

Before the
Pennsylvania Public Utility Commission

Jay Larry Moyer

v. C-2011-2273645 // C-2014-2444864

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 September 21, 2015 Initial Decision on Remand issued by Administrative Law Judge Fordham in these proceedings. The Initial Decision on Remand dismisses the arguments of the Complainant without specific and independent refutation of the evidence. In fact, it overlooks much of the abundant and detailed evidence provided by the Complainant. While it acknowledges some disorder, confusion, and inconsistency in PPL's billing process, its examination of them is, at best, cursory. It pays little attention to the erratic and unorthodox methods of applying credit; It refuses to ascribe any culpability to PPL Electric for the years of rogue billing practices or for the disarray in its billing procedures; It does not require data on the Complainant's bills that would permit him to verify the charges and credits; and it turns a blind eye to the undeniable discrepancies which the

Complainant has shown in abundance between the Complainant's monthly bills and other internal Company documents (i.e. spreadsheets).

I. BACKGROUND

Background

- a. In 2008, PPL Electric approved a 4.75 PV solar generating facility under provisions of virtual meter aggregation. The facility was installed at 73 Woods Road, Klingerstown, PA 17941. Interconnection was completed in March, 2009, and the system began operating under terms of the tariff which became effective on July 17, 2007.
- b. In 2010, the Company 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. In November, 2011, their attorney, John Baillie, filed a Formal Complaint on behalf of the Complainant against PPLEU.
- c. 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.
- d. The Initial Decision issued in January, 2013, was vacated, and the Complainant was offered the opportunity for another Hearing.
- e. On March 31, 2014, the Complainant submitted a packet of materials which included charts delineating irregularities in billing data, as well as a letter requesting further hearings. (See APPENDIX A, "Reply to Answer-Moyer")
- f. In 2014, the Complainant submitted a second, more detailed Formal Complaint which included additional bills and itemized his concerns about the billing process.
- g. The Complainant submitted Written Testimony which was answered by a Rebuttal from PPL Electric.

- h. The Complainant submitted a Surrebuttal in advance of the Second hearing.
- i. The second Formal Hearing was held on April 21, 2015, in which the two Formal Complaints were consolidated.
- j. The Complainant submitted a Main Brief subsequent to the Hearing on April 21, 2015.
- k. Central issues which prompted the formal complaint remain unresolved or unaddressed by the Initial Decision on Remand. 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.

II. EXCEPTIONS

Exception # 1: The Initial Decision on Remand overlooks extensive evidence offered by the Complainant.

- a. The Initial Decision on Remand asserts, initially, that "The record in this proceeding must be reviewed" (ID on Remand at 23). Regrettably, the extensive evidence offered by the Complainant is scarcely acknowledged, and a review of that evidence, if undertaken, is not apparent in the text of the Decision. The ALJ concludes that the "burden of proof" has not been met (33; 43; 44). Unfortunately, much of the evidence was neither mentioned nor discussed.
- b. The Complainant does not object to having text imported from PPL Electric's Reply Brief, and much of the "Discussion" section consists of such passages. One is hard-pressed, however, to find the Complainant's arguments presented in detail, and never in his own words.

- c. The most egregious copying occurs on page 36, where the Decision uses a passage from the Company's Reply Brief to convey the Complainant's own ideas. The Complainant believes that he should be presented in his own words, not those of the Company. This "copying", which occurs here and elsewhere, is inexcusable and is a stunning violation.
- d. The Complainant has repeatedly described, in meticulous detail, the omissions, irregularities, and discrepancies in the Company's records. He has done so in the 2014 Complaint (Docket # C-2014-2444864); in Direct Testimony (Moyer Direct at 9-10 and 30-34); and in the Complainant's Main Brief (Moyer Main Brief at 14-23). The abundant evidence submitted by the Complainant is not acknowledged, reviewed, or examined in any meaningful way, as the following examples attest:
 - 1) The Initial Decision on Remand is patently incorrect in asserting that the Complainant failed to "delineate specific errors" when he requested a New Hearing (ID on Remand at 7).
 - a) The Initial Decision on Remand refers to a letter dated September 26 which requests further Hearings. (id. 7) That letter specifically cites the materials submitted on March 31, 2014, and the fact that they "delineate specific errors".
 - b) Contrary to the Decision's claim, the materials submitted on March 31 presented considerable detail and a number of charts: A, B, C D, and E. (SEE APPENDIX A)
 - c) One of those charts, in fact, was admitted into evidence in 2015. (JLM-37)
 - d) The full packet of material ("Reply to Answer-Moyer"), received by the Commission on April 4, 2014, also included the spreadsheet generated by PPL Electric in response to the Commission's Order on January 9, 2014. Inexplicably,

