



17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
717-731-1970 Main
717-731-1985 Main Fax
www.postschell.com

Devin Ryan

dryan@postschell.com
717-612-6052 Direct
717-731-1985 Direct Fax
File #: 167945

May 23, 2018

VIA ELECTRONIC FILING

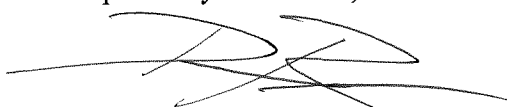
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Willard and Elsbeth Sunstein v. PPL Electric Utilities Corporation
Docket No. C-2018-3000078

Dear Secretary Chiavetta:

Enclosed for filing is the Answer of PPL Electric Utilities Corporation to the Complainants' Motion to Rescind and Quash the Interim Order Granting the Motion for Admission *Pro Hac Vice*, in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Devin Ryan

DTR/jl
Enclosures

cc: Honorable Elizabeth Barnes
Certificate of Service


CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has 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 & FIRST CLASS MAIL

Willard & Elsbeth Sunstein
860 Cupola Road
Honeybrook, PA 19344
willardsunstein@fast.net

Date: May 23, 2018

A handwritten signature in black ink, appearing to read "Devin T. Ryan", written over a horizontal line.

Devin T. Ryan

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Willard and Elsbeth Sunstein,	:	
	:	
Complainants,	:	
	:	
v.	:	Docket No. C-2018-3000078
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

**ANSWER OF PPL ELECTRIC UTILITIES CORPORATION TO
THE COMPLAINANTS' MOTION TO RESCIND AND QUASH THE
INTERIM ORDER GRANTING THE MOTION FOR ADMISSION *PRO HAC VICE***

TO ADMINISTRATIVE LAW JUDGE ELIZABETH H. BARNES:

Pursuant to 52 Pa. Code §§ 5.61 and 5.572(e),¹ PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) hereby files this Answer to Willard and Elsbeth Sunstein’s (“Complainants”) Motion to Rescind and Quash the Interim Order Granting the Motion for Admission *Pro Hac Vice* (“Motion”). In general, the Complainants contest Administrative Law Judge Elizabeth H. Barnes’s (“ALJ”) admission *pro hac vice* of Curtis S. Renner, Esquire, as PPL Electric’s counsel.² As explained herein, the Complainants’ Motion is frivolous and wholly based on unfounded accusations of impropriety.

¹ Because the Complainants are seeking the “rescission” of the April 24, 2018 Interim Order, PPL Electric is also treating the Complainants’ Motion as a Petition for Rescission of an Order. *See* 52 Pa. Code § 5.572.

² The Complainants also argue in the Motion that an opt-out is permitted under Act 129, that electromagnetic hypersensitivity (“EHS”) is a real illness, that EHS is a recognized disability under the Americans with Disabilities Act (“ADA”), and that the new automated metering infrastructure (“AMI”) meters will cause adverse health effects. (*See, e.g.*, Complainants’ Motion, pp. 5-11, 15-17, 26-30, 32-34, 37-40; Exhibits 1 and 2 to Complainants’ Motion). PPL Electric specifically denies these claims. The Company is mandated by Act 129 and the Pennsylvania Public Utility Commission’s (“Commission”) Orders to install the new AMI meter for all of its customers. *See* 66 Pa. C.S. § 2807(f); *Smart Meter Procurement and Installation*, Docket No. M-2009-2092655, pp. 9, 14 (Order entered June 24, 2009) (“*Smart Meter Implementation Order*”); *Petition of PPL Electric Utilities Corporation for Approval of Smart Meter Technology Procurement and Installation Plan*, Docket No. M-2009-2123945, p. 24 (Order entered June 24, 2010) (“*2010 Smart Meter Order*”); *Petition of PPL Electric Utilities Corp.*

Mr. Renner graduated from Harvard Law School in 1988, has been practicing law for over 29 years, is a member of good standing of the Bar of the District of Columbia, and has never had any disciplinary actions taken against him.

