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File #: 140074

October 9, 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: Jay Larry Moyer v. PPL Electric Utilities Corporation**  
**Docket No. C-2017-2629683**

Dear Secretary Chiavetta:

Enclosed for filing please find the Replies of PPL Electric Utilities Corporation to the Exceptions of Jay Larry Moyer 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 Joel H. Cheskis  
Certificate of Service

**CERTIFICATE OF SERVICE**

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 &  
REGULAR MAIL**

Jay Larry Moyer  
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E-mail:[gtown73@hotmail.com](mailto:gtown73@hotmail.com)

Date: October 9, 2018



Devin T. Ryan

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jay Larry Moyer,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2017-2629683
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

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**REPLIES OF PPL ELECTRIC UTILITIES CORPORATION TO THE  
EXCEPTIONS OF JAY LARRY MOYER**

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PPL Electric Utilities Corporation (“PPL Electric” or the “Company”), pursuant to 52 Pa. Code § 5.535, hereby respectfully submits these Replies to the Exceptions of Jay Larry Moyer (“Complainant”). In his Exceptions, the Complainant has disputed Administrative Law Judge Joel H. Cheskis’s (“ALJ”) Initial Decision dismissing the above-captioned Formal Complaint (“Fourth Complaint”).<sup>1</sup>

For the reasons explained below, PPL Electric respectfully requests that the Pennsylvania Public Utility Commission (“Commission”) deny the Complainant’s Exceptions and adopt the well-reasoned Initial Decision without modification.

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<sup>1</sup> The First and Second Complaints were filed at Docket Nos. C-2011-2273645 and C-2014-2444864. Both the Commission and the Commonwealth Court denied the Complainant’s claims made in the First and Second Complaints about PPL Electric’s virtual meter aggregation program and billing processes, and the Pennsylvania Supreme Court denied the Complainant’s Petition for Allowance of Appeal. *See Moyer v. PPL Elec. Utils. Corp.*, Docket Nos. C-2011-2273645, C-2014-2444864 (Order Entered May 19, 2016) (“*Moyer*”); *Moyer v. Pa. PUC*, Docket No. 882 C.D. 2016 (Pa. Cmwlth. 2016) (“*Moyer Appeal*”); *Moyer v. Pa. PUC*, Docket No. 235 MAL 2017 (Pa. 2017) (denying Petition for Allowance of Appeal). Moreover, still pending before the Commission is the Complainant’s Third Complaint at Docket No. C-2015-2511904, which concerns, among other things, PPL Electric’s bills and billing processes for the Complainant’s virtual meter aggregation accounts. The Complainant’s Exceptions to the April 25, 2018 Initial Decision dismissing his Third Complaint, and PPL Electric’s Replies to those Exceptions, remain pending before the Commission.

## I. INTRODUCTION

On October 18, 2017, PPL Electric was served with the above-captioned Formal Complaint filed by the Complainant with the Commission. The Complainant is a participant in PPL Electric's virtual meter aggregation program, under which the excess generation produced by his solar generating facilities, if any, is used to offset the usage at his residence. This Formal Complaint is the Fourth Complaint that the Complainant has filed against PPL Electric regarding the billing process and payments for virtual meter aggregation electric service provided to the Complainant's house and detached solar array. In this Fourth Complaint proceeding, the Complainant generally has alleged that PPL Electric failed to bill and apply the credits for excess generation correctly.

On November 7, 2017, PPL Electric filed its Answer and Preliminary Objections to the Fourth Complaint. In its Preliminary Objections, the Company argued that the Complainant's request for monetary damages be stricken as impertinent matter.

On November 13, 2017, the Complainant filed an Answer to PPL Electric's Preliminary Objection as well as a letter correcting the page of a bill submitted with his Fourth Complaint.

On December 21, 2017, the ALJ issued his Order granting PPL Electric's Preliminary Objections to strike the Complainant's request for monetary damages as impertinent matter.

On January 18, 2018, a Notice was issued scheduling a telephonic hearing for March 6, 2018, before the ALJ. Also on January 18, 2018, a Prehearing Order was issued by the ALJ setting forth certain rules and requirements for the proceeding.