this substantial correspondence is never mentioned in the Initial Decision on Remand, either in the "History of the Proceedings" or in the "Findings of Fact".

- e) The charts presented by the Complainant show in detail the dramatic discrepancies between the actual bills and the spreadsheet ("tabulation") prepared by PPL Electric. The cover letter concludes by saying "The Complainant hereby requests 'further hearings'" (See APPENDIX A, "Reply to Answer-Moyer" at 6).
 - f) In the Initial Decision on Remand, there is no mention of the charts or of these disparities, and there is no evidence that a careful review of them was ever conducted. Even a cursory comparison of PPL's spreadsheet and the Complainant's evidence (in the charts and in his Main Brief) will make the disparities clear.
 - g) The Initial Decision on Remand contends that "the Respondent has calculated and applied credits appropriately". (ID on Remand at 29) However, If PPL's spreadsheets (JLM-35; APC-5) are accurate, as presumed by the Initial Decision on Remand (ID on Remand at 28-29), the data on Mr. Moyer's actual bills cannot be accurate.
 - h) It is hoped that the Commission will yet confer with these charts as it reviews the facts of this case.
- 2) In his Direct Testimony alone, the Complainant included twenty-seven (27) numbered discrepancies, and these are not mentioned or discussed in the Initial Decision on Remand.

3) In Section C of his Main Brief, the Complainant repeatedly cites the Law, the Code, and legal precedents (Moyer Main Brief, 13-22). The Main Brief, for example, refers to several dispositions in similar cases. The first quotes ALJ Jeffrey A. Watson, who writes, **“a consumer should be provided a clear billing statement in order to explain charges and adjustments on a bill . . . to determine if they were correctly calculated”**. (Moyer Main Brief at 22)

A second, ordered a civil penalty, saying that the utility's conduct “was not conducive to an honest and transparent rendering of a full billing in what was a complex and confusing billing history and was not conducive to resolving the matter outside of the litigation context.” (Moyer Main Brief at 22) It is a statement that could well be applied to this case.

The Initial Decision on Remand makes no reference to this statement or to its significance for the Complainant's bills. Meanwhile, it takes pains to insert, verbatim, the Company's description of its convoluted billing methodology¹. (Compare ID on Remand at 29-31 & PPL Reply at 20-22)

4) Although the Complainant repeatedly cites the Regulations to support his requests, the Initial Decision seldom references these citations; does not conduct independent discussion of his arguments; and does not discuss the Regulations themselves.

¹ The Company's original, and identical description appears in its Reply Brief, pages 20-22.

- a) The Complainant's Main Brief cites section 52 Pa. Code §75.12, which requires a "combination of . . . billing" (Moyer Main Brief at 8), but this citation receives no discussion.
- b) The Complainant's Main Brief also cites 75.13(e) which requires that credit be applied "at the full retail rate". He also distinguishes the ""full-retail" from the "price-to-compare" (Main Brief at 9) and its importance for "cashout". (Moyer Main Brief at 17-20) His concerns are not answered. Instead, the Decision blends the two concepts, referring to the "full retail rate of the Price to Compare". (ID on Remand Item #60 at 20)
- c) The Complainant cites 75.13(c), showing that the "full retail rate" is never identified on the bills (Moyer Brief at 15). The Decision, echoing PPL (Reply Brief, footnote 11 at 26) simply says that "nothing . . . requires PPL Electric to present . . . the information requested". (ID on Remand at 28)
- d) The Complainant cites Section 56.265 (with regard to EDC's), and Sections 54.1-54.5 (with regard to Default Service Providers). (Moyer Main Brief at 23). These citations receive no mention.
- 5) Still another six pages of evidence delineates specific omissions, inconsistencies, and irregularities in PPL records. (Moyer Main Brief at 12-18) This evidence is neither mentioned nor discussed.
- 6) The Complainant presents detailed arguments in favor of a single bill for virtual meter aggregation and advocating parity with physical meter aggregation. (Moyer Main Brief at 8-9); Those arguments are not examined or refuted independently;

