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DEC 2 - 2019

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

December 2, 2019

VIA CERTIFIED MAIL

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
PO Box 3265
Harrisburg, PA 17105-3265

Michael Krimmel, Esq.
Prothonotary
Commonwealth Court of Pennsylvania
601 Commonwealth Avenue
PO Box 69185
Harrisburg, PA 17106-9185

**Re: Richard N. Myers v PPL Electric Utilities Corporation
Docket No. C-2017-2620710 and Docket No. 1337 C.D. 2019**

Dear Secretary Chiavetta and Mr. Krimmel:

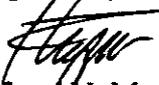
I write in reply to PA PUC's Motion to Strike my Petition for Supersedeas with the Commonwealth Court in the above referenced matter which I received in the mail November 30 (Enclosure 1).

Just prior to receiving the Motion to Strike PUC's Deputy Chief Counsel Robert Young advised me in a phone call that he believed PUC will rule on my Petition for Supersedeas at PUC's December 5 or December 19 Public Meeting. In view of PUC's Motion to Strike and intention to rule I withdraw my Commonwealth Court Petition for Supersedeas to allow the PA PUC the opportunity to rule on my Supersedeas.

Please note that on November 4th I wrote the PUC requesting status of my September 3rd Petition for Supersedeas (Enclosure (2)). I received no reply back. Because two months had elapsed since I submitted my Petition for Supersedeas I thought filing my Petition for Supersedeas with the Commonwealth Court was a prudent measure to take. However, I did not withdraw my Supersedeas with the PUC and in my mind believed PUC was still free to rule on it. As a Pro Se Petitioner I did not knowingly or intentionally violate Pa. R.A.P. 1781(b) or PUC policy.

Please also note that should the Commission deny my Petition for Supersedeas I intend to promptly file a new Petition for Supersedeas with the Commonwealth Court.

Respectfully,



Richard N. Myers

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the Provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that requires filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Richard N. Myers

Signature:



Name: Richard N. Myers

Attorney: Pro Se

Date: December 2, 2019

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**IN THE
COMMONWEALTH COURT OF PENNSYLVANIA**

Richard N. Myers	:	
Petitioner	:	
	:	
v.	:	Docket No. 1337 C.D. 2019
	:	
Pennsylvania Public Utility Commission,	:	
Respondent	:	

**APPLICATION FOR RELIEF OF THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION
IN THE FORM OF A MOTION TO STRIKE**

TO THE HONORABLE COURT, PRESIDENT JUDGE, AND JUDGES OF THE
COMMONWEALTH COURT OF PENNSYLVANIA:

Pursuant to Rule 123 of the Pennsylvania Rules of Appellate Procedure
(Pa.R.A.P.), the Pennsylvania Public Utility Commission (Commission) hereby
files this Application for Relief in the form of a Motion to Strike Petitioner's
Application for Supersedeas and in support thereof avers the following:

ENCLOSURE (1)

BACKGROUND

1. On August 29, 2019, the Commission entered its Order disposing of Petitioner Richard N. Myers' (Petitioner) Complaint against PPL Electric Utilities Corporation (PPL) at Docket No. C-2017-2620710.
2. On September 3, 2019, Petitioner filed a Petition for Supersedeas with the Commission requesting a stay of the Commission's Order.
3. On September 25, 2019, Petitioner filed a Petition for Review with this Court requesting review of the Commission's Order.
4. On September 26, 2019, PPL filed an Answer in response to the Petition for Supersedeas before the Commission.
5. On October 15, 2019, Petitioner filed a Reply to PPL's Answer to the Petition for Supersedeas before the Commission.
6. As of the date of this Motion to Strike, the Commission has not yet entered an Order disposing of the Petition for Supersedeas.
7. On November 20, 2019, Petitioner filed a separate Application for Supersedeas (Application) with this Court requesting that the Court stay the Commission's Order, although the Commission has not yet acted on the Petition for Supersedeas before it.¹ Application, November 14 Letter.

¹ Petitioner failed to support the facts set forth in his Application with sworn or verified statements. Pa.R.A.P. 1781(b) (facts subject to dispute in an application must be supported by sworn or verified statements or copies thereof).

ARGUMENT

8. Petitioner requests that this Court act “in lieu” of the Commission to grant supersedeas claiming that if the Commission “intended to grant [his] supersedeas [it] would have done so by now.” Application, November 14 Letter. Petitioner incorrectly presumes that the Commission has denied his Petition for Supersedeas merely because it has not acted on the Petition in the limited time since Petitioner’s filing of a Reply to PPL’s Answer to his Petition for Supersedeas on October 15, 2019.² Contrary to Petitioner’s claims, the Petition is currently before the Commission for review and disposition.

9. The Commission has the authority to grant or deny supersedeas and, for this reason, an application for supersedeas shall be made in the first instance to the Commission. Pa.R.A.P. 1701(b)(1), 1781(a); *see also* 52 Pa. Code § 5.572. Petitioner filed a Petition for Supersedeas with the Commission and, pursuant to Pa.R.A.P. 1781(a), he must allow the Commission to act on that Petition before seeking relief from this Court. Petitioner’s Application for Supersedeas is unripe and should be stricken by this Court. Pa.R.A.P. 1781(a).

