

July 16, 2018

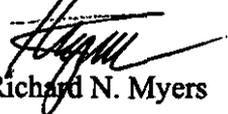
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor, North
P.O. Box 3625
Harrisburg, PA 17105-3265

Re: Richard N. Myers vs. PPL Electric Utilities Corporation
Docket No. C-2017-2620710

Dear Secretary Chiavetta:

Enclosed for filing are my answers to the Motion by PPL Electric Utilities Corporation to Strike Certain Portions of the Complainant's Reply Brief in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,


Richard N. Myers

cc: Honorable Elizabeth H. Barnes

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JUL 16 2018

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Richard N. Myers,

Complainant,

v.

Docket No. C-2017-2620710

PPL Electric Utilities Corporation,

Respondent.

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**COMPLAINANT'S ANSWER
TO MOTION OF PPL ELECTRIC UTILITIES
CORPORATION TO STRIKE CERTAIN PORTIONS OF
THE COMPLAINANT'S REPLY BRIEF**

July 16, 2018

TO ADMINISTRATIVE LAW JUDGE ELIZABETH H. BARNES

Your Honor:

Before answering PPL's specific objections under the **Part II MOTION TO STRIKE** I would like to briefly address PPLs Motion generally and collectively.

The objections in PPL Motion are minor or flawed and do little to strengthen their argument. It is significant that PPL has not (nor cannot) challenge the scientific validity of the 4,000 plus **positive** research studies that I identified. These dwarf the few **negative** scientific studies PPL cites and the hypothesis and arithmetical conjecture in PPL's Exhibits CD-2 through CD-7 which their expert witness presents in support of PPL's safety claim.

Regarding PPL's objection that my Briefs present information not in the record, in preparing my case I was guided by 66 Pa Code 332 (d) which reads: **"The transcript of a public input hearing, the transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, constitutes the exclusive record for decision, and shall be available for inspection by the public."** (underlining my own) I took this as guidance and therefore I did not knowingly submit information that was not part of the record.

Regarding PPL's objection that I presented new information in my Briefs, there were two instances containing insignificant information which should be stricken. However in the remaining instance the information is extremely important because PPL's Brief continued to obfuscate and proffer misleading and false information on an easily answered and vitally important question: how many times in a 24-hour period do PPL's AMI smart meters pulse signals?¹ Ascertaining this number and levels of peak intensity are absolutely indispensable for a proper decision by the Commission. If I did not challenge a repeated falsehood in PPL's Brief, the Commission could be misled and rule on erroneous information.

II. MOTION TO STRIKE

6. In his Reply Brief, the Complainant inappropriately attempts to introduce and rely upon evidence that is not part of the record.

7. Specifically, the Complainant's Reply Brief presents or mentions the following facts, materials, and testimony, which are not in the record.

a. Information about the travel and compensation of Dr. Carpenter in this proceeding (*Complainant's RB at 4*)

Complainant's Answer: Here PPL is correct. This is new information and should be stricken.

¹ By "pulse" I mean the colloquial, common language meaning of the word - a short burst of electromagnetic energy.

b. Definitions of microwatt, nanowatt, picowatt, and femtowatt from Wikipedia.org (Complainant's RB at 5)

Complainant's Answer: False, the terms "nanowatt", "picowatt", and "femtowatt" are in the record. For example, *Bioninitiative 2012 (Exhibit 3 of Complainant's Direct Testimony); Digital pages 1438, 1437, 1436; Paper SECTION 24 (2012 Supplement)* Words have meanings. To cite the meaning of these words does not constitute new evidence.

c. Definition of "pulse" from Webster's Seventh New Collegiate Dictionary (Complainant's RB at 7)