- they are simply answered by importing text from PPL's own Reply Brief. (Compare ID on Remand at 26 with PPL Reply Brief at 11)
- 7) Although it lists the Complainant's Exhibits, including the full set of bills, many of which are cited by the Complainant, the Initial Decision on Remand does not examine the contents of those Exhibits in any methodical way.
- 8) The Initial Decision on Remand does not dispute that there are discrepancies in Company records, but answers with the Company's own words, saying that, "to the extent there have been alleged inconsistencies in the information presented on the Complainant's bills, the Respondent has explained or refuted those inconsistencies" (Compare Reply Brief at 12 and ID on Remand at 29)². Unfortunately, the Initial Decision on Remand repeats the Company's statement without comment or scrutiny. Rather than examine the inconsistencies in detail, the Initial Decision on Remand offers (verbatim) the Company's view.
- 9) It is striking that the Initial Decision on Remand repeats (verbatim) lengthy passages from PPL's Reply Brief, sometimes without attribution. Meanwhile, the specific, detailed evidence provided by the Complainant is not cited (in any form), even for the purpose of refutation! The Complainant's evidence is seldom considered in detail, and his positions are presented in vague and hasty summations, or by quoting the Company instead of the Complainant. (cf. ID on Remand at 31)

² The statement, quoted here, appears verbatim in PPL's Reply Brief (Page 12), but is not attributed. Like many other passages in the Initial Decision on Remand, it appears in the Initial Decision on Remand without quotation marks.

- a) The content offered in the summation on page 31, for example, (“In addition, the Complainant objects. . .”) cannot be found in “Moyer Brief at 16-17”, as claimed.
- b) In one short paragraph that opens the “Disposition”, four separate requests, which the Complainant argued in detail, are summed up in haste, without discussion.

Necessary Correction: The Commission should vacate the Initial Decision on Remand on the grounds that the Decision fails to provide a thorough, detailed, and balanced examination of the evidence presented.

Exception # 2: The Initial Decision endorses and defends a “manual” billing process that has failed to provide the Complainant with bills that are current, complete, accurate, and transparent.

- a. Most of the billing issues raised by the Complainant derive from a simple question:
Should the standard bills that the Complainant receives each month provide complete, current information and reflect the activity on his account during the most recent billing period? The absence of crucial data on the bills is a principal grievance of the Complainant, and one that has been dismissed by the Initial Decision on Remand. The Initial Decision on Remand fails to notice (or considers irrelevant) the many functions which the manual process for virtual metering, as presently designed, cannot perform, as admitted in the Company’s own statements:
 - 1) “the billing system cannot currently transfer and aggregate data among separate meters” (PPL Reply Brief at 17);

- 2) "the Company's billing system cannot accommodate a negative usage at the solar account" (PPL Reply Brief at 30);
 - 3) "the solar account's bill cannot show the number of kWh generated" (PPL Reply Brief at 30);
 - 4) "the bills do not show the actual meter readings" (PPL Reply Brief at 31);
 - 5) "cash outs are not reflected on his bills" (PPL Reply Brief at 32)
 - 6) "PPL Electric's billing system, as currently designed, simply cannot automate virtual meter aggregation" (PPL Reply Brief at 23);
 - 7) "PPL Electric's system cannot do what the Complainant has requested" (PPL Reply brief at 37);
- b. The Initial Decision on Remand does not clarify, or even address, the requirements for billing, many of which are presented in detail by the Complainant (Moyer Main Brief, Section IV.C, especially at 13-17). One of those is that a bill should report activity in the most recent billing period. PPL Electric, however, uses a "one-month lag" in reporting. With the consent of the ALJ, the Company withholds data for the convenience of their arbitrary "manual" system. Meter readings and kilowatt hours of generation are retrieved on the billing date, but then sequestered on a spreadsheet (cf. APC-5)³. Even in the subsequent month, however, neither the solar bill nor the house bill reports those meter