On January 25, 2018, a Corrected Notice was issued turning the telephonic hearing into an in-person hearing on March 6, 2018, before the ALJ in Harrisburg, Pennsylvania.

The in-person evidentiary hearing was held as scheduled on March 6, 2018, at 10:00 AM.

On March 9, 2018, the ALJ issued a Briefing Order setting forth requirements for the briefs to be submitted in this proceeding. Under the Briefing Order, Main Briefs were due on or before April 27, 2018, and Reply Briefs were due on or before May 18, 2018.

On April 20, 2018, PPL Electric filed a letter requesting one-week extensions of the briefing deadlines, such that the Main Briefs would be due on or before May 4, 2018, and Reply Briefs would be due on or before May 25, 2018.

By correspondence dated April 20, 2018, the ALJ granted PPL Electric's request for one-week extensions to the briefing deadlines.

On September 6, 2018, the ALJ issued his Initial Decision ("ID") dismissing the Fourth Complaint.

On September 24, 2018, the Complainant filed his Exceptions to the ID.<sup>2</sup>

For the reasons explained in more detail below, the Complainant's Exceptions are without merit, and the Commission should adopt the ALJ's well-reasoned ID without modification and dismiss the Fourth Complaint with prejudice.

## **II. REPLIES TO EXCEPTIONS**

### **A. REPLY TO EXCEPTION NO. 1<sup>3</sup> – THE ALJ PROPERLY DISREGARDED THE COMPLAINANT'S ARGUMENT BASED ON THE *FAT KATZ* CASE**

The Complainant alleges that the ALJ should not have disregarded his argument based on the "fair business practice" standard set forth in Administrative Law Judge Jeffrey A. Watson's

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<sup>2</sup> Exceptions were due within 20 days of the service of the ID on September 6, 2018. Accordingly, the Complainant's Exceptions were due by September 26, 2018. The Company's Replies to Exceptions were due 10 days thereafter. Because October 6, 2018, was a Saturday and the next weekday was a legal holiday (*i.e.*, Columbus Day), the due date for the Replies fell on the next business day, which was October 9, 2018. *See* 52 Pa. Code § 1.12(a).

<sup>3</sup> PPL Electric observes that the Complainant's individual Exceptions are not numbered as required by the Commission's regulations. *See* 52 Pa. Code § 5.533(b) ("Each exception must be numbered . . ."). Rather, his Exceptions are identified by letters. Accordingly, in these Replies to Exceptions, PPL Electric addresses his Exceptions as though they were properly numbered (*e.g.*, Section A of his Exceptions is Exception No. 1).

Initial Decision in *Fat Katz Tattooz v. National Fuel Gas Distribution Corp.*, Docket No. C-2013-2359146, 2013 Pa. PUC LEXIS 585 (Sept. 23, 2013) (Initial Decision) (“*Fat Katz*”), became final without further action, 2013 Pa. PUC LEXIS 673 (Order entered Nov. 13, 2013). (Complainant’s Exceptions, pp. 2-3) The Complainant contends that the ALJ erred in distinguishing the *Fat Katz* case from the instant matter and should have found that PPL Electric’s manual billing process for virtual meter aggregation is inconsistent with the purported “fair business practice” standard. (Complainant’s Exceptions, pp. 2-3) The Complainant’s Exception is completely without merit.

The ALJ properly distinguished the *Fat Katz* case from the instant matter and rejected the Complainant’s argument for several reasons. As the ALJ correctly observed, “the respondent in Fat Katz was not PPL and the complainant was not a virtual meter aggregation customer”; therefore, “[t]hese two facts distinguish Fat Katz” from the Fourth Complaint.” (ID at 23) Moreover, the ALJ determined that it is “significant that Mr. Moyer’s complaint involves virtual meter aggregation within the confines of the AEPS Act whereas the complaint in Fat Katz does not.” (ID at 23) The ALJ also noted that “the Commission’s regulations regarding residential billing information were applicable to the complainant in Fat Katz as a small business customer pursuant to Section 62.74(b)(5) of the Commission’s regulations which is not implicated here.” (ID at 23-24) Thus, as the ALJ correctly held, “[t]hese differences are sufficient to distinguish Fat Katz from Mr. Moyer’s complaint.” (ID at 24)

