IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Dontissa Wilmer, Petitioner	:	
v.	:	No. 1380 C.D. 2025
Pennsylvania Public Utility Commission (Office of Open Records), Respondent	:	Submitted: October 13, 2026

BEFORE: HONORABLE PATRICIA A. McCULLOUGH, Judge
HONORABLE MICHAEL H. WOJCIK, Judge
HONORABLE MATTHEW S. WOLF, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE McCULLOUGH FILED: November 13, 2026

Dontissa Wilmer (Requester), proceeding *pro se*, petitions for review of the September 23, 2025 Final Determination of the Office of Open Records (OOR), which granted, in part, and denied, in part, her appeal from the Pennsylvania Public Utility Commission's (PUC) final response to a Right-to-Know Law (RTKL)[1] request submitted to the PUC on June 10, 2025.

In this Court, Requester argues that the PUC provided records, namely, a telephonic hearing transcript and certain hearing exhibits, that contain errors. Requester accordingly contends that the PUC did not comply with the OOR's directives in its Final Determination.

Upon review, we affirm.

[1] Act of February 14, 2008, P.L. 6, §§ 67.101 – 67.3104.

I. BACKGROUND

The material facts are not disputed. Requester submitted the Request to the PUC by email on June 10, 2025. All of the records sought in the Request relate to PUC proceedings initiated by Requester's filing of a complaint against PECO Energy Company.[2] More specifically, the Request seeks copies of "the complete hearing records and transcript" of that proceeding, including:

> (1) the full transcript of the telephonic hearing conducted on November 21, 2024;
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> (2) all exhibits submitted during the hearing;
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> (3) any correspondence between Requester and the Administrative Law Judge's (ALJ) assistant;
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> (4) testimony or statements provided by PECO witnesses;
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> (5) the ALJ's initial decision and the PUC's final determination and order dated June 5, 2025; and
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> (6) any other documents or correspondence related to the adjudication of Requester's complaint.

(C.R., OOR Ex. 7, at 009-12.) After obtaining an extension of time to respond, the PUC sent its final response on July 17, 2025. Therein, the PUC granted the entirety of the Request except for the November 21, 2024 hearing transcript, which the PUC

[2] The PUC adjudicated Requester's complaint on June 5, 2025. Requester initially petitioned for review in this Court at No. 822 C.D. 2025. On praecipe of the PUC, we struck Requester's petition for review pursuant to Pennsylvania Rule of Appellate Procedure (Pa.R.A.P.) 1701(b)(3), as the PUC had, in the interim, granted reconsideration. The PUC issued a subsequent opinion and order on September 25, 2025. Requester again petitioned for review in this Court at No. 1375 C.D. 2025, which has been submitted for consideration seriately with this case. In her complaint against PECO, Requester alleged, among other things, that the electrical equipment servicing her home is malfunctioning and has been compromised by PECO or Requester's neighbors, who Requester asserts are stealing her electricity and hacking her electronic devices. The PUC's decision and order are part of the Certified Record. (Certified Record (C.R.), OOR Ex. 1, at 013-28.)

withheld on the ground that it was protected from disclosure by the federal Copyright Act.[3] *Id.* at 017-19. The PUC provided links to (1) the public, online PUC docket for Requester's complaint with instructions on how to use the website; and (2) a shared folder in which Requester could access correspondence records. *Id.* Although the PUC declined to produce the hearing transcript in hard copy, it nevertheless advised Requester that she could contact the PUC's Secretary's Bureau and arrange to review the transcript at the PUC's offices during normal business hours. *Id.*

Requester appealed to the OOR, arguing that she did not receive a final response from the PUC and therefore was appealing from a deemed denial of the Request.[4] (C.R., OOR Ex. 1, at 003-06.) The PUC argued before the OOR that it sent its final response to Requester at the same email address she used to send the Request and that she provided on the standard RTKL request form.[5] (C.R., OOR Ex. 7, at 005.) The PUC noted that it timely granted almost the entirety of the Request and provided links to the location of all responsive records with instructions on how to obtain them. It further explained that, although it did not provide hard or electronic copies of the transcript pursuant to Sections 305(a)(3) of the RTKL and

[3] 17 U.S.C. §§ 101 – 1401.