³ According to PPL, APC-5 shows the actual meter readings on the solar account "for that specific billing period", even though they do not appear on the current bill. (PPL Reply Brief at 27)

readings or the kilowatt hours of generation. The spreadsheet becomes the sole repository of accurate billing data!

- c. Although the ALJ concedes that there are omissions on the bills, she deems them justified, arguing that "Although all of the information that the Complainant requested is not on the bill, it is on the separate spreadsheet that the Respondent prepares each month." (ID on Remand at 32) The absence of this crucial information makes it impossible, however, to verify the charges, credits, and adjustments using data on the Complainant's bill.
- d. The Initial Decision on Remand, like PPL Electric, offers the Complainant spreadsheets in lieu of the bills. The Company admits that it cannot aggregate data from both meters AND show the aggregated data on the bills in the same month (PPL Reply Brief at 17, 30, 31). The spreadsheets are authorized, nevertheless, by the Initial Decision on Remand, which says that the "calculation sheets contain all of the information requested by the Complainant." (ID on Remand, #72 at 22)
- e. The Initial Decision on Remand accepts PPL's spreadsheets as authoritative, even though they do not comply with the Commission's Order issued on January 9, 2014. The Commission ordered such a "tabulation" (Opinion and Order at 14) and said explicitly that it must include "any payments made by Mr. Moyer" (id. at 22). The spreadsheets themselves (JLM-35; APC-5), in spite of the Company's claims, are not a complete billing record and, among other discrepancies, fail to include any payments made by the Complainant.
- f. Another source of data, according to the ALJ, is the Company's web-based "Energy Analyzer". The Initial Decision on Remand, echoing the Company, contends that Mr.

Moyer should access his data there. (ID on Remand, "Finding of Fact #70" at 21). As a tool, the "Energy Analyzer" may be a useful in some instances, but it cannot be identified as the Company's "billing process". In effect, the Initial Decision on Remand proposes to bypass the ordinary "billing process".

- g. The Initial Decision on Remand authorizes a billing process for virtual meter aggregation that deprives virtual metering customers of current, "real-time" data that is available to other customers. The Complainant does not oppose a manual billing process per se. He does maintain that a manual billing process should achieve the same result that is achieved in the bills of other customers.
- h. The ALJ overlooks the Company's contradictory claims about its capabilities for automated billing. In 2012, for example, the Company's witness, Mr. Aloysius P. Cannon testified explicitly, "We've looked at it . . . We could do it, . . ." (Transcript 218). Later in the discussion, he added, "We know what [automation] would cost . . . It's just --- it's very low on our priorities". (Tr. 235) The Company declined to automate, he said, because "automating the billing process . . . would not be a reasonably prudent expense at this time. (Tr. 218)" Now, in 2015, the Initial Decision on Remand accepts a new, revised version, saying that "the Respondent tried and was unable to modify its billing system to implement automated virtual meter aggregation" (ID on Remand at 25). In an age of "big data" and "smart" metering, the Initial Decision still rejects the benefits of automation for virtual meter aggregation.

Necessary Correction:

- A. The Commission should order PPL Electric to implement an automated billing system that will perform real-time aggregation and produce complete data from both meters on a single bill, as is currently being done by Duquesne Light. (cf. JLM-7, which was not admitted into evidence)

OR, alternatively,

- B. If the Commission chooses to reject a "single-bill" method, the Commission should order PPL Electric to include, on the separate bills, the following critical information, which does not appear currently:
- 1) On the printed bill for the solar panels: a) kilowatt hours of generation in the current billing period; b) the kilowatt hours of applied credit; and c) kilowatt hours of excess (i.e. "banked") generation in the most recent billing period; **AND**
 - 2) On the house bill: a) the total kilowatt hours of generation (as shown on the solar bill); b) the kilowatt hours of applied credit (for electric use in the current month); c) the per-unit ("full-retail") value of the credit that was applied for the electric use; d) the total dollar value for the credit that was applied; and e) the number of "banked" kilowatt hours ("excess generation") being carried forward to subsequent months.