Complainant's Answer: False, the term "pulse" is in the record. It appears many times in my Direct Testimony Exhibits. For example, my word search shows that "pulse" appears 665 times in my Exhibit 3 (**Bioinitiative 2012**), 42 times in my Exhibit 4 (**U.S. Navy's Bibliography of Reported Phenomena ('Effects') and Clinical Manifestations Attributed to Microwave and Radio-Frequency Radiation**, 7 times in my Exhibit 5 (**List of 155 Reviews on Non-thermal Effects of Microwave/Intermediate Frequency EMFs by Dr. Martin Pall**), 2 times in my Exhibit 8 (**Implications of non-linear biological oscillations on human Electrophysiology of electrohypersensitivity (EHS) and multiple chemical sensitivity (MCS)**), and 2 times in my Exhibit 9 (**Department of Health and Human Services letter to Chair, IEEE SCC28 dated June 7, 1999**). Words have meanings. To cite the meaning of a word does not constitute new evidence.

d. Statements, information, and photographs relating to a June 8, 2018 test conducted by the Complainant of his neighbor's meter (Complainant's RB at 7-8)

Complainant's Answer: The question how many thousands of times in a 24-hour period do PPL's AMI smart meters pulse 902-928 MHz radiation into my home is crucial information and should be accurately determined. Dr. Davis, PPL's expert witness, states PPL's smart meters do not pulse RF radiation fields. That statement is false, or highly misleading at best in the colloquial sense of the term "pulse". To counter this false and misleading claim in PPL's Brief I conducted my own hand-held meter

test which showed an average of 8,208 pulsed signals being emitted in a 24-hour period. If my test is deemed hearsay and not actionable by the Commission, then I respectfully request the PA PUC order an independent, third party test be conducted by a qualified technician, and the results made part of the record. I also request that such a test be conducted at a date and location unannounced to preclude any possibility that a PPL employee can artificially and temporarily adjust the numbers and the peak intensity levels of those signal bursts to get lower numbers. The Commission must not rule on erroneous information. My pointing out false information in PPL's Brief is in the interest of a true and full disclosure of facts (the very purpose of a hearing). I request the information on RB 7-8 not be stricken.

e. Abstracts of research papers sent to PPL Electric's Counsel on January 15, 2018 which were included in the Complainant's previous versions of testimony and exhibits (Complainant's RB at 10)

Complainant's Answer: I deem the Abstracts to be part of the record as described in 66 Pa. Code 332(d), not new information. They should not be stricken.

f. The draft NTP Study and related media articles and activist web pages (Complainant's RB at 10)

Complainant's Answer: As I explained on page 17 of my Main Brief NTP officials announced in late March, 2018 that the NTP Cell phone study showed clear evidence that exposure to cell phone radiation caused cancer in rats. This is crucial information that will change the non-thermal RF radiation safety debate forever. PPL is desperate to hide this information. The Commission needs this new evidence to make a proper ruling. Since I mailed NTP cell phone study information to PPL on September 29, 2017 (certified copy to Secretary Chiavetta) I believe PPL improperly blocked my testifying about it at the hearing. I request that my NTP Study and related media articles in my Main and Reply Briefs not be stricken in accordance with 66 Pa Code 332 (d).

I believe I have good cause under 52 Pa. Code 5.431 to file a Motion to submit the NTP cell phone study and related information as an Exhibit. I will file a Motion separately to enter it into the record.

g. Strike the hyperlink to an online article at biomedcentral.com that does not work (Complainant's RB at 12).

Complainant's Answer: PPL is correct. The hyperlink is no longer active.

h. Statement about whether he could find certain studies on *PubMed* or not (Complainant's RB at 12).

