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File #: 140074

February 10, 2017

VIA ELECTRONIC FILING


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: Jay Larry Moyer v. PPL Electric Utilities Corporation
Docket Nos. C-2015-2511904

Dear Secretary Chiavetta:

Enclosed for filing please find the Motion of PPL Electric Utilities Corporation to Stay the Proceeding Pending Disposition of Mr. Moyer's Appeal in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Devin Ryan

DTR/skr
Enclosures

cc: Certificate of Service
Honorable Dennis J. Buckley

CERTIFICATE OF SERVICE
(Docket No. C-2015-2511904)

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 E-MAIL AND FIRST CLASS MAIL

Jay Larry Moyer
370 West Johnson Street
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Philadelphia, PA 19144

Date: February 10, 2017



Devin T. Ryan

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jay Larry Moyer

v.

PPL Electric Utilities Corporation

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Docket No. C-2015-2511904

NOTICE TO PLEAD

YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE § 5.103(c), YOU MAY FILE A REPLY TO THE ENCLOSED MOTION WITHIN TWENTY (20) DAYS AFTER THE DATE OF SERVICE. YOUR REPLY SHOULD BE FILED WITH THE SECRETARY OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, P.O. BOX 3265, HARRISBURG, PA 17105-3265. A COPY OF YOUR REPLY SHOULD ALSO BE SERVED ON THE UNDERSIGNED COUNSEL.

Respectfully submitted,



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Date: February 10, 2017

Attorneys for PPL Electric Utilities
Corporation

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jay Larry Moyer	:	
	:	
v.	:	Docket No. C-2015-2511904
	:	
PPL Electric Utilities Corporation	:	

**MOTION OF PPL ELECTRIC UTILITIES CORPORATION
TO STAY THE PROCEEDING PENDING
DISPOSITION OF MR. MOYER’S APPEAL**

TO ADMINISTRATIVE LAW JUDGE DENNIS J. BUCKLEY:

Pursuant to 52 Pa. Code § 5.103, PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) hereby files this Motion to Stay the Proceeding Pending Disposition of Mr. Moyer’s (“Complainant”) Appeal. In the above-captioned complaint, the Complainant raises the same issues regarding PPL Electric’s virtual meter aggregation program and billing practices that are the subject of the Complainant’s appeal currently pending before the Commonwealth Court at Docket No. 882 C.D. 2016. The Commonwealth Court’s disposition of the pending appeal will immediately and directly affect the outcome of the above-captioned complaint. Therefore, PPL Electric respectfully requests that the above-captioned proceeding be stayed until the final disposition of the Complainant’s appeal currently pending before the Commonwealth Court. In support of its Motion, PPL Electric states as follows:

I. BACKGROUND

1. PPL Electric is a “public utility” and an “electric distribution company” (“EDC”) as those terms are defined under the Public Utility Code, 66 Pa. C.S. §§ 102 and 2803, subject to the regulatory jurisdiction of the Commission.

2. PPL Electric furnishes electric distribution, transmission, and provider of last resort electric supply services to approximately 1.4 million customers throughout its certificated service territory, which includes all or portions of 29 counties and encompasses approximately 10,000 square miles in eastern and central Pennsylvania.

3. The Complainant previously filed two Formal Complaints against PPL Electric regarding the Company’s virtual meter aggregation program and billing practices. The “First Complaint” was filed on November 15, 2011, at Docket No. C-2011-2273645, and the “Second Complaint” was filed on October 23, 2014, at Docket No. C-2014-2444864 (“Second Complaint”). The First and Second Complaints were subsequently consolidated for hearings and disposition.

4. The Initial Decision concerning the consolidated First and Second Complaints at Docket Nos. C-2011-2273645 and C-2014-2444864 (“*Initial Decision*”) was served by Secretarial Letter dated October 9, 2015.

5. The *Initial Decision* granted the First Complaint with respect to the compensation owed to the Complainant for credits earned between May 2010 and December 2010 (*i.e.*, the period he was removed from virtual meter aggregation service) and dismissed the First Complaint in all other respects. The *Initial Decision* also dismissed the Second Complaint in its entirety.