Exception # 3: The Initial Decision on Remand subscribes, erroneously, to a Company policy that has no final authority and which, in recent months, has been retracted by the Company itself.

- a. The Initial Decision on Remand accepts as "Fact" PPL's long-standing requirement of "non-generational load" at the 'host' account, saying "The Complainant's two accounts did not qualify for virtual metering under the terms of PPL's tariff because there was no non-

- generational load” (ID on Remand at 19; “Finding of Fact” # 49). This is the very policy which was imposed unilaterally in 2010 and which prompted the initial Complaint.
- b. The Initial Decision on Remand persists in citing this as valid policy (ID on Remand at 17; 34; 39), even while acknowledging that it remains under consideration by the Commission in its Proposed Rulemaking Order (ID on Remand at 17 – footnote).
- c. Notably, the “non-generational load” requirement (at the host site) is a policy that has recently been rejected by the DEP, The OCA, and, ironically, by PPL Electric itself, in comments before the Commission⁴.
- d. On May 29, 2015, one month after the Formal Hearing on Remand, PPL Electric adopted a new position, saying “PPL Electric believes that applying the requirement for independent load to the host account is inconsistent with the purpose of virtual meter aggregation and would render virtual meter aggregation essentially meaningless” (PPL Comments Regarding the “Advance Notice of Final Rulemaking Order” at 8)
- e. The Company further recommended that “for purposes of virtual meter aggregation only, the requirement for independent load be modified to make it clear that it applies to the satellite account(s) rather than the host account” (Id.). The Company, at this late date, argues, in effect, for the position advanced by the Complainant. PPL Electric Utilities Corporation must be held accountable for their cavalier and unilateral decision to terminate the Complainant’s generation credit in 2010.

⁴ Instead of issuing Final Regulations”, the Commission published an “Advance Notice of Final Rulemaking Order” (Docket # L-2014-2404361) and, on April 23, 2015, solicited public comment for a period of twenty days. On May 29, 2015, PPL Electric issued its comments on the Implementation of the Alternative Energy Portfolio Standards Act.

- f. It is apparent that PPL Electric has retracted its long-held position. The impact, meanwhile, on the Complainant (in time, effort, money, and distress from PPL's long insistence on "non-generational load") has been completely overlooked by the Initial Decision on Remand. Even if there were no other irregularities, errors, or omissions in the Company's billing records, this circumstance alone would plead for redress.

Necessary Correction: The Commission should withdraw the "non-generational load" requirement in its forthcoming "Final Regulations" and declare the Complainant's PV solar generating facility as fully qualified for virtual meter aggregation. The Commission should also impose fines and penalties against PPL Electric for this miscarriage of justice.

Exception # 4: The Initial Decision on Remand embraces the Company's claims, even in the absence of specific evidence.

- a. The Initial Decision on Remand frequently defers to the Company's position, even when those positions are not supported by evidence.
- b. The Initial Decision on Remand presents as "Fact" the view that automation for virtual meter aggregation is not possible. (ID on Remand, Finding of Fact #66 at 21). Later, without questioning the claim, it accepts implicitly the Company's statement that "the Respondent tried and was unable to modify its billing system to implement automated virtual meter aggregation" (ID on Remand at 25). Still later, in a similar claim, the Decision says, "it is undisputed that PPL Electric's billing system simple (sic) cannot do what the Complainant demands"⁵. (ID on Remand at 39-40)

⁵ As in other places, the typographical error ("simple") is "simply" copied into the Decision from the Company's own document (PPL's Reply Brief at 57).

Neither the Company nor the Initial Decision on Remand offers any details to substantiate that claim. There is no attempt to ask what efforts the Company made, what methods were used, who made them, when they were made, and with what results. This tacit, uncritical acceptance of the Company's claim is inexcusable.

