

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RECEIVED

2016 JUN 17 AM 10:35

PA P.U.C.  
SECRETARY'S BUREAU

**Jay Larry Moyer, Complainant**

v.

**PPL Electric Utilities Corporation, Respondent**

**Docket No. C-2011-2273645**

**Docket No. C-2014-2444864**

---

**APPLICATION FOR RELIEF**

---

Pursuant to Pa. R.A.P 123, Larry Moyer hereby requests a stay of the Opinion and Order issued in the above consolidated cases on May 19, 2016, pending the outcome of an appeal before the Commonwealth Court (882 CD 2016).

It is apparent from the Opinion and Order that certain evidence was dismissed or ignored by the Commission. The Opinion and Order also includes assertions that misstate the law or the facts.

The grounds for this Application are summarized below:

1. The Commission's claims of limited authority are here disputed.
  - a. The Commission claims that it is "prohibited from looking beyond the evidence in the record" (at 8, footnote). 52 Pa. Code § 5.404(a) makes clear, however, that "At any stage of the hearing or thereafter the Commission or the presiding officer may call for further admissible evidence upon an issue ...". Specifically, the Commission declined to consider a bill from Duquesne Light

which was entered into evidence on August 15, 2012 and demonstrated aggregation of two meters on a single bill. It also refused to consider bills issued to me by PPL Electric in November, 2015, which showed that credit was not applied “up to the amount used ... in the billing period”.

- b. While PPL is bound by law to abide by its Tariff (36), The Commission overlooks its own authority to approve Company Tariffs and to order changes where necessary.
2. The Commission makes misleading, irrelevant, and contradictory claims:
- a. The Commission maintains that I was “not forced” to elect virtual meter aggregation. What it ignores, however, is that 1) Specific procedures for implementing virtual meter aggregation did not exist in 2009 when my system began operating and still do not exist; 2) No terms specific to virtual meter aggregation were provided to me at any time (before or after installation); 3) Various requirements, conditions, and terms were added or altered only after the PV system began operating, including the enforcement of a “non-generational load” requirement and the discontinuance of all credit; 4) At no time was I informed in advance of these changing requirements, conditions, and terms that would be implemented; 5) in electing virtual meter aggregation, I could not have anticipated that “PPL was still learning how to implement virtual meter aggregation” (O&O at 30)
  - b. The Commission offers a truism that “the Complainant’s solar facility does not share any of the characteristics of a dwelling”. What obtains here is its status as a renewable generation facility, a status that it shares with other residential facilities. The comparison to a “dwelling” imposes a rationale that is irrelevant to virtual meter aggregation and to the circumstances.

More crucially, the statement overlooks the absence of “net metering rules” that are adequate and specific to virtual meter aggregation and could arbitrate this question.

The Commission, furthermore, ignores the evolving patchwork of disparate rules for virtual meter aggregation across different utility companies. It ignores the Commission’s mandate “to develop Statewide technical and net metering rules for customer-generators” (AEPS Act, Section 5), including rules that are appropriate for (and specific to) virtual meter aggregation (whether for eligibility, billing, or net metering, etc.). The statement evades the salient fact

that the PUC has failed to accommodate the specific circumstances of virtual meter aggregation and has failed to develop comprehensive rules for its implementation.

3. The Commission declined to consider evidence or correspondence which I provided to the Commission.
  - a. The Commission imputes to me a failure to “delineate specific errors in the bills” (at 6) but fails to consider the lengthy correspondence and detailed charts which I submitted on March 31, 2014, in specific compliance with the Commission’s Order of January 9, 2014.
  - b. The correspondence of March 31, 2014, included a request for a different judge in a Hearing on Remand, but it received no answer.
  - c. The correspondence of March 31, 2014, appealed to the Code’s provisions, including the “necessary equipment” for virtual meter aggregation and the “incremental expense” (75.14(e)), but these provisions were not addressed.
  - d. The Commission apparently did not consider, and explicitly failed to address, comments from ALJ’s in other cases which I presented and which involved similar circumstances (Docket No. C-2013-2359146 and C-2009-2118649).
4. In spite of its declaration that its decision(s) “must be supported by substantial evidence in the record” (p. 9), The Commission has reached conclusions that defer to PPL Electric without requiring such substantial evidence. Even when no evidence is offered, the Commission accepts PPL’s unsubstantiated claims, favors the Company’s opinions, and finds them “persuasive” (17; 30).
  - a. The PUC accepts as “satisfactory” (O&O at 17) PPL’s claim that “its billing system cannot currently transfer and aggregate data among separate meters” (O&O at 14; 23). In doing so, the PUC offers the Company a waiver on a central requirement of virtual meter aggregation: the “combination of readings and billing ... by means of the EDC’s billing process” (75.12, “virtual meter aggregation”). Instead of requiring specific evidence from the Company or requiring an “upgrade” of billing procedures, the Commission defers to PPL Electric and defends the Company’s failure to aggregate.