In addition, the Complainant overlooks that *Fat Katz* involved a dispute about estimated bills. *Fat Katz*, 2013 Pa. PUC LEXIS 585 at \*19-31. Given that the Complainant’s bills are based on actual meter readings, the case is readily distinguishable. (PPL RB at 10) The Complainant also fails to recognize that *Fat Katz* found a regulatory violation because the bills

did not include all of the required information under Section 56.15 of the Commission's regulations. *Fat Katz*, 2013 Pa. PUC LEXIS 585 at \*23-31. Here, the Commission held in the First and Second Complaint proceeding that the Company's bills for his residential and solar accounts comply with Section 56.15. (PPL RB at 10) More importantly, this is not the first time that the Complainant has raised this argument about the *Fat Katz* standard. (PPL RB at 10) In fact, the Complainant previously made this argument in his Post-Hearing Brief in the First and Second Complaint proceeding. (PPL RB at 10) Ultimately, the Commission found PPL Electric's manual billing process to be reasonable and lawful. (PPL RB at 10)

For these reasons, the Complainant's Exception No. 1 should be rejected.

**B. REPLY TO EXCEPTION NO. 2 – THE ALJ CORRECTLY RELIED ON THE COMMISSION'S PREVIOUS HOLDING THAT ADDITIONAL INFORMATION ABOUT THE COMPLAINANT'S GENERATION IS AVAILABLE BY OTHER MEANS**

The Complainant also claims that the ALJ erred in stating that the additional information about his virtual meter aggregation accounts are available "by other means" than his bills. (Complainant's Exceptions at 3-7) As alleged support, the Complainant avers that the Company's "Energy Analyzer," which is an online resource, does not provide him with the level of detail he desires about his electric usage and generation. (Complainant's Exceptions at 4-5) The Complainant also recounts his alleged recent experiences with using the Company's online resources. (Complainant's Exceptions at 5) Further, the Complainant claims that the spreadsheet prepared by PPL Electric about his electric usage and generation was not provided to him as quickly as he would like. (Complainant's Exceptions at 6) As relief, the Complainant requests that all of his requested information be provided on his bills "or, alternatively, in a separate document enclosed with the printed bills." (Complainant's Exceptions at 7) As explained below, the Complainant's Exception is completely without merit.

As a preliminary matter, the Complainant has waived any issues about the Company's "Energy Analyzer" and the time it took for him to receive the Company's spreadsheet. It is well-established that when an issue is not raised in a party's brief or was not properly briefed, that issue is deemed to have been waived.<sup>4</sup> Here, these issues were never raised in either his Main Brief or Reply Brief. Therefore, these issues have been waived and need not be addressed by the Commission. Even assuming *arguendo* that these issues were properly raised, the Commission should reject the Complainant's arguments for several reasons.

First, the ALJ was simply quoting the Commission's previous finding in the First and Second Complaint proceeding that "while PPL is not required to present the additional information the complainant requests on the complainant's bills, PPL has made this information available to the complainant by other means." (ID at 21) (quoting *Moyer* at 28) Accordingly, this was not a new finding by the ALJ. Rather, the ALJ was merely relying on the Commission's determinations in the previous, fully litigated First and Second Complaint proceeding. The Complainant cannot through this Fourth Complaint proceeding collaterally attack the Commission's prior finding that additional information about his accounts is available through other means.

