



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
717-731-1981 Direct Fax
File #: 140074

December 26, 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 is the Answer of PPL Electric Utilities Corporation to the Second Petition to Reopen Proceeding 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
370 West Johnson Street
Apartment C-1
Philadelphia, PA 19144
E-mail: gtown73@hotmail.com

Date: December 26, 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**

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

**ANSWER OF PPL ELECTRIC UTILITIES CORPORATION TO
THE SECOND PETITION TO REOPEN PROCEEDING**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pursuant to 52 Pa. Code §§ 5.61(e) and 5.571(c), PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) hereby submits its Answer to the Second Petition to Reopen Proceeding (“Second Petition”) filed by Jay Larry Moyer (“Complainant”) and served via first class mail on December 12, 2018, in the above-captioned proceeding.¹

The Pennsylvania Public Utility Commission (“Commission”) should deny the Complainant’s Second Petition.² As with his first Petition to Reopen the Proceeding, the Complainant has completely failed to: (1) prove that there have been “material changes of fact or of law” that “have occurred since the conclusion of the hearing” or that the “public interest requires” reopening the record (52 Pa. Code § 5.571(b), (d)); and (2) demonstrate “good cause” for the admittance of this evidence (52 Pa. Code § 5.431(b)).

¹ Because the Complainant served the Second Petition via first class mail only, three days were added to the 10-day response period. See 52 Pa. Code §§ 1.56(b), 5.571(c). An additional day was added to the response period because the thirteenth day fell on Christmas Day. See *id.* § 1.12(a).

² As of the date of this Answer, the Complainant’s first Petition to Reopen Proceeding remains pending before the Commission.

The Complainant's "evidence" continues to relate entirely to his new dispute over the Commission's finding in the First and Second Complaint proceeding³ that additional information about his virtual meter aggregation accounts is available "by other means" than his bills. *Moyer* at 28. As explained in PPL Electric's Replies to Exceptions, this issue is not properly before the Commission. The Complainant never indicated at the hearing that he would be raising any issue regarding the Company's online resources that provide additional information about his accounts. Furthermore, even if he did, the Complainant waived the issue because he failed to raise it in either his Main Brief or Reply Brief.

Moreover, the Complainant's Second Petition is replete with baseless accusations and incorrect calculations. The Complainant alleges that the meters for both of his accounts are not read of the same day, but points to no actual evidence supporting that claim. In actuality, his meters are read on the same day so that PPL Electric can calculate the correct credit for his excess generation. Further, the Complainant claims that the excess generation information presented by the Company does not match up to what he downloaded from PPL Electric's "Energy Analyzer." However, as is plainly clear from the Complainant's attachments, he fails to omit the final day in the billing period. This results in a double-counting of that day in the previous and current billing periods. When this error is corrected, the Company's evidence ties out to the information the Complainant downloaded from the Energy Analyzer exactly.

³ 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.

Additionally, the Complainant's calculations and arguments wholly fail to account for the "one-month lag" from when the credits for excess generation are calculated to when they are applied to his house account. Thus, the Complainant's allegations have no basis in fact and should be rejected.

Finally, reopening the proceeding to admit this "evidence" would prejudice the Company and deny it due process because PPL Electric has no opportunity now to present evidence in rebuttal. The instant matter is ripe for the Commission's disposition and should not be further delayed by the Complainant's repeated and frivolous attempts to introduce and rely on extra-record evidence that is irrelevant to the issues to be decided.

In support thereof, PPL Electric states as follows:

I. BACKGROUND

1. 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.

2. 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.

3. 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.

4. On December 21, 2017, Administrative Law Judge Joel H. Cheskis ("ALJ") issued his Order granting PPL Electric's Preliminary Objections to strike the Complainant's request for monetary damages as impertinent matter.

5. 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.

6. 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.

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

8. 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.

9. 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.

