
Devin Ryan
Principal

dryan@postschell.com
717-612-6052 Direct
717-731-1981 Direct Fax
File #: 140074

April 15, 2021

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 Fourth 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: Certificate of Service
Office of Special Assistants (*via Email ra-OSA@pa.gov*)

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 & OVERNIGHT DELIVERY

Jay Larry Moyer
370 West Johnson Street
Apartment C-1
Philadelphia, PA 19144
E-mail: gtown73@hotmail.com

Date: April 15, 2021



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 COMPLAINANT’S FOURTH 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 Fourth Petition to Reopen Proceeding (“Fourth Petition”) filed by Jay Larry Moyer (“Complainant”) and served via first class mail on April 2, 2021 in the above-captioned proceeding.¹

The Pennsylvania Public Utility Commission (“Commission”) should deny the Complainant’s Fourth Petition.² This is actually the fifth 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. As with his First Petition to Reopen the Proceeding, his original Second Petition to Reopen the Proceeding, his Supplement to the Second Petition to

¹ Because the Complainant served the Fourth 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). Therefore, this Answer is timely filed.

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

Reopen the Proceeding, and his Third 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)).

In his Fourth Petition, Complainant primarily relies on the Supreme Court of Pennsylvania’s affirmance of the Commonwealth Court of Pennsylvania’s decision in *Hommrich v. Pa. PUC*³ to justify reopening the proceeding. However, the Commonwealth Court’s decision in *Hommrich* has no bearing to the Complainant’s situation, nor does it present a material change in fact or law. *Hommrich*, among other things, struck down the Commission’s independent load requirement in its regulations promulgated pursuant to the Alternative Energy Portfolio Standards Act.⁴ As explained to the Complainant repeatedly, the Complainant was granted an exemption from the independent load requirement in the Commission’s Opinion and Order entered May 19, 2016, in his First and Second Complaint proceeding, which was affirmed by the Commonwealth Court.⁵ Therefore, *Hommrich* does not present a material change of fact or law that is relevant to the Complainant’s issues presented in the above-captioned proceeding.

Moreover, the Complainant now contends that PPL Electric should establish a new rate schedule “RS-V” for customers that install “virtual metering solely for residential purposes.” (Moyer Fourth Petition, p. 2.) Nothing in the Fourth Petition establishes that the Complainant’s alleged evidence concerning this “RS-V” rate schedule was unavailable at the time of his

³ 231 A.3d 1027 (Pa. Cmwlth. 2020) (“*Hommrich*”), *affirmed*, ___ A.3d ___, 2021 Pa. LEXIS 618 (Pa. 2021).

⁴ Act of November 30, 2004, P.L. 1672, as amended, 73 P.S. §§1648.1-1648.8.

⁵ *Moyer v. PPL Elec. Utils. Corp.*, Docket Nos. C-2011-2273645, C-2014-2444864 (Order entered May 19, 2016) (“*May 2016 Order*”), *affirmed*, 2017 Pa. Commw. Unpub. LEXIS 167 (Pa. Cmwlth. 2017) (“*Moyer I*”), *allocatur denied*, 170 A.3d 1046, 2017 Pa. LEXIS 2145 (Pa. Sept. 12, 2017).

evidentiary hearing. Moreover, the Complainant's allegations are bare allegations without any supporting evidence. Therefore, the Complainant's new request for relief should be rejected.

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.

For these reasons, the Complainant's fifth attempt to reopen the proceeding should be denied.

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.
21. On November 4, 2019, PPL Electric timely filed its Answer to the Complainant's Third Petition to Reopen Proceeding.
22. On November 2, 2020, the Complainant filed a "Letter Seeking Action by the Commission."
23. On November 30, 2020, the Complainant filed a letter about the correspondence and year-end spreadsheets provided by PPL Electric in response to his November 2, 2020 letter.

24. On January 21, 2021, PPL Electric filed a letter in response to the Complainant's November 30, 2020 letter. Also, PPL Electric submitted a copy of the Commonwealth Court of Pennsylvania's Memorandum Opinion in *Moyer v. PPL Electric Utilities Corp.*, 2020 Pa. Commw. Unpub. LEXIS 514 (Pa. Cmwlth. 2020).

25. On January 22, 2021, the Complainant filed a letter in response to PPL Electric's January 21, 2021 letter.

26. On April 2, 2021, the Complainant filed his Fourth Petition to Reopen Proceeding and served it via first class mail only.

II. APPLICABLE LEGAL STANDARDS

27. 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).

28. 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).

29. 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).

30. 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 FOURTH PETITION TO REOPEN PROCEEDING

31. The Complainant's Fourth 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.

32. In his Fourth Petition, the Complainant incorrectly asserts that the Supreme Court of Pennsylvania's affirmance of the Commonwealth Court's decision in *Hommrich* is a material change of fact or law. (Moyer Fourth Petition, pp. 2-4.)

33. The *Hommrich* decision is wholly inapplicable to the Complainant's situation because, as explained several times to the Complainant, the Commission granted him an exemption to the independent load requirement. *See May 2016 Order*, p. 43.

34. Therefore, the appellate courts striking down the independent load requirement has no effect on the Complainant. His eligibility to participate in virtual meter aggregation is the same after the *Hommrich* decision as it was before it.

35. As a result, the Supreme Court's affirmance of *Hommrich* is not a material change of fact or law that would warrant reopening the record in this proceeding.

36. Additionally, through his Fourth Petition, the Complainant argues for the first time that PPL Electric should establish an entirely new rate schedule, "RS-V". (Moyer Fourth Petition, pp. 1, 3-4.) According to the Complainant, this new rate schedule "could utilize a single bill that could report monthly readings; aggregate the separate meters; show kilowatt hours of new and carry-over credit; fulfill the 'combination of readings and billing[']; and incorporate an 'incremental expense' for the second meter involved in 'processing' [his] account 'on a virtual meter aggregation basis.'" (Moyer Fourth Petition, pp. 3-4.)

37. These bare allegations are entirely unsupported by record evidence or anything set forth in the Fourth Petition. They also are being raised for the first time in this Fourth Petition, despite the Complainant's ample opportunity to introduce these allegations into the record or raise them in his several prior Petitions to Reopen Proceeding.

38. 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.

39. Indeed, this is the fifth 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. PPL Electric is unaware of any complainant who previously filed this many petitions to reopen in a single Commission proceeding.

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

IV. CONCLUSION

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that the Pennsylvania Public Utility Commission deny Jay Larry Moyer's Fourth 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: April 15, 2021

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