Second, the record demonstrates that additional information about the Complainant's generation is available to him through other means. Indeed, the Complainant testified that his Generation Attribute Tracking System ("GATS") "is unrelated to PPL Electric" and records the electricity generated by his solar facilities. (Tr. 20; *see Moyer's Exhibit 7*) Thus, the

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<sup>4</sup> *See Application of Apollo Gas Co.*, 1994 Pa. PUC LEXIS 45, at \*7 (Order entered Feb. 10, 1994); *Alston v. Nat'l Fuel Gas Distrib. Corp.*, 2013 Pa. PUC LEXIS 180, at \*25 (Mar. 12, 2013) (Initial Decision) (citing *Commonwealth v. Einhorn*, 911 A.2d 960 (Pa. Super. 2006), *appeal denied*, 920 A.2d 831 (Pa. 2007); *Jackson v. Kassab*, 812 A.2d 1233 (Pa. Super. 2002), *appeal denied*, 825 A.2d 1261 (Pa. 2003)), *reconsideration denied*, Docket No. F-2011-2236871 (Order entered Sept. 26, 2013).

Complainant has conceded that there are other means for him to access additional information about his electric generation.

Third, the Complainant improperly bases his argument about the Company's online resources on extra-record evidence. It is well-established that parties cannot introduce evidence for the first time at the briefing or exceptions stage.<sup>5</sup> "The Commission, as an administrative body, is bound by the due process provisions of constitutional law and by the principles of common fairness." *Hess v. Pa. PUC*, 107 A.3d 246, 266 (Pa. Cmwlth. 2014) (citations omitted). "Among the requirements of due process are notice and an opportunity to be heard on the issues, to be apprised of the evidence submitted, to cross-examine witnesses, to inspect documents, and to offer evidence in explanation or rebuttal." *Id.* (citations omitted).

Here, the record closed in this proceeding on May 22, 2018, when the Reply Briefs were filed. (ID at 3) Nevertheless, in his Exceptions, the Complainant seeks to introduce allegations about his interactions with PPL Electric's customer service representatives in September 2018, *i.e.*, over three months after the record closed. (Complainant's Exceptions at 5) Further, the Complainant quotes testimony submitted by Aloysius Cannon on behalf of the Company in the First and Second Complaint proceeding and presents evidence about the Company's online resources, including the "Energy Analyzer." (Complainant's Exceptions at 5) To be clear, none of this evidence is in the record, nor did the Complainant indicate at the hearing that he would be raising any issues regarding the Company's online resources. Therefore, it would deny the Company due process for any findings to be based on this evidence because PPL Electric never had an opportunity to present evidence in response, such as explaining how to access and utilize those resources and what information those resources provide. Thus, the Commission should

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<sup>5</sup> See, e.g., *Application of Apollo Gas Co.*, 1994 Pa. PUC LEXIS 45, at \*8-9 (Order entered Feb. 10, 1994) (denying party's attempt to introduce extra-record evidence in its exceptions).

entirely disregard the Complainant's extra-record evidence and any arguments based on such extra-record evidence.

Fourth, the Complainant's issue regarding the length of time before he received the Company's spreadsheet is without merit. The Complainant fails to mention that when he requested the spreadsheet from the Company, discovery was stayed in that proceeding pending a ruling on the Company's Preliminary Objections to his Third Complaint. (Tr. 186)<sup>6</sup> Even though the stay of discovery had not been lifted, the Company ultimately sent the spreadsheet to the Complainant in October 2018. (Tr. 186) Further, it is undisputed that the Company would be willing to provide the year-end calculation sheets to the Complainant every year going forward. (Tr. 186) Therefore, the Complainant's argument lacks merit.

Finally, regarding the Complainant's request for all of his additional information to be presented in his bills or "in a separate document enclosed with the printed bills," the Commission has already rejected the Complainant's request that such information be provided with his bills. In the First and Second Complaint proceeding, the Complainant argued that the Company should be instructed to list on its bills: (1) a specified, common billing period with beginning and ending dates for all aggregated meters; (2) a specified, common meter read date for all aggregated meters; (3) the total kWh used at each meter during the billing cycle; (4) the total kWh generated for the billing cycle; (5) the full retail value in price per kWh that is used to calculate the generation credit; (6) the total value (in price per kWh) for electricity generated; (7) the total kWh of generation used to offset usage at each meter; (8) the total value (in price per kWh) of generation being credited during that billing cycle; (9) the total kWh of excess generation that are being banked; and (10) the total kWh of banked generation. *Moyer* at 12-13. Ultimately, the

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<sup>6</sup> See *Moyer v. PPL Elec. Utils. Corp.*, Docket No. C-2015-2511904 (Jan. 13, 2016) (Order Granting Motion of PPL Electric Utilities Corporation to Stay Discovery).

