
Devin Ryan
Principal

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

October 4, 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 Fifth 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/dmc
Enclosures

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

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: October 4, 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 FIFTH 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 Fifth Petition to Reopen Proceeding (“Fifth Petition”) filed by Jay Larry Moyer (“Complainant”) and served via first class mail on September 21, 2021 in the above-captioned proceeding.¹

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

¹ Because the Complainant served the Fifth 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, Supplement to the Second Petition to Reopen Proceeding, Third Petition to Reopen Proceeding, and Fourth Petition to Reopen Proceeding remain pending before the Commission.

Proceeding, his Third Petition to Reopen Proceeding, and his Fourth Petition to Reopening 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 Fifth Petition, the Complainant alleges that there are “errors and discrepancies” between PPL Electric’s 12-month spreadsheet for his accounts for 2020-2021, which the Company provided to the Complainant upon his request, and his monthly bills. In reality, no such “errors and discrepancies” exist. The Complainant continues to fail to account for the one-month lag in applying credits for excess generation to his satellite account. Importantly, in the Complainant’s First and Second Complaint proceeding, the Commission and the Commonwealth Court rejected the Complainant’s same arguments regarding the one-month lag. When properly reflecting the one-month lag, the Complainant’s bills and the 12-month spreadsheet show a complete and full application of credits to his satellite account.

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 and inconsequential to the issues to be decided.

For these reasons, the Complainant’s sixth 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.

27. On April 15, 2021, PPL Electric timely filed an Answer to the Complainant's Fourth Petition to Reopen Proceeding.

28. On April 16, 2021, the Complainant filed an improper Reply to PPL Electric's Answer to the Complainant's Fourth Petition to Reopen Proceeding.

29. On September 21, 2021, the Complainant filed a Fifth Petition to Reopen Proceeding and served it via first class mail only.

II. APPLICABLE LEGAL STANDARDS

30. 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).

31. 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).

32. 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).

33. 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 FIFTH PETITION TO REOPEN PROCEEDING

34. The Complainant's Fifth 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.

35. In his Fifth Petition, the Complainant alleges that there are “errors and discrepancies” between PPL Electric’s 12-month spreadsheet for his accounts for 2020-2021, which the Company provided to the Complainant upon his request, and his monthly bills. (Fifth Petition, pp. 3-5.)

36. Specifically, the Complainant contends that the credit of \$57.62 appearing on his June 10, 2020 bill “is contradicted by the amount shown on the ‘12-month spreadsheet.’” (Fifth Petition, p. 4.) According to the Complainant, “[t]he source of that credit cannot be identified” and that “[t]he credit of \$57.62 cannot be from the current month (June, 2020).” (Fifth Petition, p.4.) Further, “if, instead, the credit is from the previous year’s generation, the credit should have been issued as a year-end ‘cash-out’ for 2019-2020.” (Fifth Petition, p. 4.)

37. In actuality, no “errors and discrepancies” exist in the Company’s 12-month spreadsheet for 2020-2021 and the Complainant’s monthly bills.

38. The Complainant misrepresents the facts and fails to recognize the one-month lag in PPL Electric’s application of excess generation credits to his satellite account.

39. As shown by the attachments to the Fifth Petition, PPL Electric applied a \$57.62 credit for excess generation to the Complainant’s satellite account bill dated June 10, 2020, and due July 2, 2020. (*See* Fifth Petition, Attachment 2, pp. 1-2.)

40. That amount matches the credit generated by the Complainant in May 2020, as shown on the Company’s 12-month spreadsheet for 2019-2020. (*See* Fifth Petition, Attachment 4, p. 1) (amount of \$57.62 shown in the “Monthly Value (\$)” cell for the “Value of Excess Gen” column).

41. Due to the one-month lag in the Company's manual billing process for virtual meter aggregation, the credit generated in May 2020 was applied to the satellite account's bill for June 2020.

42. Importantly, the Complainant's challenge to the Company's one-month lag in applying credits for excess generation to his satellite account's bills was already litigated.

43. The Complainant raised the same argument when he challenged the one-month lag in his prior First and Second Complaint proceeding. In that case:

The Complainant submitted that the flaws in PPL's manual billing process are further exacerbated by the fact that since 2012, there has been a constant one-month lag between when the credit for the electric generation produced by his solar facility is earned and when it is applied. The Complainant contended that this violates our Regulations and also leads to incorrect billing. In this regard, the Complainant argued that this one-month lag resulted in PPL not fully cashing out his banked net excess generation at the end of each PJM planning year. As an example, the Complainant noted that the credit he received in May 2013, prior to the annual cash-out, was not applied until June 2013, which is after the annual cash-out at the end of the PJM planning year.

See Moyer v. PPL Elec. Utils. Corp., Docket Nos. , p. 11 (Order entered May 19, 2016) (“*May 2016 Order*”) (emphasis added), *affirmed*, *Moyer v. Pa. PUC*, 2017 Pa. Commw. Unpub. LEXIS 167 (Pa. Cmwlth. 2017) (“*Moyer*”), *allocatur denied*, 170 A.3d 1046 (Pa. 2017).

44. The Commission found “no merit in the issues the Complainant” raised regarding the Company's calculation and application of credits to his bills. *May 2016 Order*, pp. 29-31. Indeed, the Commission noted how “the one-month delay in the application of credits was solely the result of the limitations of its manual billing process and ultimately had no negative effects on the Complainant.” *May 2016 Order*, p. 30.

45. Then, on appeal, the Commonwealth Court affirmed PPL Electric's use of its manual billing process for virtual meter aggregation and held that substantial evidence supported

the Commission's determination "regarding the accuracy and adequacy of PPL's records for [the Complainant's] accounts." *Moyer*, 2017 Pa. Commw. Unpub. LEXIS 167, at *14-17.

46. Thus, no material changes of fact or law exist, and the Complainant's Fifth Petition is nothing but an improper attempt to re-litigate his arguments about the one-month lag that were decided against him.

47. 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. *See, e.g.*, 66 Pa.C.S. § 332(c) ("Every party is entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts.").

48. 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.

49. Indeed, this is the sixth time that PPL Electric has been forced to respond to the Complainant's baseless attempts to introduce and rely on extra-record evidence since the hearing record closed.

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

IV. CONCLUSION

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that the Pennsylvania Public Utility Commission deny Jay Larry Moyer's Fifth 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: October 4, 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

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: October 4, 2021


Cheryl T Oehler (Oct 4, 2021 10:47 EDT)

Cheryl T. Oehler