Complainant's Answer: Dr. Israel cites 10 studies which report no adverse health effects from exposure to non-thermal RF radiation. The fact that 4 of those studies could not be found in *PubMed* is significant. *PubMed* is the U.S. Government's premier biomedical and life sciences archive for such studies. For the 4,264 studies I identified in my Direct Testimony which report biological or adverse health effects from non-thermal RF radiation I provided complete information for PPL to identify and examine those studies – authors' full name, title of study, year, and source information. My criticism is valid and should not be stricken.

i. Information about the U.S. National Institutes of Health's online life sciences library (Complainant's RB at 12)

Complainant's Answer: This is trivia. My Reply Brief provided clarification, not new information. U.S. National Institutes of Health's online life sciences library and PubMed are one and the same.

j. Information about PubMed (Complainant's RB at 12)

Complainant's Answer: See 7 i. above.

k. Information about the development of the polio vaccine (Complainant's RB at 12)

Complainant's Answer: Dr. Israel relies on a few negative studies to invalidate thousands of positive studies. His approach is not objective or balanced. His approach is not science, but the destruction of science. In rebuttal I should be able to point out the fallacy of his approach. I chose to use the example of

successful polio vaccine research which is common knowledge and which trumped earlier research that produced negative results.

l. Allegation that there were “few if any smart meters” deployed between 2002 and 2010

(Complainant’s RB at 12)

Complainant’s Answer: My statement is correct and should not be stricken. PPL’s smart meter deployment plan is dated 30 June 2014. PPL deployment did not begin until 2016. (*PPL Exhibit No. 3 at page 1 and p. 26*)

m. Reference to portion of Main Brief that contained quote from and link to U.S. Government Accountability Office report from 2012 that is not in the Bioinitiative Report (Complainant’s RB at 14)

Complainant’s Answer: This statement is false. The first quote can be found in the Bioinitiative Report *SECTION 4, p. 3; Digital p. 139-140*. The second quote can be found in the Bioinitiative Report Reference pages in *SECTION 4, p. 34; Digital p. 171*. This information should not be stricken.

n. Enclosure in the Complainant’s September 29, 2017 Reply to PPL Electric’s Answer to the Complaint (Complainant’s RB at 17).

Complainant’s Answer: I do not see any enclosure in RB at 17. However, my September 29, 2017 Reply to PPL Electric (copy to Secretary Chiavetta via certified mail) contained an Enclosure (1) which was information on the NTP cell phone study. My September 29 Reply also is listed on the PA PUC website Procedural History. Request my Enclosure (1) not be stricken in accordance with 66 Pa Code 332 (d).

o. Statement about an alleged opt-out policy by the Transportation Security Administration (“TSA”) (Complainant’s RB at 17).

Complainant's Answer: This is my rebuttal to the Commission's "interpretation" that Act 129 requires smart meters be installed system wide. It provides PUC with context and an example of other government agencies allowing consumers to decline exposure to non-ionizing RF radiation.

p. PPL Electric's response to discovery about the new AMI meter's frequency range (Complainant's RB at 19-20, 23)

Complainant's Answer: I cited the 902 to 928 MHz frequency range of AMI smart meters in my testimony at the April 2 hearing. (*Transcript p. 92 at 25 through p. 93 at 5*) The 902-928 MHz frequency range was provided to me by PPL on January 10, 2018. This was in reply to my Discovery request. All of the strikeouts on the above pages should remain in the record.

q. Information on microwave frequencies from Wikipedia.org (Complainant's RB at 19-20)

Complainant's Answer: This is my rebuttal to an egregiously false statement by PPL that the Bioinitiative Report is irrelevant because it does not address radio frequency fields of the type emitted by AMI smart meters. The strikeouts should remain in the record. Otherwise the Commission could rule on erroneous information.

r. Hyperlink to Complainant's Exhibit 4 (Complainant's RB at 20).