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

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

12. On September 24, 2018, the Complainant filed his Exceptions to the ID.

13. On October 9, 2018, PPL Electric filed Replies to the Complainant's Exceptions.

14. On October 25, 2018, the Complainant filed his Petition to Reopen Proceeding and served it on the Company via first class mail only.

15. On November 7, 2018, PPL Electric filed an Answer to the Complainant's Petition to Reopen Proceeding.

16. On December 12, 2018, the Complainant filed his Second Petition to Reopen Proceeding.

II. APPLICABLE LEGAL STANDARDS

17. The Commission's regulations specify that "at any time after the record is closed but before a final decision is issued, a party may file a petition to reopen the proceeding for the purpose of taking additional evidence." 52 Pa. Code § 5.571(a).

18. Such a petition "must set forth clearly the facts claimed to constitute grounds requiring reopening of the proceeding, including material changes of fact or of law alleged to have occurred since the conclusion of the hearing." *Id.* § 5.571(b).

19. Further, "[t]he record may be reopened upon notification to the parties in a proceeding for the reception of further evidence if there is reason to believe that conditions of fact or of law have so changed as to require, or that the public interest requires, the reopening of the proceeding." *Id.* § 5.571(d).

20. The Commission's regulations also state that "[a]fter the record is closed, additional matter may not be relied upon or accepted into the record unless allowed for good cause shown by the presiding officer or the Commission upon motion." *Id.* § 5.431(b).

III. ANSWER TO SECOND PETITION TO REOPEN PROCEEDING

21. The Complainant's Second Petition should be denied because he has completely failed to demonstrate that there have been material changes of fact or law since the record closed, that the public interest requires the reopening of the record, and that good cause exists for the admittance of his evidence.

22. As a preliminary matter, there have been no changes of fact or law since the record closed. The Company's "Energy Analyzer" with which the Complainant takes issue has continued to offer the same information about the Complainant's accounts since the evidentiary hearing on March 6, 2018. Specifically, the Complainant has, since that time, been able to download information concerning the hourly, daily, and monthly excess generation from his solar account and the hourly, daily, and monthly usage for his residential account. Moreover, the rates the Company uses to calculate his credits for excess generation have been shown on his residential account bills. Furthermore, the Commission never altered its finding from the First and Second Complaint proceeding that additional information about his bills are available by other means. *See Moyer* at 28. That the Complainant now has an issue with the Company's "Energy Analyzer" or the Commission's prior finding does not constitute a change of fact or law. Indeed, the Complainant could have asked PPL Electric's witnesses at the evidentiary hearing about the resources available to him, but he chose not to do so. Thus, there have been no changes of fact or law.

23. Even assuming *arguendo* that there were such changes, those changes are not "material" to this proceeding, the public interest does not require reopening the proceeding, and there is no good cause to admit the Complainant's "evidence."

24. As explained in PPL Electric's Replies to Exceptions, the Complainant's new issue about the Company's online resources is not properly before the Commission. (PPL Electric Replies to Exceptions at 6) The Complainant never indicated at the hearing that he would be raising any issue regarding the Company's online resources that provide additional information about his accounts. (PPL Electric Replies to Exceptions at 6-7) The Complainant also never raised this issue in either his Main Brief or Reply Brief. (PPL Electric Replies to Exceptions at 6) Therefore, this issue has been waived and need not be addressed by the Commission.⁴

25. Further, the Complainant's "evidence" entirely consists of baseless accusations and incorrect calculations.

26. First, the Complainant alleges that the meters for both of his accounts are not read of the same date because the meter read dates are not shown on the solar account's bill, on the Energy Analyzer, or on PPL Electric Exhibit 10. (Second Petition, p. 5) In the absence of the date appearing there, the Complainant believes that "PPL's sworn testimony . . . is contradicted by the evidence." (Second Petition, p. 5)

27. The Complainant fails to recognize that the Company's testimony is the evidence. Moreover, the Company has to read the meters for both of his accounts on the same day because if it did not, it would not be able to calculate the correct excess generation credit for the applicable billing period. Thus, the Complainant's argument about the meter read dates is without merit.

