

**BEFORE THE**  
**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

*Jay Larry Moyer, Complainant*

V. *Docket No. C-2017-2629683*

*PPL Electric Utilities Corporation, Respondent*

---

**MOTION TO COMPEL**

---

February 5, 2018

This Motion to Compel is being submitted pursuant to 52 Pa. Code § 5.342(g) of the Pennsylvania Public Utility Code. As a customer of PPL Electric, my present relationship with the Company commenced in March, 2009, when my PV solar renewable system was approved by PPL and began to operate. That relationship with PPL Electric continues through a program of virtual meter aggregation which was implemented by the Company. In every respect, I am dependent on PPL for every aspect of virtual meter aggregation, especially since there is no written service agreement to govern the arrangement. The program of virtual meter aggregation

as applied to my renewable system was developed by PPL Electric, and it is managed by PPL Electric.

All requests for discovery in my letter of January 23, 2018, are directly pertinent to PPL's program of virtual meter aggregation and to my dependence on PPL Electric for reporting about, and compensation from, my renewable system.

All of the material I requested is associated with my virtual metering system. All requests, furthermore, are directly associated with the subject matter in the Formal Complaint. The requests for discovery also specify the time period for which they're made. The requests are for materials since April 25, 2017, the date on which I requested year-end data for my PV generating system. That data, which I requested on April 25, did not arrive for six months. I received it on October 25, 2017, only after I filed the Formal Complaint.

What transpired from April 25 to October 25, 2017 (including the contested bills and any deliberations regarding the billing process) is directly relevant to the Complaint and is likely to lead to admissible evidence.

PPL's methodology for implementing virtual meter aggregation is a process of managing information, and all of my generation data is integral to that process. This Motion to Compel presents the original requests, PPL's objections, and reasons why PPL should be required to provide the materials.

## **INTERROGATORY 1**

Interrogatory 1 requests the following: Copies of all letters, emails, and other written communication since April 25, 2017, that are associated with the Complainant's renewable system and that occurred between the Company and individuals acting on behalf of PPL Electric Utilities Corporation (PPLEU), including persons who may have been employed by third-party entities.

### **PPL objections to Interrogatory 1:**

PPL Electric objects to Moyer-I-1 on the grounds that the scope of the request is vague and overly broad. The scope of this request is unclear and has little limitation as to the subject matter of the requested correspondence. Indeed, the request seeks materials that are unrelated to the issues raised in the Formal Complaint filed by the Complainant at Docket No. C-2017-2629683 ("Fourth Complaint"). Therefore, this interrogatory is vague and not reasonably calculated to lead to the discovery of admissible evidence.

Furthermore, PPL Electric objects to the extent that the interrogatory seeks information that is considered a trade secret or is protected by attorney-client privilege or the attorneys' work product doctrine. Under 52 Pa. Code § 5.321(c), the Complainant may only obtain discovery of non-privileged materials. However, Moyer-I-1 is broad enough in scope to cover materials that are considered trade secret or are protected by attorney-client privilege or the attorney work product doctrine.

## **Reasons to compel discovery and dismiss Objection to Interrogatory 1**

PPL avers that the scope of the request “has little limitation as to the subject matter of the requested correspondence” The facts are clearly otherwise. The “subject matter” of the Complaint is unambiguous and involves every aspect of my virtual meter aggregation system, as stated below:

*“The errors, omissions, and aberrations which are evident in these eight bills can be traced to the persistent disarray and confusion associated with PPL’s billing methodology for virtual meter aggregation.” (Formal Complaint, Item #4, Page 3)*

*“PPL’s elaborate and awkward manual procedure is responsible for, or at least contributes to, the errors which appear in the attached bills.” (Ibid., page 5)*

PPL also asserts that the request “seeks materials that are unrelated to the issues raised in the Formal Complaint filed by the Complainant at Docket No. C-2017-2629683”. My only association with PPL Electric is as a customer-generator. Any material that makes reference to me will invariably be associated with my virtual metering system. It is inconceivable that any materials would be unrelated to my virtual meter aggregation system.

Contrary to PPL’s insinuation, the discovery request does not seek “information that is considered a trade secret or is protected by attorney-client privilege or the attorneys' work product doctrine. Under 52 Pa. Code § 5.321(c)”

PPL should be compelled to provide all materials as requested.

## **INTERROGATORY 2**

Interrogatory 2 requests the following: Audio recordings of all telephone conversations that occurred between the Complainant and individuals acting on behalf of PPL Electric, including the following specific calls:

- a. A conversation with Ms. Tammy Nalesnic on or about September 15, 2017
- b. A conversation with Ms. Tammy Nalesnic on or about September 23, 2017
- c. A conversation with "Dana" on or about October 18, 2017

### **PPL Objections to Interrogatory 2**

PPL Electric objects to Moyer-I-2 on the grounds that the scope of the request is overly broad and not reasonably calculated to lead to the discovery of admissible evidence. The scope of this request would encompass conversations that are unrelated to the issues raised in the Fourth Complaint. Therefore, this request is overly broad and not reasonably calculated to lead to the discovery of admissible evidence.