Commission denied the Complainant's request, reasoning that "PPL is not obligated under the Code, the *AEPS Act*, [the Commission's] regulations, or its tariff to list such information on his bills." *Id.* at 25. Moreover, the Commission found that the Company's bills provide all of the information required by the Commission's regulations. *Id.* at 25-28. Further, the Commission determined that if the Company would include the additional information that was requested, it would not fit on a standard bill. *Id.* at 28. Therefore, as the ALJ properly found in this proceeding, "[t]hese determinations by the Commission govern disposition of Mr. Moyer's current complaint," and the Complainant's requested relief should be rejected.<sup>7</sup> (ID at 21)

Based on the foregoing, the Complainant's Exception No. 2 is without merit and should be denied.

**C. REPLY TO EXCEPTION NO. 3 – THE COMPLAINANT CONTINUES TO MISCHARACTERIZE THE COMMISSION'S JANUARY 9, 2014 ORDER**

The Complainant also reiterates his argument that the Commission's January 9, 2014 Order in the First Complaint proceeding, which remanded the case to the Office of Administrative Law Judge for further proceedings, required PPL Electric to provide him with a specific list of information on a continuous basis. (Complainant's Exceptions at 7-8); *see Moyer v. PPL Elec. Utils. Corp.*, Docket No. C-2011-22373645 (Order entered Jan. 9, 2014). The Complainant's argument is entirely without merit.

As explained in PPL Electric's Reply Brief, the January 9, 2014 Order simply ordered PPL Electric to submit within 60 days a "tabulation" that set forth certain information about the Complainant's accounts. (PPL RB at 13) On March 10, 2014, PPL Electric submitted the required tabulation pursuant to the Commission's January 9, 2014 Order at Docket No. C-2011-

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<sup>7</sup> PPL Electric also notes that the Complainant's alternative request that the additional information be presented in a separate document with the printed bills was raised for the first time in his Exceptions. As a result, no record has been developed on the feasibility or appropriateness of this request. Accordingly, this alternative request should be denied.

2273645.<sup>8</sup> (PPL RB at 13) Nothing in the January 9, 2014 Order required PPL Electric to continually provide this tabulation to the Complainant, present it on the record in future complaint proceedings, or include the various items of information on his bills. (PPL RB at 13) Therefore, the Commission should reject the Complainant's flawed interpretation of the January 9, 2014 Order.

For these reasons, the Complainant's Exception No. 3 is without merit and should be denied.

**D. REPLIES TO EXCEPTIONS NOS. 4 AND 5 – THE ALJ PROPERLY REJECTED THE COMPLAINANT'S LATEST CHALLENGE TO PPL ELECTRIC'S MANUAL BILLING PROCESS FOR VIRTUAL METER AGGREGATION**

In his Exceptions, the Complainant also raises issues related to PPL Electric's Commission-approved manual billing process for virtual meter aggregation. (Complainant's Exceptions at 8-12) The Complainant first attempts to criticize the "one-month lag" in the application of his credits for excess generation and alleges that the ALJ should have found that it does not comport with the Commission's regulations. (Complainant's Exceptions 9-11) Next, the Complainant claims that there is no prescribed billing process for virtual meter aggregation customer-generators and that PPL Electric has been changing its bills for virtual meter aggregation, such that the line item for his "Excess Credit" did not appear on certain bills. (Complainant's Exceptions at 11-12) For relief, the Complainant requests that "the Commission, within 90 days, prescribe a uniform 'billing process' for virtual meter aggregation."