⁴ 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).

28. Second, the Complainant presents a chart comparing the information he downloaded from PPL Electric's Energy Analyzer and the information presented in PPL Electric Exhibit 10. (Second Petition, p. 6) According to the Complainant, the kilowatt hours of excess generation from the two resources allegedly differ, showing that "arbitrary reading dates produce faulty calculations and, as a consequence, inaccurate credit." (Second Petition, p. 6; *see also* Second Petition, Attachments A through C)

29. The Complainant's argument is based on a clear error—he fails to omit the final day of the billing period. This results in a double-counting of that day in the previous and current billing periods. For example, in the Complainant's Attachment A to his Second Petition, the first billing period he lists is May 10 to June 9, 2017, when he alleges that he produced excess generation of 540 kWh. The next billing period is June 9 to July 11, 2017, during which the Complainant he alleges he produced 697 kWh of excess generation. In both the 540 kWh and the 697 kWh figures, the Complainant includes June 9, 2017's excess generation of 26 kWh. However, the Complainant only should have included June 9, 2017's excess generation in the amount for the June 9 to July 11, 2017 billing period because that billing period began at midnight on June 9. Removing the Complainant's double-count of June 9, 2017's excess generation results in the correct excess generation that was presented in PPL Electric Exhibit 10 (*i.e.*, 540 kWh minus 26 kWh equals 514 kWh). Indeed, after correcting the Complainant's error for all of the other billing periods listed, the Company's evidence ties out to the information downloaded from the Energy Analyzer exactly, as shown in the table below:

Billing Period	Excess Generation Presented Complainant's Column A in Second Petition (Energy Analyzer)	Excess Generation from Final Day of Billing Period	Excess Generation Presented in Complainant's Column B in Second Petition (PPL Electric Exhibit 10)
May 10-June 9, 2017	540 kWh	26 kWh	514 kWh
June 9-July 11, 2017	697 kWh	13 kWh	684 kWh
July 11-Aug. 9, 2017	583 kWh	27 kWh	556 kWh
Aug. 9-Sept. 11, 2017	622 kWh	27 kWh	595 kWh
Sept. 11-Oct. 10, 2017	563 kWh	14 kWh	549 kWh
Oct. 10-Nov. 8, 2017	357 kWh	3 kWh	354 kWh
Nov. 8-Dec. 8, 2017	395 kWh	7 kWh	388 kWh

As a result, the Complainant's allegation that the Energy Analyzer's data conflicts with PPL Electric Exhibit 10 is completely meritless.

30. Third, the Complainant alleges that his recent bills for June through October 2018 were not calculated and credited properly, based on his review of the Energy Analyzer. (Second Petition, pp. 8-11) According to the Complainant, he produced excess generation of 2,592 kWh and used 1,676 kWh during that time period, so he should have received a credit equivalent to 916 kWh (or \$93.69) on his bill due in November for the October billing period. (Second Petition, p. 10) Because he received a credit of \$24.71 on his bill due November 28, 2018 instead, the Complainant believes he was credited incorrectly. (Second Petition, p. 10)

31. The Complainant's arguments are without merit for several reasons. At the outset, the Complainant's June through October 2018 bills are not in dispute in this case. The evidentiary hearing was held on March 6, 2018, and the record closed on May 22, 2018, when

the Reply Briefs were filed. (ID at 3) Therefore, these bills are not properly a part of the instant Complaint.

32. Moreover, the Complainant repeats the same double-counting error that was described previously. By double-counting the final day of the billing period, the Complainant overstates the excess generation produced by his solar facilities. Therefore, from June through October 2018, the Complainant actually produced 2,520 kWh in excess generation, which is 844 kWh more than he used during that period.

