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May 20, 2013

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Larry Moyer v. PPL Electric Utilities Corporation
Docket No. C-2011-2273645

Dear Secretary Chiavetta:

Attached please find the Answer of PPL Electric Utilities Corporation to the Petition of Larry Moyer to Reopen the Record in the above-referenced proceeding. Copies will be provided as indicated on the certificate of service.

Respectfully submitted,

David B. MacGregor

DBM/skr
Attachment

cc: Certificate of Service

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Larry Moyer, :
 :
 Complainant, :
 :
 v. : Docket No. C-2011-2273645
 :
 PPL Electric Utilities Corporation, :
 :
 Respondent. :

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**ANSWER OF
PPL ELECTRIC UTILITIES CORPORATION
TO THE PETITION OF LARRY MOYER TO REOPEN THE RECORD**

Respondent PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) herein files this Answer to the Petition to Reopen the Record of Complainant Larry Moyer (“Mr. Moyer” or the “Complainant”), pursuant to Section 5.571(c) of the Pennsylvania Public Utility Commission’s (“Commission”) regulations, 52 Pa. Code § 5.571(c). In his Petition, the Complainant seeks to reopen the record to introduce additional billing information in another attempt to meet his burden to prove that PPL Electric failed to properly aggregate the Complainant’s two accounts according to the virtual net metering provisions of the Company’s tariff or that PPL Electric failed to fully reimburse the Complainant for the electricity generated by his alternative energy system. The Complainant’s request for a second bite at the proverbial apple should be denied because he has failed to demonstrate a material change of fact or law since the conclusion of the hearing on August 15, 2012, and because the record already includes more than enough information for the Commission to reach a decision in this case. For these

reasons, as explained below, the Complainant's request should be denied. In support thereof, PPL Electric states as follows:

I. BACKGROUND AND PROCEDURAL HISTORY

This matter involves the virtual net metering of the electricity usage at a residential account ("satellite account") with the excess, unused electric generation produced by a separately metered photovoltaic solar account ("host account") under PPL Electric's Commission-approved Net Metering for Renewable Customer-Generators tariff provisions. (PPL Electric Ex. Nos. 3, 4.) Under PPL Electric's virtual net metering program, the Company will "virtually" aggregate the generation produced by a qualifying host account with the usage at a qualifying satellite account for billing purposes. The kilowatt hours ("kWh") of an eligible host account are credited at the applicable full retail rate to the satellite account to offset usage at the satellite account, with the customer remaining responsible for any remaining net usage at the satellite account that exceeds the credited kWh from the host account. Any excess, unused net credits are carried forward to subsequent billing periods and applied to offset future usage at the satellite account. The balance of any unused net credits that remain at the end of the PJM Planning Period are paid to the customer at the Price-to-Compare. (PPL Electric Ex. No. 4; Tr. 154-56.)

On November 15, 2011, the Complainant, through his counsel, filed a Formal Complaint regarding PPL Electric's virtual meter aggregation program. The Formal Complaint alleged that PPL Electric failed to properly aggregate the usage at Complainant's satellite account (residence) with the excess generation produced by Complainant's host account (solar panels), and failed to compensate Complainant for excess generation produced by Complainant's host account. (Complaint, ¶¶ 4.10, 4.15, 4.22-4.23.) On December 8, 2011, PPL Electric filed an Answer to the Formal Complaint.

The Parties engaged in mediation, exchanged extensive discovery, and exchanged numerous settlement proposals. An evidentiary hearing was held on August 15, 2012. At the hearing, the Parties introduced testimony and exhibits in support of their respective positions. The record consists of a 254 page transcript and a total of nineteen exhibits. The record was closed on September 7, 2012.

The well-reasoned Initial Decision (“I.D.”) of Administrative Law Judge Cynthia Williams Fordham (“ALJ”) was issued by a Secretarial Letter dated February 22, 2013. Therein, the ALJ found that the Complainant’s two accounts failed to qualify for net or virtual metering under PPL Electric’s Commission-approved tariff provisions. (I.D. pp. 12-17.) The ALJ also found that, in an effort to settle the Complainant’s concerns, PPL Electric agreed to treat Complainant as a virtual metering customer and to fully compensate Complainant for the value of the credits he would have received for excess generation as if his accounts were eligible for virtual metering the entire time. The ALJ therefore concluded that the Complainant failed to meet his burden of proof. (I.D. pp. 14-15.)