[4] *See* Section 901 of the RTKL, 65 P.S. § 67.901 (an agency's failure to timely respond to a RTKL request results in the deemed denial of the request).

[5] On the RTKL request form, Requester indicated her preference that the PUC respond to the Request by email. (C.R., OOR Ex. 7, at 009.)

Sections 160 and 501 of the federal Copyright Act,[6] it nevertheless made the transcript available for inspection. *Id.* at 006.

In support of its position statement, the PUC submitted the affidavit of Mattthew L. Homsher, who is the PUC's Secretary and Open Records Officer (ORO Homsher). ORO Homsher attested that he received and reviewed the Request and initiated the search for responsive records, which included contacting the ALJ's office. Although he obtained the requested correspondence from the ALJ's office, that office also advised that the November 21, 2024 hearing transcript is copyrighted by the court reporter. *Id.* at 020-21. ORO Homsher explained that the PUC accordingly turned over or made available all of the requested records except for the transcript, which it made available for inspection. *Id.* at 021.

In her position statement to the OOR, Requester argued that she did not receive the PUC's final response by email and that, although the transcript might be subject to copyright, it still must be available for inspection pursuant to this Court's decision in *Ali v. Philadelphia City Planning Commission*, 125 A.3d 92, 102 (Pa. Cmwlth. 2015).[7] (C.R., OOR Ex. 8, at 003.) She further contended that the transcript and all of the requested records were necessary to her preparation of a petition for review to this Court and that reviewing the transcript at the PUC's offices

[6] *See* Section 305(a)(3) of the RTKL, 65 P.S. § 67.305(a)(3) (exempting from public records those that are shielded from disclosure under "any other Federal or State law"); 17 U.S.C. §§ 160, 501.

[7] In *Ali*, we determined that the federal Copyright Act did not, as a matter of law, shield records from public disclosure pursuant to Section 305(a)(3) of the RTKL. 125 A.3d at 103-05. Instead, inspection of copyrighted material is permissible, and duplication may be permissible in certain circumstances. *Id.* at 105.

in Harrisburg would be overly burdensome. *Id.* Requester finally requested that the OOR conduct a hearing on her appeal. *Id.* at 005.

The OOR declined to conduct a hearing and issued its Final Determination on September 23, 2025. The OOR granted the appeal, in part, concluding first that the PUC established that it sent all responsive records in its possession, save the transcript, to Requester at the email address she provided with the Request. (C.R., OOR Ex. 12, at 007.) As to the transcript, however, the OOR, citing *Ali* and Section 707(c) of the RTKL,[8] concluded that the PUC failed to establish that the federal Copyright Act precluded disclosure or duplication of the transcript. *Id.* at 009. Because the PUC proceeding in which the transcript was filed was still pending when the Request was submitted, the OOR directed the PUC to make copies of the November 21, 2024 hearing transcript available to Requester "in accordance with [PUC] procedure or an applicable contract" with the court reporter. *Id.* at 011 (quoting Section 701(c)(1) of the RTKL).

Requester now petitions for review in this Court.

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[8] 65 P.S. § 67.707(c). Section 707(c) provides as follows:

> **(c) Transcripts.--**
>
> (1) Prior to an adjudication becoming final, binding and nonappealable, a transcript of an administrative proceeding shall be provided to a requester by the agency stenographer or a court reporter, in accordance with agency procedure or an applicable contract.
>
> (2) Following an adjudication becoming final, binding and nonappealable, a transcript of an administrative proceeding shall be provided to a requester in accordance with the duplication rates established in [S]ection 1307(b)[, 65 P.S. § 67.1307(b)].