In support of its Answer, PPL Electric states as follows:

I. BACKGROUND

1. On February 26, 2018, PPL Electric was served with the Formal Complaint filed by the Complainants.

2. On March 19, 2018, PPL Electric filed its Answer to the Complaint.

3. On April 6, 2018, the ALJ issued a Protective Order, governing the treatment and use of confidential information in this proceeding.

4. On April 23, 2018, PPL Electric filed a Motion for Admission *Pro Hac Vice*, which requested that Curtis S. Renner, Esquire, be admitted *pro hac vice* as co-counsel on behalf of the Company.

5. On April 24, 2018, the ALJ held an informal telephonic conference, which was attended by Mr. Sunstein, Mr. Ryan, and Mr. Renner.

6. Also on April 24, 2018, the ALJ issued an Interim Order granting the Company's Motion for Admission *Pro Hac Vice*.

for Approval of Its Smart Meter Technology Procurement and Installation Plan, Docket No. M-2014-2430781 (Order Entered Sept. 3, 2015) (“2015 Smart Meter Order”). Further, the Company plans to present expert testimony rebutting the Complainants’ claims about EHS and demonstrating that there is no reliable medical or scientific basis to conclude that the new AMI meters cause any adverse health effects. Finally, the Commission lacks jurisdiction to determine whether EHS is a recognized disability under the ADA. See *Frompovich v. PECO Energy Co.*, Docket No. C-2015-2474602, p. 43 (Order entered May 3, 2018).

7. On May 11, 2018, the Complainants filed a combined Reply to the Company's Motion for Admission *Pro Hac Vice* and Motion to Rescind and Quash the ALJ's Interim Order Granting the Motion for Admission *Pro Hac Vice*.³

II. APPLICABLE LEGAL STANDARDS

8. The Commission's regulations specify that "[a]n attorney not licensed in this Commonwealth may appear before the Commission in accordance with the Pennsylvania Bar Admission Rules." 52 Pa. Code § 1.22(b).

9. Rule 1012.1 of the Pennsylvania Rules of Professional Conduct states that upon filing a motion for admission *pro hac vice*, "[t]he court shall grant the motion unless the court, in its discretion, finds good cause for denial." Pa. R. Civ. P. 1012.1(e) (emphasis added).

10. "Good cause" to deny a motion for admission *pro hac vice* may include one or more of the following:

(1) the admission may be detrimental to the prompt, fair and efficient administration of justice,

(2) the admission may be detrimental to legitimate interests of the parties to the proceedings other than the client whom the candidate proposes to represent,

(3) the client who the candidate proposes to represent may be at risk of receiving inadequate representation and cannot adequately appreciate that risk,

(4) the candidate is not competent or ethically fit to practice law,

(5) the candidate is, in effect, practicing as a Pennsylvania attorney, in light of the nature and extent of the activities of the candidate in the Commonwealth, without complying with the

³ The Complainants attempted to file the combined Reply to Motion and Motion to Rescind and Quash on May 10, 2018. However, this filing was rejected by the Secretary's Bureau. The Complainants then re-filed the pleading electronically and sent the pleading via first class mail to PPL Electric's counsel on May 10, 2018. The Complainants' pleading was placed on the Commission's docket on May 11, 2018.

Pennsylvania requirements for the admission to the bar. The court may weigh the number of other admissions to practice sought and/or obtained by the candidate from Pennsylvania courts, the question of whether or not the candidate maintains an office in Pennsylvania although the candidate is not admitted to practice in Pennsylvania courts, and other relevant factors,

(6) the number of cases in all courts of record in this Commonwealth in which the Pennsylvania attorney is acting as the sponsor prohibits the adequate supervision of the candidate,

(7) failure to comply with this rule, or

(8) any other reason the court, in its discretion, deems appropriate.

Official Note to Pa. R. Civ. P. 1012.1(e).

11. Attorneys already licensed to practice law in the Commonwealth can represent a party by simply entering their appearance, either through signing an initial pleading or filing a notice of appearance. *See* 52 Pa. Code §§ 1.22(a), 1.24.