PPL Electric also objects on grounds that the interrogatory is unduly burdensome. The Complainant was a party to any such telephone conversations and already has knowledge of what transpired. Moreover, the interrogatory is not just limited to the three conversations specifically listed. Rather, it requests all audio recordings of conversations from April 25, 2017, to present between the Complainant and individuals acting on behalf of PPL Electric. The Company would have to incur unnecessary expenses to produce copies of any such recorded conversations that are in its possession. Thus, this discovery request is unduly burdensome.

### **Reasons to compel discovery and dismiss Objections to Interrogatory 2**

First, regardless of any decision with respect to other telephone conversations, the Company should be compelled to provide audio of the three that are specified.

Second, the request is specific and limited to any conversations between me and PPL representatives.

Third, PPL avers that “The scope of this request would encompass conversations that are unrelated to the issues raised in the Fourth Complaint.” PPL misstates the case. My only association with PPL Electric is as a customer-generator under virtual meter aggregation. Any conversation involving PPL employees that makes reference to me will invariably be associated with my virtual metering system. It is inconceivable that any conversation would be unrelated to my virtual meter aggregation system or to the issues in the Complaint. As such, any such conversations will be critical to the case. PPL’s claim that the request is “unduly burdensome” should be rejected.

PPL should be compelled to provide the requested audio recordings.

### **INTERROGATORY 3**

Interrogatory 3 requests the following: All memos, comments, letters, customer service "histories", and/or notations (whether in printed, digital, or audio format) that are related to conversations between the Complainant and employees or agents of PPL Electric, including any materials that have been received, prepared, maintained, consulted, or cited by Customer Service Representatives.

### **PPL Objections to Interrogatory 3:**

PPL Electric objects to Moyer-I-3 on the grounds that the scope of the request is vague, overly broad, and unduly burdensome. The interrogatory seeks a broad range of documents that are unrelated to the issues raised in the Fourth Complaint. Thus, this discovery request is vague, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence.

Furthermore, PPL Electric objects to the extent that the interrogatory seeks information that is considered a trade secret or is protected by attorney-client privilege or the attorneys' work product doctrine. Under 52 Pa. Code § 5.321(c), the Complainant may only obtain discovery of non-privileged materials. However, Moyer-I-3 is broad enough in scope to cover materials that are considered trade secret or are protected by attorney-client privilege or the attorney work product doctrine.

### **Reasons to compel discovery and dismiss Objections to Interrogatory 3**

The issues in the present Formal Complaint are not new. They did not arise recently, suddenly, or in a vacuum. The dispute regarding virtual meter aggregation and PPL's billing procedures has a long history and that history undoubtedly impinges on the present. The memos, deliberations, notations, and "histories" are critical to any appraisal of PPL's conduct. PPL again speaks of "documents that are unrelated to the issues raised in the Fourth Complaint." As noted earlier, the issues in the Fourth Complaint are unambiguous and involve every aspect of my virtual meter aggregation system, as stated below:

*"The errors, omissions, and aberrations which are evident in these eight bills can be traced to the persistent disarray and confusion associated with PPL's billing methodology for virtual meter aggregation." (Item #4, Page 3)*

*"PPL's elaborate and awkward manual procedure is responsible for, or at least contributes to, the errors which appear in the attached bills." (Ibid., page 5)*

My only association with PPL Electric is as a customer-generator. Any material that makes reference to me will invariably be associated with my virtual metering system. It is inconceivable that any materials would be unrelated to my virtual meter aggregation system or to the issues in the Complaint. PPL's claim that the request is "vague, overly broad, and unduly burdensome" should be rejected.

Contrary to PPL's insinuation, the discovery request does not seek "information that is considered a trade secret or is protected by attorney-client privilege or the attorneys' work product doctrine. Under 52 Pa. Code § 5.321(c)"

## **INTERROGATORY 4**

Because of certain redundancy in request 4, it is withdrawn.

## **INTERROGATORY 5**

Interrogatory 5 requests the following: All records, memos, notes, and other materials in the possession of PPL Electric that pertain to deliberations, recommendations, characterizations, or other discussions since April 25, 2017 that are associated with the Complainant and/or to his renewable system.