II. ISSUES[9]

Requester does not contend that the PUC failed to produce responsive records or that she has not received a copy of the November 21, 2024 hearing transcript. Instead, she makes several arguments that together present a single overarching issue: whether the PUC violated the RTKL and the Public Utility Code[10] and failed to comply with the OOR's Final Determination by producing a *defective* transcript of the November 21, 2024 hearing. (Requester's Br., at 8-11.) More specifically, Requester contends that the transcript misquotes in approximately four places certain testimony concerning the numbers that she observed flashing on her PECO smart meter. *Id.* at 3, 5-6, 9-10.[11] Requester relatedly argues, for the first time in her reply brief, that the PUC produced exhibits from the November 21, 2024 hearing that do not contain sequential number stamps. (Requester's Reply Br., at 2-3.) For relief, Requester asks that we (1) find that the PUC has acted in bad faith,

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[9] We have described our review in RTKL appeals from decisions of Commonwealth agencies as follows:

> Pursuant to Chapter 13 of the RTKL, with respect to appeals relating to decisions of Commonwealth agencies, this Court is the ultimate factfinder in RTKL disputes. Accordingly, we owe no deference to the OOR's legal analysis or factfinding, as our standard of review of a final determination of the OOR is *de novo*. In addition, we are entitled to the broadest scope of review, covering all justiciable issues raised and preserved below. Unlike in other administrative agency contexts, we may substitute our own findings of fact for that of the [OOR]. We have the discretion to conduct a hearing, or to remand to the OOR, to supplement the record.

Pennsylvania Office of Governor v. Brelje, 312 A.3d 928, 932 (Pa. Cmwlth. 2024) (internal citations, quotations, and editing omitted).

[10] 66 Pa.C.S. § 101 – 3316.

[11] Requester has not made a copy of the transcript part of the record in this appeal.

(2) direct the PUC to produce a corrected transcript, and/or (3) exercise our authority pursuant to Pa.R.A.P. 1926(b)[12] and correct the transcript. *Id.*[13]

The PUC argues in response that this appeal is moot because Requester was provided with a copy of the November 21, 2024 hearing transcript. The PUC further contends that Requester has waived the ability to challenge the transcript's accuracy because she did not utilize the protocols for doing so either before the PUC or in her related appeal in this Court. (PUC's Br., at 3.)

III. DISCUSSION

Section 707(c)(1) of the RTKL directs that transcripts of testimony from a proceeding that remains active are to be produced by an agency stenographer

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[12] Appellate Rule 1926 provides, in pertinent part:

> (a) If any difference arises as to whether the record truly discloses what occurred in the trial court, the difference shall be submitted to and settled by that court after notice to the parties and opportunity for objection, and the record made to conform to the truth.
>
> (b) If anything material to a party is omitted from the record by error, breakdown in processes of the court, or accident or is misstated therein, the omission or misstatement may be corrected by the following means:
>
> (1) by the trial court or the appellate court upon application or on its own initiative at any time[.] . . .

Pa.R.A.P. 1926(a)-(b)(1).

[13] In her brief, Requester does not otherwise challenge the OOR's Final Determination or the PUC's production of records. In her Petition for Review, Petitioner made no mention of the transcript or any missing sequential number stamps. Instead, she challenged the OOR's Final Determination exclusively on the ground that she had not, in fact, received certain exhibits from the PUC. (Petition for Review, 10/21/25, ¶¶ 12-15.) Nevertheless, because we can address the issues raised in Requester's brief from the certified record, we will not find waiver. *See* Pa.R.A.P. 1513(d)(5); *Kurpiewski v. Workers' Compensation Appeal Board (Caretti, Inc.)*, 202 A.3d 870, 885 n.12 (Pa. Cmwlth. 2019).