III. ANSWER TO MOTION TO RESCIND AND QUASH

12. The Complainants' Motion should be denied because it is frivolous and wholly based on unfounded accusations of impropriety.

13. In their Motion, the Complainants contest the admission *pro hac vice* of Curtis S. Renner, Esquire, a highly experienced and qualified attorney and a member of good standing of the Bar of the District of Columbia.

14. Among the Complainants' many meritless arguments, the Complainants erroneously claim that: (1) Mr. Renner has suborned perjury, lacks ethics, and should not be otherwise admitted *pro hac vice*; (2) Mr. Ryan lacks ethics and the ability to supervise Mr. Renner as his sponsor for admission *pro hac vice*; (3) the Company did not serve its Motion for Admission *Pro Hac Vice* in compliance with the Commission's regulations; (4) the Company's

Motion for Admission *Pro Hac Vice* was granted too quickly; and (5) the ALJ has colluded with PPL Electric *ex parte*.⁴ (See Complainants' Motion, pp. 9-10, 19-21, 23-25, 27-29, 30-36, 38-41) There is no justification for these gratuitous personal attacks. The Complainants' approach is clear; they know that the expert testimony of Dr. Christopher Davis and Dr. Mark Israel is compelling and has been persuasive in prior AMI meter cases. Instead of addressing the merits of the science, the Complainants have launched attacks on the characters of the witnesses and the Company's attorneys. There is no credible evidence to support these attacks.

15. As explained herein, all of the Complainants' claims wholly lack merit and do not establish good cause for the denial or revocation of Mr. Renner's admission *pro hac vice*.

A. MR. RENNER IS A HIGHLY QUALIFIED AND EXPERIENCED ATTORNEY WITH A SPOTLESS ETHICS RECORD

16. The Complainants allege that good cause exists for the denial of Curtis S. Renner, Esquire's admission *pro hac vice* in this proceeding. (Complainants' Motion, pp. 9-10, 19-21, 23, 27-29, 30-34, 38-40) There is no basis for their allegation.

17. Mr. Renner is a highly qualified and experienced attorney who, over the course of his 29 years of legal practice, has spotless record of professional ethics.

18. As explained in PPL Electric's Motion for Admission *Pro Hac Vice*, Curtis S. Renner, Esquire is a Partner in the Washington, D.C. law firm of Watson & Renner at 1901 Pennsylvania Avenue, NW, Suite 1005, Washington, DC 20006.

19. Mr. Renner is a 1988 graduate of Harvard Law School.

⁴ The Complainants' Motion also is replete with accusations against Mr. Renner's law partner, Thomas Watson, Esquire, and PECO Energy Company ("PECO") as well as claims regarding other customers of PPL Electric, PECO, and other utilities. (See, e.g., Complainants' Motion, pp. 7-8, 10-11, 16, 19-24, 26-34, 36-40) These allegations are not properly at issue in this proceeding, and to rule on them here or otherwise address them would deny those other parties due process. See *Schneider v. Pa. PUC*, 479 A.2d 10, 15 (Pa. Cmwlth. 1984) (citation omitted) (stating that due process is satisfied when a party is "afforded notice and the opportunity to appear and be heard").

20. Mr. Renner was admitted to the Massachusetts Bar in 1988 (currently inactive) and has been a member in good standing of the Bar of the District of Columbia since 1995.

21. Mr. Renner also is admitted to practice before the U.S. District Courts in the District of Columbia and Maryland.

22. Over 29 years of legal practice, Mr. Renner has litigated hundreds of cases in the state and federal courts, as well as in administrative proceedings. He has never been subject to any disciplinary actions by any of the courts in which he has appeared or by any state bars to which he was admitted.

23. Mr. Renner has experience and particular expertise in various aspects of regulatory and public utility law and has appeared in numerous proceedings before this Commission and other state utility commissions.⁵

24. In short, Mr. Renner's qualifications, experience, and ethics are beyond reproach.

25. Nonetheless, in an attempt to separate the Company from one of its chosen legal counsel (and apparently with the intent of separating the Company from its chosen expert witnesses), the Complainants lob false and groundless accusations about Mr. Renner and the expert witnesses the Company intends to present in this proceeding, Dr. Christopher Davis and Dr. Mark Israel.

