commission to support access to alternative systems to as broad an array of consumers as possible" and "the clear intent of the Act 35 amendment was to facilitate ... deployment of <u>small</u> alternative energy resources..." (Tr. 17ff.).

Necessary Correction: *The Commission should apply its previous policies, including the above statements, to its determination in this case.*

Exception # 2: The glaring inconsistencies in the Company's records appear to go unnoticed by the Initial Decision.

a. For four years, the Respondent has been issuing credit to the Complainant, but only sporadically, and in an incoherent, confusing manner.

b. To explain its methods, the Respondent has provided data in three different forms. The first is the "official", indecipherable, set of bills which were mailed to the Complainant. The monthly billing records are inconsistent and unreliable. The Company is unable to defend those monthly bills, and has made no attempt to do so. Instead, it has attempted other explanations for its actions (c and d, below). The Complainant did not ask that every bill for four years be examined. He submitted to the ALJ a sample (C- #12 and C- #13), but the irregularities in even these few are not addressed by the Initial Decision.

c. The second set of data was presented as "PPL Exhibit #5". This document purports to be the correct version of credits. In the words of the Respondent, "The *actual* is PPL Electric Number Five" (Tr. 184-185). This version shows delayed payments, payments in "lump sum fashion" (Tr. 166), and long gaps without any payment at all. These irregularities were overlooked. Exhibit # 5 did not receive proper scrutiny.

d. The third set of data, PPL Exhibit #7, is a month-to-month simulation, a sort of "what-if" document. Its purpose, according to the Respondent, is to show "what would have occurred if..." (Tr. 183ff). PPL Exhibit # 7 is not authoritative and should be discounted. Nevertheless, it is used to justify the amount owed to the Complainant (ID 15), an amount disputed by the Complainant. (see Exception # 5)

e. Credits have been applied sporadically and improperly because the Respondent failed to implement proper procedures for handling virtual metering (Tr. 200). What the

Company employs is a fitful "manual" process for billing (Tr. 214), which may account for many of the irregularities. Automation is available that would permit aggregation (the "combination of readings and billing for all meters..."), but the Respondent has elected not to automate its virtual metering accounts. (Tr. 218).

f. In an email dated April 29, 2011, the Company acknowledged that "... our processes were not well defined when his [the Complainant's] project began. Some of those are still not well defined (i. e. virtual metering)" (Tr. 200)

g. The Initial Decision is erroneous when it says (ID Page 16) that "The Respondent has provided credits to the Complainant in accordance with its tariff" (ID 16) (cf. ID 15 and Findings of Fact" #19, #20, #50)

h. The Complainant deserves a complete, consistent, and accurate record. Instead, what the Company's records show is an arbitrary and confusing array of delayed payments, inconsistent reporting, and incomplete information.

Necessary correction: The Commission should order a complete and accurate re-issue of all billing transactions in the Complainant's two accounts since January 1, 2010.

Exception # 3: By failing to define "load", the Initial Decision fails to resolve the crucial question of eligibility for virtual metering.

a. The Complainant uses power at the host site for constant lighting and occasionally from an electric receptacle, both of which are mounted on the Complainant's meter pole. Use is limited, but neither a "load" requirement nor a "minimum load" requirement is specified in the law or in the tariff. In virtual metering, using power should not be made a requirement of the host site. The function of meter aggregation,

by definition, is to "apply" power (via credits) from the host to another location (the satellite).

b. If some specific "load" is to be required, moreover, it must be defined, and the Initial Decision fails to offer a definition. Is it 6 kwh, 60 kwh, 600 kwh, or 6,000 kwh? Is it power for a fan, a water pump, or an air compressor that operates occasionally? A drop of water is still water, and qualifies as such. Regrettably, the Initial Decision leaves the definition of "load" unaddressed and unresolved.

Necessary Correction: The Commission should determine that the Complainant's system is qualified and that, with or without a "load" requirement, the current use at the host site is sufficient. Should the Commission determine otherwise, it should a) indicate clearly what is required for the Complainant to qualify and b) permit the Complainant reasonable time to qualify.

Exception # 4: The Initial Decision consigns the Complainant to a state of "limbo".

a. The Complainant is not a "grid supplier". He is not a business. He is generating power for his own use. With virtual metering, he is able to generate power where solar exposure is optimal (on a nearby hillside) and "apply" that generation to his house. (Tr. 39).

b. The Initial Decision accepts, implicitly, the Company's view that the Complainant's system "does not qualify" (Findings # 36, #43, #44, #45, #51), but the Decision fails to specify what is required of the Complainant in order to qualify (see Exception # 2, above). The Complainant's system is unfairly regarded as an "exception". That status

puts his system in jeopardy, and he is at risk of having his credits terminated again, as they were in 2011.

Necessary Correction: The Commission should re-affirm its support for virtual metering "for all rate schedules" (Tr. 18), apply its previous positions to this case, and determine that the Complainant is fully qualified for virtual metering. If the Commission determines otherwise, it should 1) indicate clearly what is required for the Complainant to qualify and 2) permit the Complainant reasonable time to qualify.

Exception # 5: The Initial Decision's claims about compensation (page 15) are erroneous.

a. First, the Respondent did not pay the Complainant $535.27, as the Initial Decision suggests, nor has there been an "agreement", as implied: The figure is apparently taken at face value from PPL Exhibit # 8 even though it is generated by specious methods, as described in Exception # 2 (above).
b. Meanwhile, the Initial Decision dismisses, without careful review, the amount offered by the Complainant ($750.29) and the supporting document (C-Exhibit # 11) which was not admitted, although it was based on the Company's printed bills (ID 13; Tr. 45; Tr. 64).

Necessary Correction: The Commission should order a complete and accurate re-calculation of the Complainant's accounts since January 1, 2010, or grant relief to the Complainant in the amount of $750.29, which is based on actual paper bills.

II. Conclusion

For the foregoing reasons, the Commission should modify the Initial Decision and provide the following relief:

1. To determine that the Complainant's pv system, as installed and approved in March, 2009, is qualified, without exception, for virtual metering.

2. To specify, in the event the system is deemed to be not qualified, those steps the Complainant must take to bring the system into compliance and also to permit him reasonable time to complete those steps.

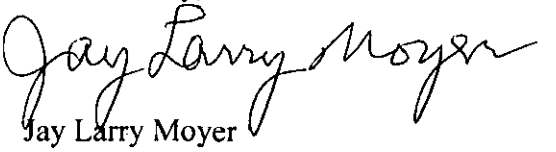
3. To determine that the Respondent failed to implement proper procedures for handling virtual metering.

4. To require that the Respondent produce and provide, for both of the Complainant's accounts, a full and accurate re-issue of data for all billing periods from January 1, 2010 to the present (including charges, payments, meter readings, actual kilowatt hours of generation, actual credits applied, and running balances) as should have occurred, had proper billing procedures been implemented for virtual metering.

5. To secure for the Complainant the $750.29 he requests or another sum based on a full re-issue of the billing history for his accounts since January 1, 2010.

6. To consider the imposition of fines and/or penalties, as the Commission may deem appropriate, for the incalculable time, effort, and expense, to individuals and entities, as a result of the Company's failure to implement procedures for virtual meter aggregation as required by the Company's tariff.

Submitted by,



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