- c. The Decision also presents as "Fact" the view that PPL's "manual billing process" for virtual metering is "inexpensive" (ID on Remand, Finding of Fact #62, at 20; ID on Remand at 24).

No evidence has been offered regarding the cost of developing, defending, modifying, and maintaining the "manual" procedures every month. The elaborate procedures for implementing the process every month, as described in PPL Exhibit APC-2, suggest a cumbersome, tedious, labor-intensive methodology. The Initial Decision on Remand, nevertheless, without the slightest skepticism, adopts the Company's assertions about expense. With its tacit endorsement of the Company's claim, it implicitly justifies the resistance to change, the perpetual modifications, the slow adoption, and the halting progress in PPL's relationship with virtual meter aggregation.

- d. The deference to PPL Electric's position is evident in other places. On page 33, for example, the Judge declares that the "Respondent presented evidence to demonstrate that the terminology was not inaccurate or confusing". (Claiming to prove anything with a negative, of course, does not establish a fact.) More serious, however, is the failure to examine the Complainant's positive evidence which documented the contradictory and ambiguous terminology.

- e. Even the citation is incorrect. Moyer's argument is found on page 21 of the Main Brief, not on pages 16-17, as the Initial Decision on Remand specifies. (Initial Decision on Remand at 31) The confusion associated with the phrase "Excess Credit" is also described at considerable length in the Direct Testimony. (Moyer Direct Testimony at 25-27). This evidence, too, is not cited, much less refuted. Instead, the Initial Decision on Remand simply copies text from the Company's Reply Brief. (ID on Remand at 25)⁶
- f. In still another instance, the Initial Decision on Remand exonerates PPL even as it misreads the Company's claim. The Initial Decision says, flatly, that "the Respondent's automated billing process cannot process two meters on the same bill" (ID on Remand at 32). PPL's actual claim is that it cannot be done "currently". (PPL Reply Brief at 17) In another place, PPL says that its billing system, "as currently designed", simply cannot automate virtual meter aggregation (PPL Reply Brief at 23). The Initial Decision on Remand, itself, uses similar language, saying that automation is precluded "as currently configured". (ID on Remand at 23)
- The unmistakable inference is not that automation is precluded, but that the Company objects to the changes (IT upgrades, Code modifications, etc.) that would make it possible.
- g. The Complainant submitted evidence that a different Utility company in Western Pennsylvania already aggregates the two meters on a single bill. (JLM-7) That evidence, regrettably, was not admitted in the Formal Hearing.

⁶ Compare the Decision's text (p. 25) with PPL's Reply (pages 17-18)

ALJ Judge Cynthia Williams Fordham, having dismissed the available evidence (JLM-7), also dismisses the request for aggregation on a single bill. (ID on Remand at 41)

Although the Complainant's exhibit (JLM-7) was not admitted, it remains available for the Commission's consideration.

- h. PPL Electric earnestly refers to its small pool of virtual customers (98), and ignores the prospect of new ones. The Initial Decision on Remand, in turn, seems frozen in time, as well, and ignores the promise of widespread access to virtual meter aggregation.
- i. In the "Findings of Fact" there is a series of statements (#68 to #72) that serve as little more than "announcements" for the Company. They are no more than optional modes of tracking data. Nevertheless, they are presented as "Facts", suggesting, improperly, that they are authorized for billing purposes, and should be accepted in lieu of accurate monthly bills (ID on Remand at 21). The Complainant rejects this proposition, believing that the printed bills themselves should permit him "to determine if they were correctly calculated", in the words of ALJ Judge Jeffrey A. Watson (Moyer Main Brief at 22).
- j. It is incumbent on the Commission to determine that the billing process is conducted appropriately every month with every virtual metering customer. It is also imperative that the Commission assess the relative cost, over time, of the manual process in comparison to automation. It is also important that the Commission take into account, and affirm, the expansion of virtual metering in the future.

NECESSARY CORRECTION: The Commission should vacate the Initial Decision on Remand for its lack of critical, independent analysis and for its failure to require sufficient evidence. It should also confer with IT experts and make its own, independent determination about the feasibility of automation in billing for virtual meter aggregation.