⁵ See, e.g., *Application of PPL Electric Utilities Corporation Filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the Pennsylvania Portion of The Proposed Susquehanna-Roseland 500 kV Transmission Line in Portions of Lackawanna, Luzerne, Monroe, Pike and Wayne Counties, Pennsylvania*, Docket Nos. A-2009-2082652, et al.; *Application Of Pennsylvania Power & Light Company For Approval Of The Proposed Hoffman-Minooka 138/69 kV Supply Line*, Docket No. A-110500F0172; *John Kline v. PPL Electric Utilities Corporation*, Docket No. C-2017-2621072; *Richard N. Myers v. PPL Electric Utilities Corporation*, Docket No. C-2017-2620710; *Alan V. Schmukler v. PPL Electric Utilities Corporation*, Docket No. C-2017-2621285.

26. Namely, the Complainants falsely accuse Mr. Renner of suborning perjured testimony from expert witnesses Dr. Christopher Davis and Dr. Mark Israel. (Complainants' Motion, pp. 9-10, 19, 27-29, 31-34, 39-40) This outrageous accusation is entirely without merit.

27. In their vicious personal attacks, the Complainants go so far as to call Dr. Christopher Davis, who is a highly respected professor and researcher, a "morally degenerate monstrosity" who was "dug up from the swamp" and "who habitually lies in court." (Complainants' Motion, pp. 9-10)

28. The Complainants also allege that Mr. Renner does not comply with the Pennsylvania Rules of Professional Conduct or the Commission's regulations. (Complainants' Motion, pp. 20-21, 23, 31-32)

29. Moreover, the Complainants contend that Mr. Renner is, in effect, practicing as a Pennsylvania attorney because has been admitted *pro hac vice* several times. (Complainants' Motion, pp. 30-31, 38-39)

30. The Complainants also aver that the admission of Mr. Renner would be "detrimental to [their] legitimate interests." (Complainants' Motion, p. 27) (quoting Official Note to Pa. R. Civ. P. 1012.1(e))

31. All of the Complainants' allegations are false and wholly lack merit.

32. Mr. Renner has never suborned perjury, nor has Dr. Davis or Dr. Israel ever lied under oath. The only explanation offered by the Complainants for their claims of "perjury" is that the expert scientific and medical opinions of Dr. Davis and Dr. Israel have not supported the lay-opinions held by complainants and other witnesses in other AMI meter cases. Obviously, this is not evidence of perjury. The Complainants may disagree with the expert opinions offered by Dr. Davis and Dr. Israel; the fact remains nonetheless that the Complainants' claims about

perjury is not supported by any plausible evidence. Indeed, the testimony of these experts has been accepted and relied upon by a number of courts and regulatory agencies, including this Commission.⁶ Furthermore, as PPL Electric will demonstrate in this proceeding, there is no reliable medical or scientific basis to support the Complainants' adverse health claims.

33. In addition, contrary to the Complainants' allegations, Dr. Davis and Dr. Israel are highly respected and qualified experts in their respective fields. Dr. Davis is the Minta Martin Endowed Professor of Engineering and Professor of Electrical and Computer Engineering at the University of Maryland in College Park, Maryland. He earned a BA with Honors in Natural Sciences from Trinity College at Cambridge University and a Ph.D. in Physics at the University of Manchester. Dr. Davis has a Ph.D. in Physics and is a full Professor with an endowed Chair at the University of Maryland, where for over 30 years he has taught Physics, Electrical Engineering, Electromagnetics, and RF Electromagnetics. In addition to his teaching, Dr. Davis is an active scientific researcher in these fields, and he has published over 250 studies in peer-reviewed scientific journals. Dr. Davis has been appointed a Fellow of the Institute of Electrical and Electronics Engineers and a Fellow of the Institute of Physics.