- b. PPL claims, without evidence, that it tried “to implement an automated process for virtual meter aggregation”, but “was not able to do so” (at 17). This claim, further conflicts with the testimony of PPL’s own witness in the Formal Hearing in 2012. Mr. Aloysius P. Cannon testified that, “We’ve looked at it . . . We could do it, . . .” (Transcript 218) and “We know what [automation] would cost . . . It’s just --- it’s very low on our priorities”. (Tr. 235) This apparent contradiction was overlooked, and the Commission did not require evidence of either claim.
  
- c. The Commission notes the “complexity” of PPL’s elaborate “manual” billing procedures. (APC-2). Nevertheless, the ALJ (and the Commission) accept, without a shred of evidence, the Company’s claim that its billing process is “inexpensive” (at 24). At the same time, it appears to require evidence “to rebut this finding”.
  
- d. In spite of the complex data and the elaborate manual procedures employed by the Company to calculate generation credit, PPL Electric provides to me on my bills only one isolated number, which is an unsupported dollar amount. No evidence is offered to justify this sparse data. Instead, the Commission reasons that the additional information “would not fit on a standard bill” (O&O at 28). Instead of requiring complete data and full transparency in my bills by ordering a revised format, the Commission, in effect, colludes with PPL Electric and defends bills that are indecipherable and unverifiable.
  
- a. The Commission accepts PPL’s erroneous use of the misleading phrase “excess credit”, which does not comport with the Code and is, in fact, not “excess” credit, but “offset” credit.
  
- b. The Commission accepts the claim that PPL “applies the excess generation up to the usage” (at 15, 16) The claim is misleading, since the applied credit does not correspond to, and is not based on, usage in the current billing period, as the language of the Code clearly intends 75.13(c).
  
- c. The Commission reports as accurate PPL’s claim that the price per kWh “does, in fact, appear on his bills” (28, footnote). The Commission’s statement, and PPL’s claim, are erroneous. The price per kWh does not appear on the relevant bills for the solar panels, which is where the generation occurs, and the price per kWh can be re-constructed only from other disparate data.

- d. The Commission concedes that “there is no evidence that [Moyer] is using his solar facility to engage in any commercial activity”, but defers, nevertheless, to PPL’s insistence that it is a “commercial” site.
5. The evidence cited above (and elsewhere) demonstrates that the PUC is “accountable for the problem described” in my Complaints. The “problem”, in short, is the absence of adequate rules specific to virtual meter aggregation and the resulting latitude granted to PPL Electric to devise its own rules and impose on me various arbitrary requirements, conditions, and terms. The Complaints which I have filed have clearly offered far more than “a trace of evidence” (O&O at 9).

Respectfully submitted,



Larry Moyer  
June 15, 2016

## Certificate of Service

### Application for Relief

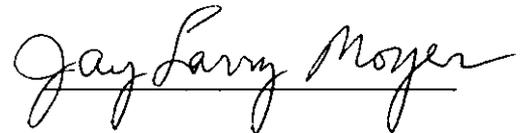
RE: Opinion and Order, Docket No. C-2011-2273645 and Docket No. C-2014-2444864

I hereby certify that I have this day served a true copy of the foregoing Petition for Review upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party).

Christopher T. Wright, Esquire  
Post & Schell PC  
17 North Second Street, 12<sup>th</sup> floor  
Harrisburg, PA 17101-1601  
(Served via USPS First Class Mail)

RECEIVED  
2016 JUN 17 AM 10:35  
PA P.U.C.  
SECRETARY'S BUREAU

June 15, 2016



Jay Larry Moyer, Complainant  
370 W. Johnson Street  
Philadelphia, PA 19144  
267-693-2633

Jay Larry Moyer  
370 W. Johnson Street (C-1)  
Philadelphia, PA 19144



1000



17120

U.S. POSTAGE  
PAID  
PHILADELPHIA, PA  
19119  
JUN 15 1986  
AMOUNT  
**\$0.68**  
R230SK141447-13

Ms. Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
400 North Street, 2<sup>nd</sup> Floor North  
P. O. Box 3265  
Harrisburg, PA 17120

1710533265 8099

