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File #: 140074

November 4, 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: 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 Complainant's Third 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: Office of Special Assistants
Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jay Larry Moyer,

Complainant,

v.

PPL Electric Utilities Corporation,

Respondent.

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Docket No. C-2017-2629683

**ANSWER OF PPL ELECTRIC UTILITIES CORPORATION TO
THE COMPLAINANT’S THIRD 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 Third Petition to Reopen Proceeding (“Third Second Petition”) filed by Jay Larry Moyer (“Complainant”) and served via first class mail on October 21, 2019, in the above-captioned proceeding.¹

The Pennsylvania Public Utility Commission (“Commission”) should deny the Complainant’s Third Petition.² This is the fourth time that PPL Electric has been forced to respond to the Complainant’s unsupported attempts to introduce and rely on extra-record evidence since the hearing record closed. Indeed, as with his First Petition to Reopen the Proceeding, his original Second Petition to Reopen the Proceeding, and his Supplement to the

¹ Because the Complainant served the Third Petition via first class mail only, three days were added to the 20-day response period. *See* 52 Pa. Code §§ 1.56(b), 5.65(a).

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

Second 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)).

After PPL Electric installed a new automated metering infrastructure (“AMI”) meter for the Complainant’s solar account, Complainant’s solar bills began displaying the kWh of excess generation produced by his solar facilities. Although the Complainant continuously advocated for this information to be presented on his bills, the Complainant disputed the inclusion of such information on his bills in his Supplement to the Second Petition to Reopen the Proceeding. PPL Electric ultimately determined to remove that information so that the Complainant’s bills were more consistent with: (1) the bills he received prior to the installation of his AMI meter; and (2) the bills received by other virtual meter aggregation customers. The rest of the information and format of the bills, which the Commission and the presiding administrative law judges have upheld as being sufficient and lawful, did not change. Thus, there have been no material changes in fact or law since the record closed.

In addition, 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.

17. On December 26, 2018, PPL Electric timely filed an Answer to the Complainant's Second Petition to Reopen Proceeding.

18. On May 30, 2019, the Complainant filed his Supplement to the Second Petition to Reopen Proceeding.

19. On June 24, 2019, PPL Electric timely filed its Answer to the Complainant's Supplement to the Second Petition to Reopen Proceeding.

20. On October 21, 2019, the Complainant filed his Third Petition to Reopen Proceeding.

II. APPLICABLE LEGAL STANDARDS

21. 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).

22. 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).

23. 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).

24. 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 THE THIRD PETITION TO REOPEN PROCEEDING

25. The Complainant's Third 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.

26. In his Supplement to the Second Petition to Reopen Proceeding, the Complainant argued that the record should be reopened because the kWh of excess generation produced by his solar facilities began appearing on his solar account bills. In its Answer, PPL Electric explained that this information began to appear on the bills because the Company installed a new AMI meter for the solar account. The Company argued that this was not a material change of fact because, among other things, the rest of the information and format of the bills, which the Commission and the presiding administrative law judges have upheld as being sufficient and lawful,³ did not change.

27. After the Company filed its Answer to the Supplement to the Second Petition to Reopen Proceeding, PPL Electric decided to remove that information so that the Complainant's bills were more consistent with: (1) the bills he received prior to the installation of his AMI meter; and (2) the bills received by other virtual meter aggregation customers. Therefore, the Complainant's solar account bills are now essentially the same as they were prior to the AMI meter's installation.

28. Moreover, the Company wanted to avoid any confusion concerning what the kWh of excess generation shown on the bills represents. As explained in PPL Electric's Answer to the

³ See *Moyer v. PPL Elec. Utils. Corp.*, Docket Nos. C-2011-2273645, C-2014-2444864, at 22-29 (Order entered May 19, 2016); *Moyer v. PPL Elec. Utils. Corp.*, Docket No. C-2015-2511904, at 19-21 (Apr. 12, 2018) (Initial Decision); *Moyer v. PPL Elec. Utils. Corp.*, Docket No. C-2017-2629683, at 22-24 (Aug. 24, 2018) (Initial Decision).

Supplement to the Second Petition to Reopen Proceeding, the Complainant's solar account bills did not show the actual "delivered" kWh that is used to calculate the excess kWh to be applied to his residential account. This occurred because PPL Electric had to zero out the Complainant's usage in order to produce the correct billing amount. For the Complainant, the "delivered" kWh is usually only 1 kWh in a billing period. For example, in his bill due May 29, 2019, that was attached to his supplement to second Petition, the "received" kWh was 484 kWh. However, the "delivered" kWh for that billing period was 1 kWh, not 0 kWh as shown on his bill. Thus, the "Net" kWh of excess generation applied to his residential account was 483 kWh (484 kWh - 1 kWh).

29. In addition, reopening the proceeding to admit the Complainant's "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. Indeed, this is the fourth time that PPL Electric has been forced to respond to the Complainant's attempts to introduce and rely on extra-record evidence since the hearing record closed.

30. Finally, PPL Electric observes that the Complainant has included an "Appendix" with his Third Petition to Reopen Proceeding, which consists of many mischaracterizations of the administrative law judge's and Commission's rulings in the Complainant's prior cases as well as evidence presented in those proceedings. Again, this Fourth Complaint proceeding is not another opportunity for the Complainant to re-litigate the issues and arguments that were previously decided in the First, Second, and Third Complaint proceedings. Accordingly, the

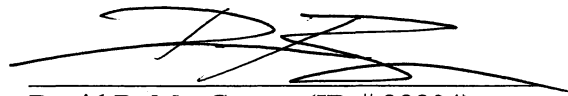
Commission should completely disregard the Complainant's "Appendix" attached to his Third Petition to Reopen Proceeding.

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

IV. CONCLUSION

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

Respectfully submitted,



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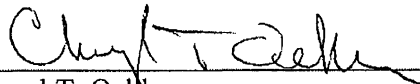
Date: November 4, 2019

Attorneys for PPL Electric Utilities Corporation

VERIFICATION

I, CHERYL T. OEHLER, being a Project Manager 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: 11/4/19


Cheryl T. Oehler

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: November 4, 2019

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

Devin T. Ryan