34. Dr. Mark Israel is an eminent physician and medical researcher. He is Professor of Medicine, Pediatrics, and Molecular and Systems Biology at the Dartmouth Medical School and the Executive Director of the Israel Cancer Research Fund in New York, an international charitable fund for medical and scientific research programs. Previously, Dr. Israel was the Director of the Cancer Center at Dartmouth Medical School and the Dartmouth Hitchcock

⁶ See, e.g., *Newman v. Motorola, Inc.*, 218 F. Supp.2d 769 (D. Md. 2002), *affirmed*, 78 Fed. Appx. 292 (4th Cir. 2003); *Lahey v. Puget Sound Energy, Inc.*, 296 P.3d 860 (Wash. 2013); *Application of PPL Electric Utilities Corporation Filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the Pennsylvania Portion of The Proposed Susquehanna-Roseland 500 kV Transmission Line in Portions of Lackawanna, Luzerne, Monroe, Pike and Wayne Counties, Pennsylvania*, Docket Nos. A-2009-2082652, *et al.* (Order entered Feb. 12, 2010); *Frompovich v. PECO Energy Co.*, Docket No. C-2015-2474602 (Order entered May 3, 2018).

Medical Center, where he oversaw a major medical health care facility providing care to more than 5,000 new patients each year and managed research programs with an annual budget of more than \$250 million. Dr. Israel is board certified and licensed to practice medicine. He has conducted medical research for 40 years in a wide variety of areas, including systems biology, biochemistry, cell biology, cancer, molecular biology, and molecular genetics, and he has published over 245 studies in peer-reviewed scientific journals. Dr. Israel is an elected Fellow of the American Association for the Advancement of Science, an elected member of the Association of American Physicians, and an elected member of the American Society for Clinical Investigation. He has served on the Board of Scientific Counselors for the U.S. National Cancer Institute, the Science Advisory Board for the Yale Cancer Center, which he chaired for almost a decade, and the External Advisory Boards for the Children's Cancer Research Institute at the University of Texas Health Science Center, the University of Nebraska Eppley Cancer Center, the Carbone Cancer Center at the University of Wisconsin, and the National Brain Tumor Society. In 1998, Dr. Israel received the Farber Award, which is awarded annually by the American Association of Neurological Surgeons for excellence in cancer research. In 2014, he received the C. Everett Koop Courage Award for the pursuit of evidence-based medicine.

35. Thus, the Complainants' attempts to sully these experts' reputations by calling them names and falsely accusing them of perjury are uncalled for and groundless and, therefore, should be soundly rejected.

36. Mr. Renner also has complied with the Pennsylvania Rules of Professional Conduct and the Commission's regulations. Mr. Renner has obtained admissions *pro hac vice* to appear on behalf of PPL Electric in all of the proceedings in which he has appeared as an attorney of record for the Company. In so doing, Mr. Renner has declared that he: (1) will

comply with and be bound by the applicable statutes, case law, and procedural rules of the Commonwealth of Pennsylvania, including the Pennsylvania Rules of Professional Conduct; and (2) will submit to the jurisdiction of the Pennsylvania courts and the Pennsylvania Disciplinary Board with respect to acts and omissions occurring during his appearance in the matters for which admission *pro hac vice* was sought. Nothing presented by the Complainants demonstrate that Mr. Renner has failed to meet these obligations. As for the one PECO case where the Complainants allege that Mr. Renner appeared without being admitted *pro hac vice*, Mr. Renner was in the hearing room in an advisory capacity to assist with handing documents and files. Mr. Renner did not examine witnesses, did not argue motions, did not even attend all days of the hearings, and did not take more than a secondary supporting role in assisting PECO's two counsel of record with their handling of the hearing. All such duties were handled by PECO's two counsel of record, both of whom were present in the hearing room and duly admitted to practice in Pennsylvania. Moreover, the opposing parties were represented by two legal counsel who never objected to Mr. Renner's participation in an advisory/support capacity at the hearing. Thus, the Complainants' claim about the PECO case is without merit.