On March 13, 2013, the Complainant filed Exceptions to the findings and conclusions reached in the I.D. On March 29, 2013, PPL Electric filed Replies to Exceptions. The Exceptions and Reply Exceptions currently are pending before the Commission for disposition.

On May 7, 2013, the Complainant filed the Petition to Reopen the Record. The Complainant seeks to have the record reopened to apply his same argument -- that PPL Electric failed to properly aggregate the usage at Complainant’s satellite account (residence) with the excess generation produced by Complainant’s host account (solar panels), and failed to compensate Complainant for excess generation produced by Complainant’s host account -- to the bills that were issued from the time of the evidentiary hearing through his most current bill.

However, the Complainant has failed to meet his burden to demonstrate that there has been a material change of fact or law since the conclusion of the hearing.

II. LEGAL STANDARD

The Commission's Rules of Practice and Procedure permit a party to petition to reopen the record in a proceeding at any time after the record is closed, but before a final decision is issued, for the purpose of taking additional evidence. 52 Pa. Code § 5.571(a). A party that seeks to reopen the record is requesting affirmative relief from the Commission and, therefore, has the burden of proof. 66 Pa. C.S. § 332(a).

In order to meet the burden of proof required to reopen the record for additional evidence, a party must clearly set forth the facts claimed to constitute grounds requiring reopening of the proceeding, including material changes of fact or of law alleged to have occurred since the conclusion of the hearing. 52 Pa. Code § 5.571(b). Where an initial decision has been issued, the Commission may reopen the record "if there is reason to believe that conditions of fact or law have so changed as to require, or that the public interest requires, the reopening of the proceeding." 52 Pa. Code § 5.571(d).

III. ARGUMENT

The issues to be decided in the Exceptions and Replies to Exceptions currently pending before the Commission are: (1) whether the I.D. correctly determined that Complainant's host account did not qualify for virtual metering under the plain language of PPL Electric's tariff;¹

¹ In this case it was undisputed that the Complainant's host account did not qualify for net or virtual metering because it did not have any non-generational load as required under PPL Electric's tariff and, therefore, the Company discontinued virtual metering of Complainant's accounts in June 2010. (I.D. Findings of Fact Nos. 36, 46; Tr. 167-69, 172; PPL Electric Ex. No. 5; *see also* PPL Electric Replies to Exceptions Nos. 3 and 4.)

and (2) whether the I.D. correctly determined that PPL Electric applied virtual metering consistent with the requirements of its tariff when PPL Electric agreed to allow Complainant to participate in the virtual metering program in an effort to fully settle the dispute.² For the reasons explained in PPL Electric's Replies to Exceptions, as well as those more fully explained in the I.D., the Complainant failed to meet his burden to demonstrate by a preponderance of the evidence that PPL Electric violated the Public Utility Code, the Commission's regulations or orders, or the Company's tariff provisions.

In a second attempt to meet his burden, the Complainant now seeks to have the record reopened to introduce additional materials to support his argument that was fully considered and rejected by the ALJ. Specifically, the Petition to Reopen the Record seeks to introduce the electric bills and usage/generation data that have been issued since the evidentiary hearing through the most current bill.³ The Complainant's request must be denied for several reasons.

First, the Complainant's Petition to Reopen the Record fails to meet the legal standard required by the Commission's regulations. The Complainant failed to articulate any material change in law. Indeed, there has been no change in the Public Utility Code, the Commission's regulations, any Commission order, or PPL Electric's tariff that would have any effect on the application of the virtual metering program to Complainant's accounts. Further, the

² PPL Electric agreed to allow the Complainant to participate in the virtual metering program in an effort to resolve the issues raised in his Informal Complaint. Further, in an effort to fully resolve the Formal Complaint, PPL Electric agreed on the record to fully compensate the Complainant for the value of all the credits and cash-outs he would have received for excess generation as if he were a qualified virtual metering customer since March 2009. (I.D., p. 15; Tr. 190; *see also* PPL Electric Replies to Exceptions Nos. 2 and 5.)