10. Additionally, Petitioner’s failure to comply with Pa.R.A.P. 1781(a) by filing a separate Application for Supersedeas with this Court prior to the

² There is no statutory or other timeframe in which the Commission must dispose of a petition for supersedeas. Notably, Petitioner did not file an emergency petition for supersedeas seeking immediate Commission action under 52 Pa. Code § 3.2.

Commission's disposition of his initial Petition for Supersedeas is a basis for this Court's denial of Petitioner's Application. *Wilson v. Workers' Compensation Appeal Board*, 2008 WL 9406439 at *4, n. 7 (Pa Cmwlth. 2008) (request for supersedeas denied for failure to comply with Pa.R.A.P. 1781(a)); *Philadelphia County Medical Society v. Kaiser*, 699 A.2d 800 at *805, n. 14 (Pa. Cmwlth.) (application for stay denied for want of compliance with Pa.R.A.P. 1781(a)).

11. Further, Petitioner failed to comply with Pa.R.A.P. 1781(b).³

Petitioner did not demonstrate that requesting supersedeas from the Commission is impracticable. Rather, Petitioner demonstrated that such a request is practicable by filing a Petition for Supersedeas with the Commission. Petitioner also did not demonstrate that the Commission denied his Petition for Supersedeas or that the action of the Commission did not afford the relief requested. Petitioner cannot demonstrate the same because he improperly seeks relief from this Court before the Commission has disposed of his Petition for Supersedeas. In fact, Petitioner acknowledges that his Petition is currently before the Commission for review and disposition. Application at 1; Application, November 14 Letter.

³ Pursuant to Pa.R.A.P. 1781(b), an application for supersedeas "shall show that application to the government unit for the relief sought is not practicable, or that application has been made to the government unit and denied . . . or that the action of the government unit did not afford the relief which the applicant had requested." Pa.R.A.P. 1781(b).

CONCLUSION

12. Because the Commission has not disposed of Petitioner's initial Petition for Supersedeas and Petitioner did not demonstrate that requesting supersedeas from the Commission is impracticable, that the Commission denied his Petition for Supersedeas, or that the action of the Commission did not afford the relief requested, the Application for Supersedeas filed with this Court is unripe and inconsistent with Pa.R.A.P. 1781.

WHEREFORE, for the foregoing reasons, the Respondent Pennsylvania Public Utility Commission respectfully requests that this Honorable Court strike Petitioner's Application for Supersedeas.

Respectfully submitted,

/s/ Hayley E. Dunn
Hayley E. Dunn
Assistant Counsel
Attorney ID No. 324763

Colin W. Scott
Assistant Counsel
Attorney ID No. 311440

Robert F. Young
Deputy Chief Counsel

P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 787-5000

Renardo L. Hicks
Chief Counsel

Dated: November 26, 2019

Counsel for Pennsylvania Public
Utility Commission

**IN THE
COMMONWEALTH COURT OF PENNSYLVANIA**

Richard N. Myers,	:	
Petitioner	:	
	:	
v.	:	Docket No. 1337 C.D. 2019
	:	
Pennsylvania Public Utility	:	
Commission,	:	
Respondent	:	

ORDER

AND NOW this _____ day of _____, 2019, upon consideration of Petitioner's Application for Supersedeas and Respondent's Application for Relief in the form of a Motion to Strike in response thereto, it is hereby ordered that said Motion is GRANTED and Petitioner's Application for Supersedeas is STRICKEN.

J.

CERTIFICATE OF COMPLIANCE WITH PUBLIC ACCESS POLICY

I hereby certify that this filing complies with the provisions of the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania that require filing confidential information and documents differently than non-confidential information and documents.

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November 4, 2019

Rosemary Chiavetta, Secretary
Pennsylvania Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
PO Box 3265
Harrisburg, PA 17105-3265

Re: Richard N. Myers v. PPL Electric Utilities Corporation
Docket No. C-2017-2620710

Dear Secretary Chiavetta:

Kindly advise please if PA PUC intends to grant or has granted my smart meter Petition for Supersedeas dated September 3, 2019.

If PUC has not or does not intend to do so I need to know so I can ask the Commonwealth Court to intercede and act on my behalf.

If necessary to appeal my Petition for Supersedeas to Commonwealth Court request PA PUC not authorize PPL Electric to install a smart meter on my home until the Commonwealth Court has made their ruling. Thank you

Respectfully,



Richard N. Myers

Copy to: Commonwealth Court

ENCLOSURE (2)

RECEIVED

NOV 4 - 2019

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was 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 MAIL

Prothonotary
Commonwealth Court of Pennsylvania
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 2100
PO Box 69185
Harrisburg, PA 17107-9185

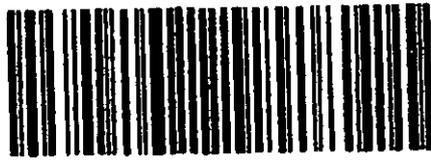
Devin Ryan
C/O Post & Schell
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601

Date: November 4, 2019



Richard N. Myers

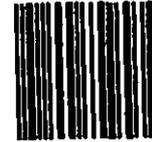
Richard Myers
1123 Elm Ave.
Lancaster, PA 17603



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17105

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ITANUSBURG, PA

1710533265 8099

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Richard Myers
 1123 Elm Ave.
 Lancaster, PA 17603



7019 1640 0002 3191 9801



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