37. Mr. Renner also is not, in effect, practicing as a Pennsylvania attorney. Mr. Renner maintains no office in Pennsylvania. *See* Official Note to Pa. R. Civ. P. 1012.1(e). Although he has recently obtained admission *pro hac vice* in multiple proceedings on behalf of PPL Electric, all of them involve the same subject matter—formal complaints against PPL Electric concerning its installation of new AMI meters pursuant to Act 129 of 2008 and the Company's Commission-approved Smart Meter Plan. Several of these cases were resolved through the filing of certificates of satisfaction, and only six of these complaints actually

advanced to evidentiary hearings. Therefore, the hearings in which Mr. Renner actually appeared are limited in number and scope.

38. The admission of Mr. Renner would not be “detrimental to legitimate interests of the parties to the proceeding.” Official Note to Pa. R. Civ. P. 1012.1(e). It is not a legitimate interest for one party to attempt to improve its position by preventing the opposing party from choosing an attorney who is well-equipped to defend his client. Given the absolute lack of merit to their claims, the Complainants appear to oppose Mr. Renner’s admission *pro hac vice* entirely because he is an effective attorney who has specialized experience and knowledge in the subject matter of the case. Although there may be other attorneys licensed to practice law in Pennsylvania (Complainants’ Motion, p. 38), PPL Electric has the right to defend itself and choose the manner in which it does so. Thus, it is up to the Company, not the Complainants, to choose PPL Electric’s counsel in this proceeding. *See Wise v. U.S. Healthcare*, 30 Pa. D. & C.4th 162, 1996 Pa. Dist. & Cnty. Dec. LEXIS 347, at *3-4 (C.P. Bucks 1996) (citations omitted) (stating that “a litigant’s right to choose counsel is entitled to substantial deference” and that “the court must prevent parties from using motions to disqualify opposing counsel for tactical purposes”).

39. For these reasons, the Complainants’ accusations about Mr. Renner’s qualifications and ethics completely lack merit, and should be rejected.

B. MR. RYAN POSSESSES THE REQUISITE ETHICS AND ABILITY TO SPONSOR THE ADMISSION OF MR. RENNER AND SUPERVISE HIM

40. The Complainants also allege that the sponsor of Mr. Renner’s admission *pro hac vice*, Devin T. Ryan, Esquire: (1) lacks ethics by sponsoring Mr. Renner’s admission; and (2) will be unable to supervise Mr. Renner. (Complainants’ Motion, pp. 24-25, 30-31)

41. The Complainants’ allegations are baseless and without merit.

42. First, as explained previously, Mr. Renner is a highly educated and qualified attorney with a spotless record on ethics. Therefore, Mr. Ryan's judgment in sponsoring such an attorney to be admitted *pro hac vice* is sound.

43. Moreover, Mr. Ryan's ethics should not be questioned. He has been an upstanding member of the Pennsylvania Bar since 2013 and has never had any disciplinary actions taken against him.

44. Second, Mr. Ryan is more than capable of supervising Mr. Renner in this proceeding. Mr. Renner is the only attorney that Mr. Ryan is actively sponsoring the admission of *pro hac vice* in Pennsylvania, and all of these cases involve the same client and general subject matter. This is not a circumstance where an attorney is sponsoring the admission of many different out-of-state attorneys for several different clients.

45. Furthermore, since his admission to the Bar, Mr. Ryan's practice has primarily focused on representing utility clients before this Commission. He has appeared as counsel in many Commission proceedings, including formal complaint proceedings, rate proceedings, and rulemaking proceedings. As a result, Mr. Ryan is well-versed in Commission practice and procedures. Mr. Renner has not appeared before or otherwise interacted with the ALJ or the Commission in any of these cases without Mr. Ryan's direct involvement. Thus, although Mr. Ryan is Mr. Renner's sponsor in 16 active proceedings, Mr. Ryan can properly supervise Mr. Renner in this proceeding.

46. Based on the foregoing, the Complainants' allegations about Mr. Ryan's ethics and ability to supervise Mr. Renner in this proceeding are without merit and should be rejected.

