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July 8, 2019

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Michael W. Chattin v. Pennsylvania Electric Company
Docket No. C-2017-2630649

Dear Secretary Chiavetta,

Please accept this letter as Pennsylvania Electric Company's ("Penelec's" or the "Company") response in opposition to Michael Chattin's ("Complainant"), letter dated June 5, 2019 ("June 5 Motion"), as directed by Administrative Law Judge Emily DeVoe's June 17, 2019 Interim Order. At the outset, it is unclear what relief is being sought by the Complainant through the June 5 Motion. While it is true that the Complainant raises issues he appears to be seeking a response to, each of those issues relate to the jurisdiction of the presiding officer (or any judge employed by the Pennsylvania Public Utility Commission ("Commission"))¹ and the Commission itself to adjudicate or enforce the law related to those issues raised in the Formal Complaint filed by the Complainant which initiated the above-referenced docketed proceeding ("Formal Complaint").

It is presumed that by making the choice to file the Formal Complaint, the Complainant understood the jurisdiction of the Commission to extend to the matters raised within his Formal Complaint. To the extent the Complainant no longer believes the Commission has jurisdiction to adjudicate these matters, the Complainant is entitled to unilaterally request that the Formal Complaint be withdrawn. To date, no such request has been made. Notably, the Company (which is the only other party to this proceeding) has not questioned the jurisdiction of the Commission over the matters raised within this proceeding. As such, it is unclear what issue of jurisdiction exists that could create any actual controversy or uncertainty related to the Commission's jurisdiction over this matter which must now be resolved. Therefore, the June 5 Motion should be denied.

A review of the Pennsylvania Public Utility Code is informative in resolving Mr. Chattin's issues. Specifically, Section 701 states the following:

The commission, or any person, corporation, or municipal corporation having an interest in the subject matter, or any public utility concerned, may complain in writing, setting forth any act or thing done or omitted to be done by any public utility in violation, or claimed violation, of any law which the commission has jurisdiction to administer, or of any regulation or order of the commission. Any public utility, or other person, or corporation likewise may complain of any regulation or order of the commission, which the complainant is or has been required by the commission to observe or carry into effect. The Commonwealth through the Attorney General may be a complainant before the commission in any matter solely as an advocate for the Commonwealth as a consumer of public utility services. The commission may prescribe the form of complaints filed under this section.

66 Pa.C.S. § 701. Relatedly, Section 5.21(a) of the Commission's regulations states that:

- (a) A person complaining of an act done or omitted to be done by a person subject to the jurisdiction of the Commission, in violation, or claimed violation of a statute which the Commission has jurisdiction to administer, or of a regulation or order of the Commission, may file a formal complaint with the Commission.

52 Pa. Code § 5.21. Finally, through section 501 of the Pennsylvania Public Utility Code, the Pennsylvania General Assembly has granted the following powers to the Commission:

(a) *Enforcement of provisions of part.* — In addition to any powers expressly enumerated in this part, the commission shall have full power and authority, and it shall be its duty to enforce, execute and carry out, by its regulations, orders, or otherwise, all and singular, the provisions of this part, and the full intent thereof; and shall have the power to rescind or modify any such regulations or orders. The express enumeration of the powers of the commission in this part shall not exclude any power which the commission would otherwise have under any of the provisions of this part.

(b) *Administrative authority and regulations.* — The commission shall have general administrative power and authority to supervise and regulate all public utilities doing business within this Commonwealth. The commission may make such regulations, not inconsistent with law, as may be necessary or proper in the exercise of its powers or for the performance of its duties.

(c) *Compliance.* — Every public utility, its officers, agents, and employees, and every other person or corporation subject to the provisions of this part, affected by or subject to any regulations or orders of the commission or of any court, made, issued, or entered under the provisions of this part, shall observe, obey, and comply with such regulations or orders, and the terms and conditions thereof.

66 Pa.C.S. § 501. As outlined at the beginning of this letter, is presumed that by filing the Formal Complaint, the Complainant understood – more likely, *actively believed* - the jurisdiction of the Commission to extend to the matters raised by his dispute. If the Complainant now disagrees that the Commission has the appropriate jurisdiction to hear his Formal Complaint, he may at any time request that the Formal Complaint be withdrawn – a right he has not exercised.

Furthermore, while the Pennsylvania General Assembly is the only body that can make new laws or change existing laws, Act 129 specifically requires that the Commission oversee the jurisdiction of electric distribution companies' smart meter technology procurement and installation plans. Specifically, Act 129 states the following:

(f) *Smart Meter technology and time of use rates.*

(1) Within nine months after the effective date of this paragraph, electric distribution companies shall file a Smart Meter technology procurement and installation plan with the commission for approval. The plan shall describe the Smart Meter technologies the electric distribution company proposes to install in accordance with paragraph (2).

66 Pa.C.S. § 2807.1(f). Indeed, by virtue of its being enacted under the Pennsylvania Public Utility Code, it is necessarily under the Commission's jurisdiction given that the entirety of the Public Utility Code is to be implemented and enforced by the Commission per the statutory mandate in Section 501.² It is indisputable, following a read of this language, that the Commission has jurisdiction over the Complainant's Formal Complaint. As such, the June 5 Motion should be denied. In the alternative, the Complainant should be directed to request a withdrawal of his Formal Complaint so as to limit the significant expenditure of resources by the Commission and the parties that continues to unnecessarily grow for each day that he disputes the Commission's jurisdiction over the very complaint he himself voluntarily brought before it.

Please contact me if you have any questions regarding this matter.

Very truly yours,



Tori L. Giesler

Enclosures

c: As Per Certificate of Service

² In relevant part:

(a) Enforcement of provisions of part. — In addition to any powers expressly enumerated in this part, the commission shall have full power and authority, *and it shall be its duty to enforce, execute and carry out, by its regulations, orders, or otherwise, all and singular, the provisions of this part, and the full intent thereof*; and shall have the power to rescind or modify any such regulations or orders. The express enumeration of the powers of the commission in this part shall not exclude any power which the commission would otherwise have under any of the provisions of this part.

66 Pa.C.S. § 501(a) (emphasis added).

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MICHAEL W. CHATTIN

v.

PENNSYLVANIA ELECTRIC COMPANY

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:
: **Docket No. C-2017-2630649**
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the aforementioned document upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by First Class Mail, postage prepaid, as follows:

Michael W. Chattin
58 Rocky Top Lane
Rome, PA 18837

Administrative Law Judge Emily DeVoe
Pennsylvania Public Utility Commission
Office of Administrative Law Judge
301 5th Avenue, Suite 220
Pittsburgh, PA 15222

Dated: July 8, 2019



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