

1.31(B), which permits a motion for relief from an order, which can be made “within a reasonable time,” the motion is still untimely. EDP provides no explanation as to why it did not immediately move for the relief it seeks, and therefore there is no basis in the motion to conclude that it was filed within a reasonable time.

In addition to its procedural infirmities, EDP’s motion fails on the merits. EDP asks the Hearing Officer to strike certain statements made as argument by counsel from the transcript. This request makes no sense and the Hearing Officer should reject it for several reasons.

First, the statements made by PPL’s counsel at the July 15, 2021 hearing that are now at issue already were addressed by EDP’s counsel in his rebuttal at the hearing. *See* Transcript of July 15, 2021 Hearing (“Transcript”), 109:20-110:10. PPL’s counsel responded to EDP’s counsel’s concerns, and PPL’s counsel acknowledged that EDP was not the party involved in the appeal to the Supreme Court, and he further noted that there was ambiguity in his original statement. *See id.* at 120:6-19. In addition, all moving papers filed in this proceeding state the relevant, accurate facts with respect to EDP. Therefore, even if this motion was appropriately before the Hearing Officer, there is nothing for the Hearing Officer to rule upon at this stage in the proceeding.

Second, there is no mechanism to strike argument from a hearing transcript. EDP appears to be making a motion akin to striking testimony at a trial, but that is not applicable here. A motion to strike at trial does not alter the transcript, it results in an instruction from the Judge to a jury that it should not consider the statement made or testimony or opinion proffered. The transcript still contains the statements made – that is what the court reporter is required to do. The alleged error was identified and corrected on the record by both EDP’s

lawyer and PPL's lawyer, which is already reflected in the transcript. The Hearing Officer plainly did not rely on the statements highlighted by EDP, demonstrating that there is not even any potential prejudice from the statements.

Third, EDP's counsel expressly requested that the statements be stricken at the hearing, which is what prompted the clarification from PPL's counsel. The record, on the whole, thus reflects that EDP raised a concern about the accuracy of the statements, which both parties addressed on the record. There is nothing to correct. There was nothing for the Hearing Officer to rule on with respect to EDP's motion. The absence of any decision on the motion in the order is therefore neither prejudicial nor an oversight. Rather, it reflects that the request was moot. And most critically, the Hearing Officer's decision is not based on the argument about which EDP complains.

CONCLUSION

For the reasons stated, PPL respectfully requests that the Division deny EDP's motion to reconsider.

Date: September 17, 2021

Respectfully submitted,

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Holdings, LLC
By its attorneys,

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CERTIFICATE OF SERVICE

I hereby certify that on September 17, 2021, I sent a copy of the foregoing to the service list by electronic mail.

/s/ Adam M. Ramos _____