Complainant's Answer: Exhibit 4 of my Direct Testimony is a U.S. Government report. 52 Pa Code 5.406 (a) (2) allows public documents to be offered as evidence **provided it is shown by the offeror to be reasonably available to the public.** To comply with this provision I provided the hyperlink to show it is readily available to the public. The hyperlink should not be stricken from the record.

s. Statement that Complainant's Exhibit 4 is "readily available to the public" (Complainant's RB at 20)

Complainant's Answer: My answer in sub-paragraph 7 r. above applies. My statement should not be stricken from the record.

t. Hyperlink to Complainant's Exhibit 12. (Complainant's RB at 23)

Complainant's Answer: My answer in sub-paragraph 7 r. above applies. The hyperlink should not be stricken from the record.

u. Hyperlink to Complainant's Exhibit 13 (Complainant's RB at 24)

Complainant's Answer: My answer in sub-paragraph 7 r. above applies. The hyperlink should not be stricken.

v. Information about the reputation, membership, and mission of the American Academy of Environmental Medicine ("AAEM") that is purportedly sourced from AAEM's website and that is not set forth in Complainant's Exhibit 15 (Complainant's RB at 25-26)

Complainant's Answer: PPL has no business criticizing the not-for-profit American Academy of Environmental Medicine for being a special interest activist group (PPL Main Brief at 40), when in fact it is PPL's smart meter activism that flagrantly places corporate profits above public safety. The AAEM website address is conspicuously displayed at the top of Exhibit 15 letterhead. Reference to AAEM's membership and mission contained therein should not be stricken.

w. Quote from Complainant's MB about Bervinchak and Murphy cases (Complainant's RB at 25-26)

Complainant's Answer: PPL cites over 50 Court or Agency decisions in their Main and Reply Briefs. Since PPL cites these cases, the same standard should apply to my Reply Brief. My citing the Bervinchak and Murphy cases should be allowed.

x. Hyperlink to Complainant's Exhibit 17 (Complainant's RB at 26)

Complainant's Answer: Exhibit 17 is a public document issued by a government organization. 52 Pa Code 5.406 (a) (2) allows public documents to be offered as evidence provided it is shown by the

offeror to be reasonably available to the public. In compliance with this provision I provided the hyperlink. The document is readily available to the public. The hyperlink should not be stricken.

y. Hyperlink to Complainant's Exhibit 18 (Complainant's RB at 26)

Complainant's Answer: Exhibit 18 is a public document issued by a government organization. 52 Pa Code 5.406 (a) (2) allows public documents to be offered as evidence provided it is shown by the offeror to be reasonably available to the public. In compliance with this provision I provided the hyperlink to show it is readily available to the public. The hyperlink should not be stricken.

z. Hyperlink to Complainant's Exhibit 19 (Complainant's RB at 27)

Complainant's Answer: Exhibit 19 is a public document issued by a government organization. 52 Pa Code 5.406 (a) (2) allows public documents to be offered as evidence provided it is shown by the offeror to be reasonably available to the public. In compliance with this provision I provided the hyperlink to show it is readily available to the public. The hyperlink should not be stricken.

aa. Hyperlink to a signed version of Complainant's Exhibit 21 that is not in the record (Complainant's RB at 28)

Complainant's Answer: Exhibit 21 is a public document issued by a government organization. 52 Pa Code 5.406 (a) (2) allows public documents to be offered as evidence provided it is shown by the offeror to be reasonably available to the public. In compliance with this provision I provided the hyperlink to show that a signed copy of Exhibit 21 is readily available to the public. The hyperlink should not be stricken.

bb. Statement that "Dr. Henry Lai is a world renowned researcher on non-ionizing RF radiation" (Complainant's RB at 30)

Complainant's Answer: Since Dr. Lai has been at the epicenter of the cell phone cancer controversy for four decades it can be reasonably inferred that he is a world renowned researcher in this area. My statement should not be stricken.

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 REGULAR MAIL

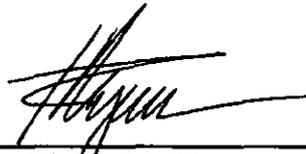
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Date: July 16, 2018



Richard N. Myers

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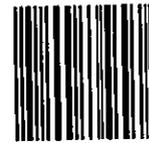
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