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File #: 167945

August 28, 2019

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: Jeffrey Smiles v. PPL Electric Utilities Corporation
Docket No. C-2018-3003895

Dear Secretary Chiavetta:

Enclosed for filing is the Answer of PPL Electric Utilities Corporation to Jeffrey Smiles' Notice and Petition for Judicial Determination of Jurisdiction in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,

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

Devin Ryan

DTR/dmc
Enclosures

cc: Honorable Elizabeth Barnes
Office of Special Assistants (*via e-mail only*)
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 FIRST CLASS DELIVERY

Jeffrey Smiles
3049 Octagon Avenue
Sinking Spring, PA 19608

Date: August 28, 2019



Devin T. Ryan

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jeffrey Smiles,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2018-3003895
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

**ANSWER OF PPL ELECTRIC UTILITIES CORPORATION TO
THE “NOTICE AND PETITION FOR JUDICIAL DETERMINATION OF
JURISDICTION” FILED BY JEFFREY SMILES**

TO PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pursuant to 52 Pa. Code § 5.61 PPL Electric Utilities Corporation (“PPL Electric” or the “Company”), hereby respectfully submits its Answer to the “Notice and Petition for Judicial Determination of Jurisdiction” (“Petition”) filed by Jeffrey Smiles (“Complainant”) on August 15, 2019. In the Petition, the Complainant questions whether the Pennsylvania Public Utility Commission (“Commission”) had jurisdiction over his Formal Complaint challenging the installation of a new automated metering infrastructure (“AMI”) meter at his service address. As explained herein, the Commission clearly had jurisdiction over the Complaint under the Public Utility Code. Therefore, the Complainant’s Petition should be denied.

In support thereof, PPL Electric states as follows:

I. INTRODUCTION AND BACKGROUND

1. PPL Electric is a public utility that provides electric distribution and provider of last resort services in Pennsylvania subject to the regulatory jurisdiction of the Commission.

PPL Electric furnishes electric distribution, transmission, and provider of last resort electric supply services to approximately 1.4 million customers throughout its certificated service territory, which includes all or portions of 29 counties and encompasses approximately 10,000 square miles in eastern and central Pennsylvania.

2. On August 8, 2018, PPL Electric was served with the Formal Complaint filed by the Complainant.

3. On August 28, 2018, PPL Electric filed its Answer to the Complaint.

4. On September 10, 2018, a notice was issued scheduling a telephonic evidentiary hearing for March 8, 2019.

5. Also on September 10, 2018, the ALJ issued the Prehearing Order, which, among other things, directed the Complainant to serve his exhibits and written expert testimony and exhibits on or before January 10, 2019.

6. On February 19, 2019, a notice was issued rescheduling the telephonic evidentiary hearing for May 24, 2019. Like with the September 10, 2018 hearing notice, it stated:

If you have any hearing exhibits to which you will refer during the hearing, three (3) copies must be sent to the Administrative Law Judge and one (1) copy each must be sent to every other party. All copies must be received at least five (5) business days before the hearing.

7. On April 24, 2019, PPL Electric served its written direct testimony and exhibits.

8. On May 14, 2019, PPL Electric filed a Motion to Compel responses to Questions 4 and 7 of its first set of discovery requests propounded on the Complainant.

9. The Complainant never filed an Answer to PPL Electric's Motion to Compel.

10. On May 23, 2019, PPL Electric filed a Motion in Limine requesting that the Complainant be prohibited from presenting any expert witnesses, medical records, health and safety or privacy-related exhibits.

11. On May 24, 2019, the evidentiary hearing was held as scheduled.

12. On July 12, 2019, the ALJ's well-reasoned Initial Decision was issued by the Commission, which denied the Complainant's Complaint. Further, the Company's Motion to Compel and Motion in Limine were denied as moot.

13. Per the Secretarial Letter serving the Initial Decision, Exceptions were due by August 1, 2019.

14. On July 24, 2019, the Commission issued an Errata to the Initial Decision.

15. The Complainant never filed Exceptions to the Initial Decision.

16. On August 15, 2019, the Complainant filed: (1) a Petition for Rehearing and/or Reconsideration¹; and (2) a "Notice and Petition for Judicial Determination of Jurisdiction." These documents were served on PPL Electric via first class mail.²

17. On August 23, 2019, the Commission issued a Final Order dismissing the Complaint. The Initial Decision became final without further Commission action pursuant to 66 Pa. C.S. § 332(h) because the Complainant failed to file Exceptions to the Initial Decision.

18. As explained below, the Commission clearly had jurisdiction over the Formal Complaint and, therefore, the "Notice and Petition for Judicial Determination of Jurisdiction" should be denied.

¹ PPL Electric notes that the Petition was filed prematurely because it was filed before the issuance of the Final Order on August 23, 2019. As set forth in Section 5.572(c) of the Commission's regulations, petitions for rehearing and reconsideration are to be filed within 15 days after the Commission order involved becomes final. *See* 52 Pa. Code § 5.572(c).

² Because the documents were sent via first class mail, three days were added to the responsive pleading deadlines. *See* 52 Pa. Code § 1.56(b).

II. ANSWER TO COMPLAINANT'S PETITION

19. The Commission had jurisdiction over the Complainant's Formal Complaint challenging the installation of PPL Electric's new AMI meter at his service address.

20. The Complainant filed his Formal Complaint pursuant to Section 701 of the Public Utility Code. *See* 66 Pa. C.S. § 701.

21. Section 701 of the Public Utility Code provides that "any person . . . having an interest in the subject matter . . . 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." 66 Pa. C.S. § 701. Therefore, a complainant must generally demonstrate that the public utility violated the Public Utility Code or a Commission regulation or order.

22. Section 1501 of the Public Utility Code states, in pertinent part, that:

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay. Such service and facilities shall be in conformity with the regulations and orders of the commission. Subject to the provisions of this part and the regulations or orders of the commission, every public utility may have reasonable rules and regulations governing the conditions under which it shall be required to render service. . . .

Id. § 1501.

23. Based on this statutory authority, it is well-established that the Commission has exclusive jurisdiction to adjudicate "issues involving the reasonableness, adequacy, and

sufficiency” of a public utility’s facilities and services. *See Elkin v. Bell of Pa.*, 420 A.2d 371, 374 (Pa. 1980) (citations omitted).

24. In this proceeding, the Complainant alleged that the installation of the new AMI meter at his service address violated Section 1501 of the Public Utility Code.

25. After reviewing the evidence and arguments of the parties, the ALJ properly found that: (1) there is no “opt-out” of the AMI meter installations under Act 129 of 2008; and (2) the Complainant failed to meet his burden to prove that PPL Electric’s installation of the meter violated Section 1501 or any other provision of the Public Utility Code, a Commission order or regulation, or a Commission-approved tariff. *See Initial Decision*, pp. 12-20.

26. Following the Complainant’s failure to file Exceptions, the Initial Decision became final on August 23, 2019, without further action by the Commission.

27. Thus, the disposition of the Complainant’s issues was clearly within the Commission’s jurisdiction.

III. CONCLUSION

WHEREFORE, for all the foregoing reasons, PPL Electric Utilities Corporation respectfully requests that the Pennsylvania Public Utility Commission deny the “Notice and Petition for Judicial Determination of Jurisdiction” filed by Jeffrey Smiles in its entirety.

Respectfully submitted,



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Date: August 28, 2019

Attorneys for PPL Electric Utilities Corporation