C. PPL ELECTRIC SERVED ITS MOTION FOR ADMISSION *PRO HAC VICE* IN COMPLIANCE WITH THE COMMISSION'S REGULATIONS

47. The Complainants claim that the Company should have served its Motion for Admission *Pro Hac Vice* electronically rather than through first class mail because they signed up on the Commission's e-filing system for electronic service. (Complainants' Motion, pp. 19, 36)

48. To be clear, there was nothing improper about PPL Electric's service of its Motion for Admission via first class mail.

49. The Commission's regulations specifically state that "[s]ervice may be made by one of the following methods": (1) first class mail; (2) personal; (3) electronic, in certain circumstances; or (4) telefacsimile. 52 Pa. Code § 1.54(b)(1)-(4). The Motion for Admission *Pro Hac Vice* was duly served on April 23, 2018, via first class mail, in full accord with the Commission's rules.

50. At the informal telephonic conference on April 24, 2018, however, Mr. Sunstein indicated that he preferred to receive documents electronically.

51. At that time, Counsel for PPL Electric stated that although the Motion for Admission *Pro Hac Vice* had been served via first class mail, all of the Company's filings going forward would be served electronically pursuant to Mr. Sunstein's request.

52. Therefore, although electronic service ultimately was the Complainants' preference, PPL Electric was expressly authorized under the Commission's regulations to serve its Motion for Admission *Pro Hac Vice* via first class mail.

53. For these reasons, the Complainants' arguments about the service of the Company's Motion for Admission *Pro Hac Vice* should be denied.

D. THE COMPLAINANTS HAVE BEEN AFFORDED A FULL OPPORTUNITY TO VOICE THEIR OPPOSITION TO MR. RENNER'S ADMISSION *PRO HAC VICE*

54. The Complainants also criticize the ALJ for granting the Company's Motion for Admission *Pro Hac Vice* too quickly and aver that the Company's Motion for Admission *Pro Hac Vice* should have contained a notice to plead. (Complainants' Motion, pp. 19, 39, 41)

55. There was nothing wrong with the ALJ granting the Company's Motion for Admission *Pro Hac Vice* before the Complainants filed a responsive pleading.

56. The Complainants fail to recognize that motions for admission *pro hac vice* are simple procedural motions that are routinely granted by courts, particularly when, as here, there is no reasonable basis on which to challenge the experience, qualifications, or ethics of the attorney to be admitted.

57. Moreover, even after granting PPL Electric's Motion, Mr. Renner's continued admission *pro hac vice* remains within the discretion of the ALJ. *See* Pa. R. Civ. P. 1012.1(f).

58. If the court finds that "the continued admission *pro hac vice* is inappropriate or inadvisable" upon a party's motion or *sua sponte*, the court can revoke an attorney's admission *pro hac vice* "after a hearing or other meaningful opportunity to respond." *Id.*

59. Therefore, whether the Complainants voiced their opposition to Mr. Renner's admission *pro hac vice* before or after the ALJ granted PPL Electric's Motion is inconsequential.

60. In either case, the Complainants would have a full opportunity to raise their arguments, although unfounded and without merit, that there is good cause to deny or revoke Mr. Renner's admission *pro hac vice*.

61. Here, the Complainants ultimately filed a combined "Reply" to the Motion for Admission *Pro Hac Vice* and a Motion to Rescind and Quash, in which the Complainants raise their arguments against Mr. Renner's admission *pro hac vice*.

62. As a result, the Complainants have been afforded a full opportunity to voice their opposition to Mr. Renner's admission *pro hac vice*.

63. In addition, to the extent a notice to plead should have been included with the Company's Motion for Admission *Pro Hac Vice*, such omission was inadvertent by the Company's counsel and, as explained previously, has not prejudiced the Complainants.

64. Thus, this omission should not affect the admission of Mr. Renner *pro hac vice* in this proceeding. *See* 52 Pa. Code § 1.2(a) (stating that the Commission or presiding officer "may disregard an error or defect of procedure which does not affect the substantive rights of the parties").

65. For these reasons, the Complainants have been provided a full opportunity to contest Mr. Renner's admission *pro hac vice* in this proceeding.