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<sup>8</sup> To the extent that the Complainant believes that PPL Electric failed to comply with this directive, he should have raised this argument in the First and Second Complaint proceeding. (PPL RB at 13 n.11) Moreover, any allegation that PPL Electric failed to comply with this aspect of the January 9, 2014 Order is barred by the Commission's three-year statute of limitations. *See* 66 Pa. C.S. § 3314(a). PPL Electric's tabulation was due to be submitted within 60 days of the Order, *i.e.*, by March 10, 2014. Here, the Fourth Complaint was received by the Secretary's Bureau on September 29, 2017, and served on PPL Electric on October 18, 2017, both well past the date the three-year statute of limitations expired on March 10, 2017. (PPL RB at 13 n.11)

(Complainant's Exceptions at 12) As explained below, the Complainant's arguments are without merit for several reasons.

First, both the Commission and the Commonwealth Court previously considered and rejected the Complainant's arguments that the manual billing process is unlawful and unreasonable and that a different billing process should be implemented. (PPL RB at 5) Relatedly, the Commission rejected the Complainant's challenge to the "one-month lag" in credits for excess generation, whereby the credit generated in one billing period appears on the following month's bill due to the Company's manual billing process. (PPL RB at 8-9) As the Commission observed in *Moyer*, "PPL demonstrated that the one-month delay in the application of credits was solely the result of the limitations of its manual billing process and ultimately had no negative effects on the Complainant." (PPL RB at 9) "On review of this evidence," the Commission found "PPL's assertion to be persuasive." (PPL RB at 9) Based on the evidence presented in this proceeding, the ALJ correctly determined that there was no reason to disturb the Commission's and Commonwealth Court's previous orders rejecting the Complainant's challenge to PPL Electric's manual billing process. (ID at 37-38)

Second, the Company accurately calculated and applied the Complainant's credits for generating electricity using the Company's manual billing process. (PPL MB at 16-19) In this proceeding, the Complainant presented his bills for his residential account for the disputed period of July through November 2017. (See *Moyer* Exhibits 106, 108, 110, 112, 114) PPL Electric prepared a spreadsheet that ties out to the Complainant's bills and proves that the Company accurately calculated and applied all of the credits for excess generation using its Commission-approved manual billing process. (See PPL Electric Exhibit No. 10; PPL MB at 16-19) After reviewing this detailed evidence, the ALJ rejected the Complainant's argument that his accounts

were billed and credited incorrectly. (ID at 27-29) Therefore, the un rebutted record evidence demonstrates that the Complainant has received the full credits for his excess generation.

Third, the Company has not changed its Commission-approved manual billing process, as alleged by the Complainant. Although the Complainant has identified some inconsistencies in how the credits for excess generation appeared on the July through November 2017 bills for the Complainant's residential account, these were inadvertent errors caused by a change in personnel.<sup>9</sup> (ID at 29) As the ALJ observed, however, "[i]t is not unreasonable that errors occur on a customer's monthly bill so long as those errors are promptly corrected when identified." (ID at 29)

Here, PPL Electric has corrected these inconsistencies, and the Complainant has been receiving bills for his residential account in the same format as he was accustomed to receiving before July 2017. (PPL MB at 21-22); (*Compare* Moyer Exhibits 102 and 104, *with* Moyer Exhibit 116) Moreover, the Company has taken several steps to prevent these inconsistencies from happening again. (PPL MB at 21-22) In fact, Ms. Nalesnik, the Company employee personally assigned to the Complainant's accounts: (1) has placed a "hold bill" on the Complainant's account in November 2017, which means that she personally reviews every one of the Complainant's bills to ensure the credits are applied correctly before the bills are issued to

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<sup>9</sup> The credit for the July 2017 bill did not appear on the bill because the credit was applied on July 12, 2017, one day after the bill was generated on July 11, 2017. (PPL MB at 20) This was an inadvertent error by PPL Electric's personnel, Ms. Nalesnik, who recently started her new position to calculate and apply the credits for the Complainant. (PPL MB at 20) As for the August through November 2017 bills, the "Excess Credit" was not consistently shown in the Complainant's bills as a separate line item because Ms. Nalesnik applied the credits to the Complainant's past due balances first instead of his current charges. (PPL MB at 20-21) Ms. Nalesnik thought she was actually helping the Complainant by applying the credits to the past due balances first, as he had refused to pay his bills for several months and was carrying past due balances from month to month. (PPL MB at 21) Unknown to Ms. Nalesnik, however, applying the credits in this manner resulted in the credits not appearing as a separate "Excess Credit" line item in the bill.<sup>9</sup> (PPL MB at 21) If the Complainant had paid his bills in full and not been carrying a past due balance, the credits would have been applied to his current charges and shown as separate "Excess Credit" line items. Moreover, although the credits may not have appeared as separate "Excess Credit" line items, the Complainant's bills still showed the previous account balances being reduced. (PPL MB at 21) Because the Complainant never paid any of these bills in full, the only logical reason his past due balances would decrease otherwise would be the Company crediting his residential account. (PPL MB at 21)