33. Most importantly, the Complainant wholly fails to account for the “one-month lag” between when his credits are generated and when they are applied to his house account.⁵ For example, the \$24.71 credit he references was based on the usage of the house account for the October billing period of 225 kWh.⁶ Therefore, that credit properly appeared on the following month’s bill, *i.e.*, the bill due November 28, 2018. Subsequently, the Complainant received a larger credit on the next month’s bill due December 28, 2018, because it was based on the increased usage of the house account for the November billing period of 794 kWh.⁷ Thus, when accounting for the one-month lag, it is clear that the Complainant has received his full credits for excess generation.

⁵ The Commission previously considered and rejected the Complainant’s issue with the one-month lag. *See Moyer* at 18, 30. As the Commission observed, “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.” *Id.* at 30. “On review of this evidence,” the Commission found “PPL’s assertion to be persuasive.” *Id.* at 30 n.11.

⁶ The Complainant only receives a credit for his excess generation up to the amount of electricity used in a given billing period. *See* 52 Pa. Code § 75.13(d). In this billing period, the Complainant produced more excess generation at his solar account than he used at the house account. The remaining excess generation was banked and has been and will be applied to future billing periods. *See id.* If there is a balance remaining at the end of the PJM Interconnection LLC Planning Year, the Complainant’s balance will be cashed out at the Company’s price to compare. *See id.* § 75.13(e).

⁷ The Complainant received a total credit of \$114.66 on his bill due December 28, 2018, which included a credit for the 794 kWh and an additional credit based on an update to the distribution rates used to calculate the credits for June to October 2018.

34. Finally, the Complainant's request to reopen the proceeding, if granted, would prejudice the Company and deny it due process. At this late stage of the proceeding, PPL Electric has no opportunity to present evidence in rebuttal. Moreover, there is no need for the parties to present any evidence on the Complainant's new issue because, as explained previously, it is irrelevant Commission's disposition of the Fourth Complaint. Further, after correcting the Complainant's errors, the Second Petition actually demonstrates that accurate information about the Complainant's excess generation is available through the Energy Analyzer. Accordingly, the instant matter is ripe for the Commission's disposition and should not be further delayed by the Complainant's continued and frivolous attempts to introduce extra-record evidence and reopen the proceeding.

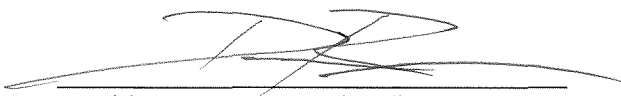
35. For these reasons, the Commission should deny the Complainant's Petition to Reopen Proceeding.

IV. CONCLUSION

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that the Pennsylvania Public Utility Commission deny Jay Larry Moyer's Second Petition to Reopen Proceeding.

Respectfully submitted,

Michael J. Shafer (ID #205681)
PPL Services Corporation
Two North Ninth Street
Allentown, PA 18101
Phone: 610-774-2599
Fax: 610-774-4102
E-mail: mjshafer@pplweb.com



David B. MacGregor (ID # 28804)
Post & Schell, P.C.
Four Penn Center
1600 John F. Kennedy Boulevard
Philadelphia, PA 19103-2808
Phone: 215-587-1198
Fax: 215-320-4879
E-mail: dmacgregor@postschell.com

Of Counsel:

Post & Schell, P.C.

Date: December 26, 2018

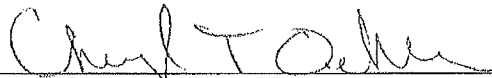
Devin T. Ryan (ID # 316602)
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-16
Phone: 717-731-1970
Fax: 717-731-1985
E-mail: dryan@postschell.com

Attorneys for PPL Electric Utilities Corporation

VERIFICATION

I, CHERYL T. OEHLER, being a Billing Specialist at PPL Electric Utilities Corporation, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect PPL Electric Utilities Corporation to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 12/21/18


Cheryl T. Oehler