6. On May 19, 2016, the Commission issued its Opinion and Order regarding the First and Second Complaints. *See Moyer v. PPL Electric Utilities Corp.*, Docket Nos. C-2011-

2273645 and C-2014-2444864 (Order Entered May 19, 2016) (“*May 2016 Order*”). The Commission denied the Complainant’s Exceptions to the *Initial Decision* and adopted the *Initial Decision* with one minor modification: PPL Electric was directed to compensate the Complainant the credits he earned between May 2010 and December 2010, adjusted for interest accrued through the date of the *May 2016 Order*. *See id.*, pp. 47-48.

7. On June 3, 2016, the Complainant filed a Petition for Review of the *May 2016 Order* with the Commonwealth Court, which was docketed at Docket No. 882 C.D. 2016.

8. The Complainant’s appeal remains pending before the Commonwealth Court. The issues properly raised in the Complainant’s appeal have been fully briefed by the parties and are ripe for disposition by the Commonwealth Court.

9. The instant proceeding at Docket No. C-2015-2511904 involves the “Third Complaint” filed by the Complainant on November 6, 2015. The Third Complaint re-raises issues concerning the Company’s virtual meter aggregation program and billing practices.

10. On November 24, 2015, the Company separately filed an Answer and Preliminary Objections to the Third Complaint. The Preliminary Objections argued that the Third Complaint should be dismissed in its entirety for several reasons, including that the virtual meter aggregation program and billing process allegations re-raised in the Third Complaint will be fully resolved in the Complainant’s other complaint proceeding at Docket Nos. C-2011-2273645 and C-2014-2444864, which currently are on appeal and pending before the Commonwealth Court.

11. Both the Answer and Preliminary Objections were served on the Complainant on November 24, 2015, via first-class mail. The Complainant never filed or served an Answer to PPL Electric’s Preliminary Objections, which was due on or before December 17, 2015.

12. On December 9, 2015, the Complainant served his first set of interrogatories on PPL Electric in the above-captioned proceeding via first-class mail. The Company subsequently served objections to the Complainant's discovery and filed a Motion to Stay Discovery Pending the Ruling on Its Preliminary Objections.

13. On January 12, 2016, after Administrative Law Judge Dennis J. Buckley (the "ALJ") was assigned to rule on PPL Electric's Motion to Stay Discovery, the Complainant re-served his first set of interrogatories on the Company.

14. By Order dated January 13, 2016, Administrative Law Judge Dennis J. Buckley (the "ALJ") issued an Order granting PPL Electric's Motion to Stay Discovery.

15. PPL Electric's Preliminary Objections to the Third Complaint remain pending before the ALJ.

16. Since January 12, 2016, the Complainant has not served or filed any documents in the Third Complaint proceeding, nor has the Complainant taken any action to request or otherwise move the Third Complaint proceeding along.

II. MOTION TO STAY PROCEEDING

17. The Company requests that this proceeding be stayed until the final disposition of the Complainant's appeal pending at Docket No. 882 C.D. 2016.

18. PPL Electric's Motion should be granted because the Commonwealth Court's disposition of the issues raised in the Complainant's pending appeal will directly affect this proceeding. *See AT&T Commc'ns of Pa., LLC v. Verizon N. Inc.*, Docket No. C-20027195, 2008 Pa. PUC LEXIS 570, at *12-14 (Order Entered Sept. 12, 2008) (granting a motion to extend the stay of a Commission proceeding pending the outcome of the Federal Communications Commission's ruling in a separate proceeding); *Core Comm'cns, Inc. v. Choice One Commc'ns of Pa., Inc.*, Docket Nos. C-2009-2130379, *et al.*, 2010 Pa. PUC LEXIS 617, at *2-3 (Mar. 22,

2010) (granting a motion for stay pending the outcome of petitions for interlocutory review in separate Commission proceedings that would “perhaps ultimately make litigation of this case unnecessary”).

19. As explained in PPL Electric’s Preliminary Objections, the Third Complaint re-raises issues about PPL Electric’s virtual meter aggregation program and billing practices that previously were raised and fully adjudicated in the First and Second Complaints.