EXCEPTION #5: In deciding not to impose any fines or penalties on PPL Electric, the Initial Decision on Remand ignores the duration of the misconduct; minimizes the seriousness of the rogue billing procedures; and overlooks the Company's intransigence.

- a. Virtual meter aggregation was clearly instituted as a matter of Law in 2004, and made an unequivocal part of Commission Regulations in 2007. The Company's negligence is evident in the fact that they did not have any billing process in place for virtual meter aggregation in 2009, when they approved the Complainant's PV solar installation as a virtual metering system.
- b. In 2010, without giving any notice to the Complainant, the Company invoked a new condition ("non-generational load") for eligibility and terminated all generation credit on the Complainant's virtual metering system.
- c. The unmistakable negligence of the Company is reflected in their tardy half-measures for implementing virtual meter aggregation. The effort to automate, for example, was not even attempted until Spring, 2015: "After it submitted rebuttal testimony in 2015, the Respondent tried and was unable to modify its billing system to implement automated virtual meter aggregation" (ID on Remand, #66, at 21; cf. PPL Reply Brief at 37). Penalties should be applied on the basis of 52 Pa § 69.1201(3).
- d. For eight long years, PPL has used evasion, diversion, and delay to avoid full compliance with, and implementation of, the virtual metering provisions in the AEPS Act and the PA Utility Code. Penalties should be applied in compliance with 52 Pa § 69.1201 (4).

- e. By any standard, The Company's conduct must be considered "intentional".

Penalties should apply as provided in 52 Pa § 69.1201 (3).

- f. Every virtual metering customer has been ill-served by the frequent and grudging "modifications" year after year; by the indecipherable bills; by the uncertainty about credit; and by the chaotic, protracted "makeshift" billing process that remains in use today. Because "rooftop solar" (i. e. physical metering) is not practical for many locations, the potential for virtual metering extends to many thousands of customers. Some customers have already been deterred by the turmoil. Many more, however (residential customers, in particular) will be deprived of virtual metering in the future if PPL's opaque and obscure methods prevail. In order to compel and induce pro-active behavior from PPL Electric (which has been absent since 2007), penalties should be imposed on the basis of 52 Pa § 69.1201 (5).

NECESSARY CORRECTION: The Commission should impose fines and penalties on PPL Electric Utilities Corporation for its persistent failure to implement a suitable billing process for virtual meter aggregation; for its sustained pattern of issuing incoherent, unlawful bills to the Complainant; for its repeated violations of the utility Code with regard to virtual meter aggregation; and for its clear disregard for the intent of the AEPS Act in policies related to virtual meter aggregation.

EXCEPTION # 6: Without any examination of the facts or of the Complainant's arguments, the Initial Decision on Remand endorses the unfair commercial burden which PPL has imposed on the Complainant and overlooks the fact that he is strictly a residential customer-generator.

- a. Since the ALJ refused to entertain the Complainant's argument, it is presented here.
- b. Commercial customers have, admittedly, been the most prevalent adopters of virtual meter aggregation. PPL Electric, in fact, says that "The majority of these customers are mid-size commercial and up." (Transcript at 182). As businesses, of

- course, they are subject to a commercial (GS-1) customer charge on their business account, even if they have another residential account.
- c. Nothing in the provisions for virtual meter aggregation, however, prescribes a commercial status (or a commercial charge) on a strictly residential customer.
 - d. The imposition of a commercial fee on a purely residential customer is neither stated nor implied in the AEPS Act or the PA Code as a condition for virtual meter aggregation.
 - e. This commercial (GS-1) fee was imposed on the Complainant without any advance notice, and only after interconnection of his PV solar facility was completed.
 - f. This elevated, commercial fee is a powerful disincentive to residential customers who consider virtual meter aggregation.
 - g. The Complainant believes that residential customers should enjoy parity, whether they elect physical meter aggregation or virtual meter aggregation.
 - h. For purely residential customers who elect virtual metering, the commercial (GS-1) charge imposes a penalty that does not apply to physical metering. This commercial fee, imposed by PPL Electric on purely residential customers (now with an ALJ stamp of approval), creates a severe hardship on the Complainant who, from that charge alone, loses up to 50% of his generation credit annually. (Moyer Main Brief at 13)
 - i. The Code provides for an "incremental expense" associated with "processing his account on a virtual meter aggregation basis". 52 Pa. Code § 75.14(e) PPL Electric, or any utility, may properly recover the "incremental expense" once it is promulgated by the Commission. If and when the Commission should add this lawful "incremental