### **PPL Objections to Interrogatory 5:**

PPL Electric objects to Moyer-I-5 on the grounds that the scope of the request is vague, overly broad, and unduly burdensome. The interrogatory requests "[a]ll records, memos, notes, and other materials" with little limitation as to scope, subject matter, or medium. As a result, Moyer-I-5 seeks materials that are unrelated to the issues raised by the Complainant in this proceeding. To answer this interrogatory, the Company would have to expend considerable time, effort, and expense. Therefore, this request is vague, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

In addition, the Company objects to the extent that the interrogatory seeks information that is considered a trade secret or is protected by attorney-client privilege or the attorney work product doctrine. Under 52 Pa. Code § 5.321(c), the Complainant may only obtain discovery of non-privileged materials. However, Moyer-I-5 is broad enough in scope to cover materials that are considered a trade secret or are protected by attorney-client privilege or the attorney work product doctrine.

### **Reasons to compel discovery and dismiss Objections to Interrogatory 5**

PPL is responsible for managing information from my renewable generating system, and, under the AEPS Act, that process is called "virtual meter aggregation". Every decision by PPL with regard to my renewable system is part of that management process. The basis for the Formal Complaint is PPL's flawed methodology for implementing virtual meter aggregation.

The actions of PPL from April 25 to October 20 are highly significant. What transpired during that period with regard to PPL's billing methodology has direct relevance to the Complaint. "Deliberations, recommendations, characterizations, or other discussions" in preparation of the contested bills and spreadsheets, are directly relevant to the Complaint, and the records of that activity are likely to lead to admissible evidence.

Contrary to PPL's insinuation, the discovery request does not seek "information that is considered a trade secret or is protected by attorney-client privilege or the attorneys' work product doctrine. Under 52 Pa. Code § 5.321(c)"

Third, it specifies only those materials involving "individuals acting on behalf of PPL Electric Utilities Corporation".

## **INTERROGATORY 6**

**Interrogatory 6 requests the following:**

- a. An "Account Activity Statement" for Acct. #06476-21001 with all entries up to and including December 31, 2017.
- b. An "Account Activity Statement" for Acct. #67277-97002 with all entries up to and including December 31, 2017.
- c. An "Account Contact History" for Acct. #06476-21001 with all entries up to and including December 31, 2017
- d. An "Account Contact History" for Acct. #67277-97002 with all entries up to and including December 31, 2017
- e. A CSR (Customer Service Record) for Acct. #06476-21001 with all entries up to and including December 31, 2017
- f. A CSR (Customer Service Record) for Acct. #67277-97002 with all entries up to and including December 31, 2017
- g. The 10-page PPL document, "Procedures for monthly VM customer calculations" which describes steps "which are performed in order to obtain the correct calculations and credit totals".
- h. Any data sheets (spreadsheets) prepared in association with Larry Moyer's renewable generating system.

### **PPL Objections to Interrogatory I-6-h**

PPL Electric objects to Moyer-I-6(h) on the grounds that the interrogatory is overly broad and not reasonably calculated to lead to the discovery of admissible evidence. The scope of the request would encompass materials that are unrelated to the billing and crediting history of the Complainant's account that is at issue in this proceeding, namely the time period of April 25, 2017, to present. Therefore, the request is overly broad and not reasonably calculated to lead to the discovery of admissible evidence.

Moreover, the Company objects to the extent that the interrogatory seeks information that is protected by attorney-client privilege or the attorney work product doctrine. Under 52 Pa. Code § 5.321(c), the Complainant may only obtain discovery of non-privileged materials. However, Moyer-I-6(h) is broad enough in scope to cover materials that are protected by attorney-client privilege or the attorney work product doctrine. Indeed, some of the spreadsheets prepared by the Company contain notes detailing the mental impressions and thoughts of PPL Electric's counsel.

## **Reasons to compel discovery and dismiss Objections to Interrogatory 6-h**

How many spreadsheets have been prepared by PPL is unknown, but regardless of the number, PPL's only concern should be for accuracy. As noted earlier, the present Complaint should not be seen in isolation, and prior litigation has produced a wealth of data. Some spreadsheets may indeed include data prior to April 25, 2018. The Honorable ALJ Judge Cheskis may permit PPL to obscure those fields of data that are not "at issue in this proceeding". He may also permit PPL to redact any protected information.

With the exceptions noted above, PPL should provide all of the spreadsheets that contain data associated with my generating system.

Contrary to PPL's insinuation, the discovery request does not seek "information that is considered a trade secret or is protected by attorney-client privilege or the attorneys' work product doctrine. Under 52 Pa. Code § 5.321(c)"

It is assumed that all other materials requested in Interrogatory 6 will be provided as requested.

Respectfully Submitted,

February 3, 2018

Larry Moyer  
370 W. Johnson Street (C-1)  
Philadelphia, PA 19144  
267-693-2633