³ Through the Petition, the Complainant seeks to introduce the following: (1) a letter dated February 13, 2013, from Complainant to PPL Electric that continues to contend that PPL Electric improperly calculates and applies credits under its virtual metering program; (2) PPL Electric's response letter to Complainant; (3) a screen shot of self-inputted usage data on the PJM's Generator Attribute Tracking System ("PJM GATS"), which reflects only the total generation at the host account and fails to account for the net generation; (4) the Complainant's own summary of his un-netted excess usage and generation, which continues to apply the same erroneous credit calculation that was rejected by the ALJ; and (5) copies of electric bills for the period since the evidentiary hearing through his most current electric bill.

Complainant failed to demonstrate a material change of fact. Notably, the Petition does not allege that PPL Electric has changed or modified the manner in which it applies virtual metering.⁴ Rather, the Complainant seeks to have the record reopened to apply the his same argument to the bills that were issued from the time of the evidentiary hearing through his most current bill. The fact that PPL Electric has continued to issue electric bills for the Complainant's two accounts is not a material change of fact or law.

Second, given the fact that the *Petition to Reopen the Record* has failed to allege that PPL Electric has modified or changed the manner in which it applies virtual metering, it is unnecessary to reopen the record to admit the electric bills that have been issued since the evidentiary hearing. During this proceeding, the Parties engaged in mediation, exchanged extensive discovery, and exchanged numerous settlement proposals. This proceeding produced a robust record that consists of a 254 page transcript and a total of nineteen exhibits, including several monthly electric bills that were admitted into the record without objection. Based upon this extensive evidence, including the Complainant's monthly electric bills, the ALJ made proper findings of fact and conclusions of law that are supported by the substantial evidence of record.

Third, under the Complainant's theory, the record could never be closed in this matter. The Complainant contends that the record must be reopened to accept the electric bills, usage data, and generation data produce since the evidentiary hearing. However, new electric bills, usage data, and generation data will be produced each month. If the Commission accepts the Complainant's theory, the record would have to be reopened each month to admit the monthly electric bills and usage/generation data. This is simply an unworkable and impractical standard,

⁴ The Petition appears to take issue with the fact that a line item on the April 2013 bill was changed from "Excess Credit" to "EDC Only Excess Credit." This change was made to make it clear that the credits represented on the bills were only for electric distribution company charges and not for electric generation supplier charges. This minor line item change has no impact on the aggregations of accounts for purposes of net or virtual metering. This clearly is not a material change of fact.

particularly where the *Petition to Reopen the Record* has failed to allege that PPL Electric has modified or changed the manner in which it applies virtual metering.

Finally, it would not be in the public interest to reopen the record as requested by the Complainant. The Commission can fully decide the issues pending before it without the need to reopen the record to admit the cumulative documents attached to the Petition. Reopening the record for the reception of these documents would not be a productive use of time and resources for either the Commission or PPL Electric.

IV. CONCLUSION

The Complainant has failed to meet his legal burden to demonstrate a material change of fact or of law that would warrant the time and expense to reopen the record for the reception of further evidence. The information sought to be admitted into the record is cumulative to the extensive evidence that was properly considered and rejected by the ALJ. For the reasons explained above, the Complainant's request to reopen the required should be denied and, for the reasons more fully explained in the I.D. and PPL Electric's Replies to Exceptions, the Commission should deny the Complainant's Exceptions.

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that the Pennsylvania Public Utility Commission deny Larry Moyer's Petition to Reopen the Record and adopt the findings and conclusions of the Initial Decision issued by Administrative Law Judge Cynthia Williams Fordham.

Respectfully submitted,



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Date: May 20, 2013

Attorneys for PPL Electric Utilities Corporation

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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA FIRST CLASS MAIL

Jay Larry Moyer
370 West Johnson Street
Apartment C-1
Philadelphia, PA 19144

Date: May 20, 2013



Christopher T. Wright

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