20. In the First Complaint, the Complainant contended that the Company did not properly aggregate his accounts pursuant to the virtual meter aggregation provisions of PPL Electric’s Net Metering Rider and, as a result, did not properly credit or pay him for the electricity generated by his solar panels. For relief, the Complainant requested that the Commission order PPL Electric to apply virtual meter aggregation to his two accounts, disclose all credits and/or payments that have been made to him, and, if necessary, fully reimburse him for the electricity generated.

21. Relatedly, in the Second Complaint, the Complainant raised issues concerning the accuracy and content of PPL Electric’s billing processes for Complainant’s virtual meter aggregation accounts. For relief, the Complainant requested that the Commission order PPL Electric to develop and implement new automated billing procedures and processes and to issue a single bill for his virtual meter aggregation accounts.

22. In the Third Complaint, the Complainant again raises issues regarding virtual meter aggregation, separately metered accounts for virtual meter aggregation, separate bills for each virtual meter aggregation account, and PPL Electric’s billing process and procedures for virtual meter aggregation. (*See* Third Complaint ¶¶ 6-15, 31) In his request for relief,

Complainant requests, among other things, changes to PPL Electric' billing system and format for purposes of virtual meter aggregation. (See Third Complaint ¶¶ 1-4, 6)

23. Importantly, all of the issues raised and the relief requested in the Third Complaint were addressed in the Commission's *May 2016 Order* ruling on the Complainant's First and Second Complaints. In fact, the Complainant concedes in his Third Complaint that his issues are directly related to the allegations and claims asserted in the First and Second Complaint proceeding at Docket Nos. C-2011-2273645 and C-2014-2444864. (See Third Complaint ¶ 1)

24. The issues from the First and Second Complaints are currently pending on appeal before the Commonwealth Court, have been fully briefed by the parties, and are ripe for disposition.

25. If the Commonwealth Court upholds the Commission's *May 2016 Order*, the Complainant's issues and arguments in his Third Complaint regarding the Company's virtual meter aggregation program and billing practices will be fully and finally resolved. Because the issues on review before the Commonwealth Court are the same issues raised in the Third Complaint, the Third Complaint will be rendered moot if the Commonwealth Court affirms the Commission's *May 2016 Order*. Thus, forcing this proceeding to continue while the Complainant's appeal remains pending before the Commonwealth Court would be a waste of the parties' and Commission's resources. See *Core*, 2010 Pa. PUC LEXIS 617 at *3 (granting a stay because, among other things, it would "conserve the resources of the parties and of the Commission").

26. Further, even if the Complainant's appeal is granted or otherwise only granted in part, the Commonwealth Court's order will directly affect the proper scope of the issues to be addressed in this proceeding.

27. In addition, no party would be prejudiced if a stay were granted in this proceeding. The Complainant remains enrolled in virtual meter aggregation, and PPL Electric has already fully credited the Complainant's account for the amount of electricity generated during the period that he was not participating in virtual meter aggregation, plus interest, as directed by the Commission's *May 2016 Order*.¹ Further, to the extent that the Third Complaint is not rendered moot by the Commonwealth Court's disposition of the appeal, the Complainant would still have ample opportunity to litigate the appropriate claims raised in his Third Complaint.

28. Finally, it should be noted that the Complainant has done nothing to move or otherwise advance this proceeding before the Commission. Indeed, the Complainant has not filed or served anything in this proceeding since January 12, 2016, nearly 13 months ago, nor has the Complainant made any request to the Commission to establish any sort of litigation schedule.


29. For these reasons, PPL Electric respectfully requests that the ALJ stay this proceeding, pending a ruling by the Commonwealth Court on the Complainant's appeal at Docket No. 882 C.D. 2016.

¹ The Company filed a letter on May 25, 2016, at Docket Nos. C-2011-2273645 and C-2014-2444864 evidencing that it had posted the credit to the Complainant's account.

III. CONCLUSION

For the reasons set forth above, PPL Electric Utilities Corporation respectfully requests that the Pennsylvania Public Utility Commission grant this Motion and stay the above-captioned matter until the final resolution of Mr. Moyer's appeal currently pending before the Commonwealth Court at Docket No. 882 C.D. 2016 as described herein.

Respectfully submitted,



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Date: February 10, 2017

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