the Complainant; (2) has established reminders to alert her when the Complainant's bills are about to be generated, so she can check the account and ensure that the credits are applied properly; and (3) was designated as the Complainant's "special situation contact," which results in all customer service inquiries related to the Complainant's accounts being directed to her. (PPL MB at 22) Furthermore, as explained previously, the record demonstrates that the Complainant was fully credited for his excess generation during these billing periods. (PPL MB at 16-19) Thus, although there were some inconsistencies in how the credits for excess generation appeared on his bills, the Company was not harmed by these inadvertent errors.

Finally, the Complainant's request for a "uniform billing process" for virtual meter aggregation should be rejected. The Commission cannot prescribe a uniform, statewide billing process for virtual meter aggregation that applies to all electric distribution companies ("EDCs") without violating the other EDCs' due process rights. *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"). None of the other EDCs are parties in the instant matter. Therefore, the Commission cannot force them to adopt a uniform billing process for virtual meter aggregation in this proceeding without violating their due process rights. To the extent that the Complainant requests the Commission to direct a new billing process for PPL Electric, both the Commission and Commonwealth Court previously rejected the Complainant's request, and nothing presented in this case warrants disturbing those findings. (ID at 37-38)

For these reasons, the Complainant's Exceptions Nos. 4 and 5 are without merit and should be denied.

**E. REPLIES TO EXCEPTIONS NOS. 6 THROUGH 8 – THE ALJ CORRECTLY REJECTED THE COMPLAINANT’S ARGUMENTS ABOUT HIS SOLAR ACCOUNT’S RATE SCHEDULE AND HIS SYSTEM’S ELIGIBILITY TO PARTICIPATE IN VIRTUAL METER AGGREGATION**

The Complainant also raises issues regarding his solar account’s rate schedule and his solar generating facility’s eligibility to participate in virtual meter aggregation. (Complainant’s Exceptions at 12-19) The Complainant disputes the ALJ’s finding that his solar account does not qualify for PPL Electric’s residential Rate Schedule RS. (Complainant’s Exceptions at 17) Further, the Complainant argues that the Commission acted without authority when it granted his system a waiver of the independent load requirement and enabled him to continue participating in virtual meter aggregation. (Complainant’s Exceptions at 14-16) According to the Complainant, based on the *Sunrise v. First Energy* case,<sup>10</sup> the Commission has to seek input from the Pennsylvania Department of Environmental Protection (“DEP”) as to whether his system qualifies as a customer-generator that can participate in virtual meter aggregation and, if so, whether it should be classified as a residential account and billed accordingly. (Complainant’s Exceptions at 16, 18-19) The Complainant’s arguments are without merit and should be rejected.

First, the rate schedule applicable to the Complainant’s account is governed by PPL Electric’s Commission-approved tariff, not DEP. As the ALJ observed, it is well-established that a public utility’s tariff sets forth the applicable rates, services, rules, regulations, and practices and that the tariff binds both the utility and the customer. (ID at 32) Here, both the Commission and Commonwealth Court previously found that the Complainant’s solar account was properly assigned to a small commercial rate schedule (Rate Schedule GS-1). (PPL RB at 6) Specifically, the Commission determined that “[t]he Complainant’s solar facility does not qualify

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<sup>10</sup> See *Sunrise Energy, LLC v. FirstEnergy Corp.* 148 A.3d 894 (Pa. Cmwlth. 2016).

for service under Rate Schedule RS” because it failed to meet the qualifications of a “dwelling.” (PPL RB at 6-7) Instead, because “PPL must perform one standard transformation to step down the distribution line’s voltage from 240 volts to 120 volts at the point of delivery,” the Complainant’s solar facilities qualified for Rate Schedule GS-1 under PPL Electric’s tariff. (PPL RB at 7) On appeal, the Commonwealth Court “conclude[d] that the PUC did not err in determining that PPL properly assigned a commercial rate” to the Complainant’s solar account. (PPL RB at 7) Thus, as the Commission and Commonwealth have already found, the Complainant’s solar account is properly billed under Rate Schedule GS-1.