E. THE PRESIDING ALJ HAS NEVER COLLUDED WITH PPL ELECTRIC

66. The Complainants further allege that the presiding ALJ has colluded with the Company *ex parte*. (Complainants' Motion, pp. 19, 31, 34-36, 40)

67. As their sole support, the Complainants cite the ALJ's copying of Mr. Renner on emails between the ALJ and the Complainants before his admission *pro hac vice*. (Complainants' Motion, pp. 34-36; Exhibit 6 to Complainants' Motion)

68. The Complainants mistakenly believe that these emails prove the ALJ and PPL Electric engaged in improper *ex parte* communications in this proceeding. (Complainants' Motion, pp. 34-35)

69. The Complainants' allegations are baseless and without merit.

70. PPL Electric and the ALJ have never engaged in improper *ex parte* communications in this proceeding.

71. Mr. Renner has been co-counsel on all of the Company's AMI complaint cases that have proceeded to evidentiary hearings before the ALJ.⁷

72. Therefore, it was reasonable for the ALJ to assume that Mr. Renner also would be appearing as co-counsel in the instant proceeding.

73. Indeed, the Company ultimately did seek Mr. Renner's admission *pro hac vice* in this case.

74. Furthermore, even assuming *arguendo* that PPL Electric and the ALJ communicated about a procedural matter, such as which attorneys to copy on emails, "no ex parte communication occurs if only procedural matters of a case are discussed." *Moyer v. PPL Elec. Utils. Corp.*, Docket No. C-2015-2511904, p. 11 (Nov. 20, 2017) (Order Granting in Part and Denying in Part PPL Electric's Motion for Summary Judgment).

75. As stated in Section 334(c) of the Public Utility Code, "ex parte communications prohibited in this section shall mean any off-the-record communications to or by any member of the commission, administrative law judge, or employee of the commission, regarding the merits or any fact in issue of any matter pending before the commission in any contested on-the-record proceeding." 66 Pa. C.S. § 334(c) (emphasis added).

76. Certainly, the list of attorneys that should be copied on emails does not regard the merits of the Complaint or any facts at issue in this proceeding.

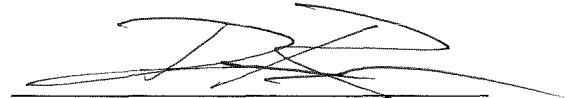
77. Based on the foregoing, the Complainants' allegations that the ALJ and PPL Electric have colluded *ex parte* are completely without merit and should be rejected.

⁷ See *Donna Millan v. PPL Elec. Utils. Corp.*, Docket No. C-2017-2623236; *Donna Bervinchak v. PPL Elec. Utils. Corp.*, Docket No. C-2016-2572824; *J. Jude Bervinchak v. PPL Elec. Utils. Corp.*, Docket No. C-2016-2577527; *Alan V. Schmukler v. PPL Elec. Utils. Corp.*, Docket No. C-2017-2621285; *John Kline v. PPL Elec. Utils. Corp.*, Docket No. C-2017-2621072; *Richard N. Myers v. PPL Elec. Utils. Corp.*, Docket No. C-2017-2620710.

IV. CONCLUSION

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that the Motion of Willard and Elsbeth Sunstein to Rescind and Quash the Interim Order Granting the Company's Motion for Admission *Pro Hac Vice* be denied.

Respectfully submitted,



Kimberly A. Klock (ID # 89716)
Amy E. Hirakis (ID # 310094)
PPL Services Corporation
Two North Ninth Street
Allentown, PA 18101
Phone: 610-774-4254
Fax: 610-774-4102
E-mail: kklock@pplweb.com
aehirakis@pplweb.com

Devin T. Ryan (ID # 316602)
Garrett P. Lent (ID # 321566)
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
Phone: 717-731-1970
Fax: 717-731-1985
E-mail: dryan@postschell.com
glent@postschell.com

Curtis S. Renner (DC ID # 446187)
Watson & Renner
1901 Pennsylvania Avenue, NW
Suite 1005 - ENS
Washington, DC 20006
Phone: 202-737 6302
E-mail: crenner@w-r.com

Date: May 23, 2018

Attorneys for PPL Electric Utilities Corporation

