

Jay Larry Moyer
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June 2, 2017

RE: C-2015-2511904

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

This letter of application and protest is submitted in advance of an Answer to the recent Motion for Summary Judgment filed by PPL Electric. This letter recounts the questionable and improper actions related to the above Complaint and, specifically, raises explicit objection to the recent Motion for Summary Judgment. I'm respectfully asking Honorable Judge, ALJ Dennis J. Buckley to find the Motion for Summary Judgment inappropriate and also to find that an Answer is unnecessary and irrelevant.

I am not unwilling to answer the content of the Motion, and I am prepared to do so. The unusual circumstances, however, urge that the Motion be rejected.

The regulations which govern procedures in a Complaint are delineated exhaustively in the Public Utility Code. As the Complainant in the above case, I have attempted to adhere to those regulations.

As described below in this application and protest, it is apparent that those procedures have diverged from established regulations. This letter is written to protest the manner in which the above case has proceeded; and to seek a resumption of proceedings in compliance with the regulations. Specifically, this letter raises objection to the following:

1. The failure of the Presiding Officer to move the case forward by timely issuing a decision on the Preliminary Objections which were filed by PPL Electric.
2. The decision by the Presiding Officer to make a stay of my discovery request contingent on a decision regarding PPL's Preliminary Objections, a decision which, in turn, resulted in a protracted and indefinite stay of my discovery request .

Because of the above circumstances, which are more fully elaborated below, the recent Motion by PPL Electric for a Summary Judgment should be regarded as inappropriate and should be rejected.

Several events indicate a clear departure from established procedures.

One of those is related to discovery requests, provisions for which are described in 52 Pa. Code § 5.331 (b)

“A party shall initiate discovery as early in the proceedings as reasonably possible. In a proceeding, the right to discovery commences when a complaint, protest or other adverse pleading is filed or when the Commission institutes an investigation or on the record proceeding, whichever is earlier.” (Emphasis added)

My initial discovery request was filed on December 14, 2015, before Judge Buckley was assigned as Presiding Officer. When I learned that he had been assigned as Presiding Judge, effective January 5, 2016, I served a second, amended, discovery request which is dated January 7, 2016.

Judge Buckley’s Order, dated January 13, 2016, on PPL’s Motion for a Stay, stated clearly that the discovery request would be stayed “pending a ruling on the Preliminary Objections” which had been filed earlier by PPL Electric on November 24, 2015.

Like the procedures for a discovery request, the responses to Preliminary Objections are also prescribed clearly in the Public Utility Code. One of those provisions states that “A preliminary objection will be decided within 30 days of the assignment of the preliminary objection to the presiding officer.” 52 Pa. Code § 5.101 (g)

The prescribed 30-day period elapsed without the required decision, and the Case itself languished for more than a year.

On May 1, 2017, Judge Buckley, with explanation, issued an Order authorizing PPL Electric the unusual opportunity to amend its original Preliminary Objections.

Instead of filing amended Preliminary Objections per Judge Buckley’s Order, PPL elected unilaterally to file a Motion for Summary Judgment. The Code stipulates that a party may move for summary judgment “After the pleadings are closed” 52 Pa. Code § 5.102(a) There is nothing to substantiate that this condition was met.

In addition, according to the Public Utility Code, an Answer to a Motion for Summary Judgment may include “answers to interrogatories” 52 Pa. Code § 5.102(b) The protracted stay of the discovery request, as described above, precludes Mr. Moyer from including this and other relevant materials.

The grievances in the above Complaint are new and they are three-fold: 1) that PPL Electric used unlawful intimidation against Mr. Moyer in multiple phone calls to his home; 2) that PPL used unlawful intimidation against Mr. Moyer through Notices that threatened to Terminate Service;

and 3) that, before the PUC issued its Opinion and Order in two prior, consolidated cases, PPL obtained information unlawfully through ex parte communication with a person (or persons) who had official association with the Commission.

The Complainant has been ill-served by proceedings in this case. Mr. Moyer hereby requests that Honorable Judge, ALJ Dennis J. Buckley will:

1. Reject the Motion for Summary Judgment which was filed by PPL Electric on May 22, 2017.
2. Order that PPL Electric respond to Moyer's Discovery Request of January 7, 2016, and provide all of the materials requested.
3. Confirm to Mr. Moyer that PPL Electric complied with its own policy of routinely preserving audio recordings for four months and confirm also that the Company did, in fact, preserve the audio recordings of the phone conversations detailed in the discovery request.
4. Issue Notice to PPL Electric, with confirmation to Mr. Moyer, that the above audio recordings, which were first preserved according to internal policy, must now be preserved as required by law.

Respectfully submitted

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Cc: Honorable Dennis J. Buckley