Second, the Commonwealth Court previously ruled that the Commission has exclusive jurisdiction over the rate schedule that should be applied to the Complainant’s solar account. While his appeal of the Commission’s *Moyer* decision was pending, the Complainant filed an application for relief with the Commonwealth Court, in which he argued that the *Sunrise* decision “ha[d] immediate implications for his case and that, pursuant thereto, the PUC’s jurisdiction in his case [was] rendered null and void.” (PPL RB at 9) The Court rejected the Complainant’s argument, finding that *Sunrise* was “distinguishable from the present case” because the Complainant’s “eligibility for virtual meter aggregation became moot.” (PPL RB at 9) Therefore, “[a]t a minimum, the remaining issues,” such as “PPL’s billing procedures and its practices for virtual meter aggregation and PPL’s assignment, based on its tariff, of its commercial GS-1 rate” to the Complainant’s solar account, “were within the PUC’s jurisdiction.” (PPL RB at 9) More importantly, the Commonwealth Court proceeded to rely upon PPL Electric’s Commission-approved tariff in analyzing and ultimately rejecting the Complainant’s argument that his solar account should not be assigned to Rate Schedule GS-1. (PPL RB at 9) Therefore, the ALJ properly concluded that whether the Complainant’s solar

account qualifies for a residential rate schedule is within the Commission's exclusive jurisdiction. (ID at 30-32)

Third, the Complainant's arguments regarding the waiver of the independent load requirement must be rejected. No current dispute exists about the Complainant's eligibility to participate in virtual meter aggregation. Although the Commission has adopted regulations requiring measurable load that is independent of the alternative energy system for a customer-generator to participate in virtual meter aggregation,<sup>11</sup> the Commission has granted the Complainant a waiver of that independent load requirement. *See Moyer* at 43 n.14. Indeed, the Commonwealth Court even recognized and relied on the Commission's waiver of the independent load requirement in adjudicating the issues before it in the Complainant's appeal of the Commission's decision in *Moyer*. *See Moyer Appeal* at 9-10. In the event that the Complainant's system is no longer exempt from the independent load requirement and/or fails to qualify for virtual meter aggregation due to changes in the law, the Complainant may then seek to challenge his ineligibility for virtual meter aggregation. However, as that is not presently the case, the Complainant's issue is not ripe for disposition. *See id.* at 10 n.6. Therefore, as the Commonwealth Court previously held, "the instant [case] does not encompass the issue of whether *Moyer* is subject to the independent load requirement." *Id.* at 9.

Based on the foregoing, the Complainant's Exceptions Nos. 6 through 8 are without merit and should be denied.

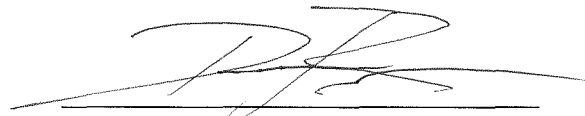
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<sup>11</sup> *See* 52 Pa. Code §§ 75.12, 75.13(a)(1), 75.14(e).

**III. CONCLUSION**

WHEREFORE, for all the foregoing reasons, as well as those more fully explained in the well-reasoned Initial Decision of Administrative Law Judge Joel H. Cheskis, PPL Electric Utilities Corporation respectfully requests that the Pennsylvania Public Utility Commission: (1) deny the Exceptions filed by Jay Larry Moyer; (2) adopt the Initial Decision without modification; and (3) dismiss the Formal Complaint at Docket No. C-2017-2629683 with prejudice.

Respectfully submitted,



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