expense” to the commercial charge already imposed by PPL, the economic burden on residential customers would effectively rule out virtual metering , due to their small renewable systems and the limited credit they generate.

- j. Most customers can still escape this punitive charge and avoid virtual metering. The Complainant, however, cannot undo his expensive investment or the renewable facility which PPL approved. He incurs two charges for one integrated renewable project.
- k. The Commission should put all residential net metering customers (physical and virtual) on similar footing. It can do so by creating a “residential” category for virtual metering and by eliminating the “commercial burden” that now falls on homeowners.
- l. Physical meter aggregation now holds a position of advantage among homeowners, because it does not incur a commercial customer charge. This advantage has no basis in the virtual metering provisions of the PA Code. If the Commission chooses not to remove the “double charge”, it should at least replace the commercial Rate schedule (GS-1) with a residential rate (RS) and mitigate the disadvantage to residential customers who choose virtual meter aggregation.

NECESSARY CORRECTION: For virtual metering customers who have no commercial operations, the Commission should honor their “residential” status and place them on par with those who elect physical meter aggregation by designating each of the meters according to the RS Schedule.

III. CONCLUSION

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

1. The Commission should vacate the Initial Decision on Remand for its failure to require sufficient evidence of the Respondent; for its failure to provide a thorough, detailed, and balanced examination of the evidence presented by the Complainant; and for its lack of sufficient critical and impartial analysis of the legal issues that were presented.
2. The Commission should order that, within a reasonable period, PPL Electric shall cease to use the convoluted "manual" billing process which is now employed for virtual meter aggregation.
3. The Commission should require that PPL Electric implement, for virtual meter aggregation, an automated billing process as they have done for physical meter aggregation.
4. The Commission should order that PPL Electric implement a billing system for virtual meter aggregation, whether automated or "manual", that provides complete, accurate, and "real-time" aggregation on the Complainant's monthly bills.
5. The Commission should confirm that the Complainant is not required to accept either the Company's spreadsheets or the web-based "Energy Analyzer" in lieu of printed bills.
6. Recognizing that Duquesne Light already aggregates two meters on one bill, the Commission should require PPL Electric to include, on a single bill, real-time aggregation of the two meters and complete data from the two meters,
7. As an alternative to a single bill, the Commission should order PPL Electric to include, on the separate bills, the data listed in "B" ("Necessary Correction", Exception #2)
8. In order to create parity with residential customers who elect physical meter aggregation, and because the Complainant has no commercial activity at his service address, the Commission should order that the residential (RS) Rate Schedule be applied to both aggregated meters associated with his virtual metering system.
9. The Commission should withdraw the "non-generational load" (i.e. "first condition") requirement from its forthcoming "Final Regulations" and regard the Complainant's PV solar generating facility as fully qualified for virtual meter aggregation.
10. The Commission should impose fines and penalties against PPL Electric for its protracted miscarriage of justice in regard to "non-generational load".
11. The Commission should impose fines and/or penalties against PPL Electric for its persistent failure to implement a suitable billing process for virtual meter aggregation.
12. The Commission should impose fines and/or penalties against PPL Electric for its sustained pattern of issuing incoherent, unlawful bills to the Complainant.
13. The Commission should impose fines and/or penalties against PPL Electric for its repeated violations of the utility Code with regard to virtual meter aggregation.
14. The Commission should impose fines and/or penalties against PPL Electric for thwarting the intent of the AEPS Act through the punitive and burdensome conditions which it imposed on virtual meter aggregation and on the Complainant.

Submitted by,

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