or court reporter "in accordance with agency procedure" or an applicable contract. 65 P.S. § 67.707(c)(1).[14] Pertinent here, the PUC has promulgated procedures for obtaining copies of and reviewing and correcting transcribed testimony. Section 5.252 of the PUC's regulations provides:

> (a) In proceedings when testimony was electronically recorded and subsequently transcribed, a party may review the recording to ensure it was transcribed accurately.
>
> (b) Review will not be permitted except upon written request within 20 days after the transcript has been filed with the Commission.
>
> (c) Upon request for review, the Office of Administrative Law Judge will schedule a time and place for the review which shall be open to all parties. The court reporting firm shall submit the tapes and equipment necessary for the review and shall arrange for the court reporter responsible for transcribing the tapes to be present at the review.
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> (d) Actual costs associated with making the tapes available for review, including the time of the court reporter, shall be paid by the party requesting review.
>
> (e) Nothing in this section requires the electronic recording of testimony.

52 Pa. Code § 5.252(a)-(e). Section 5.253 of the regulations, which governs corrections to transcripts, provides that transcripts may be corrected to accurately reflect the evidence presented at a hearing and that proposed corrections may be submitted by written stipulation of the parties or requested in writing by one or more parties to the proceeding. 52 Pa. Code § 5.253(a)-(b). Section 5.253 imposes a 10-day limit on filing proposed corrections and thereafter permits parties to object to or

[14] Section 5.254(a) of the PUC's regulations provides that copies of transcripts may be obtained from the PUC's official court reporter upon payment of the applicable fees. 52 Pa. Code § 5.254(a).

comment on the proposed corrections before the presiding officer from the hearing rules on them. 52 Pa. Code § 5.253(c)-(f).

Pa.R.A.P. 1922(c) also provides procedures for correcting errors in transcripts. It provides, in pertinent part:

> **(c) Corrections to transcript.** If a transcript contains an error or is an incomplete representation of the proceedings, the omission or misstatement may be corrected by the following means:
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> (1) *By objection.* A party may file a written objection to the filed transcript. Any party may answer the objection. The trial court shall resolve the objections and then direct that the transcript as corrected be made a part of the record and transmitted to the appellate court.
>
> (2) *By stipulation of the parties filed in the trial court.* If the trial court clerk has already certified the record, the parties shall file in the appellate court a copy of any stipulation filed pursuant to this rule, and the trial court shall direct that the transcript as corrected be made a part of the record and transmitted to the appellate court.
>
> (3) By the trial court or, if the record has already been transmitted to the appellate court, by the appellate court or trial court on remand, with notice to all parties and an opportunity to respond.

Pa.R.A.P. 1922(c) (emphasis in original); *see also* Pa.R.A.P. 1926(a) (providing a process for correcting errors in an appellate record and requiring that, where differences arise as to whether the record is accurate, the trial court must adjudicate the differences and, where appropriate, make corrections).

Requester concedes that she has received a copy of the transcript from the November 21, 2024 telephonic hearing. She nevertheless asserts that the transcript contains certain inaccuracies that impede her ability to prosecute her appeal at No. 1375 C.D. 2025. There is no evidence in the record before us that

Requester has availed herself of the procedures for correcting errors in transcripts in either the PUC's regulations or the Rules of Appellate Procedure. Section 707(c) of the RTKL directs that transcripts be *produced* in accordance with an agency's procedures, which here would include, at least, the PUC's procedures for correcting errors. The PUC has complied with Section 707(c) and the OOR's Final Determination, and any alleged errors in the transcript must be adjudicated before the PUC or in Requester's related appeal in this Court.

Moreover, and more generally, a direct appeal from an OOR final determination is not the proper mechanism for correcting errors or inaccuracies in public records produced by an agency. The purpose of the RTKL is, where appropriate, to compel the disclosure of public records and not to require corrections to inaccuracies in those records once disclosed; instead, mandamus typically is the appropriate mechanism to compel the correction of errors by a government agency. *Comrie v. Pennsylvania Department of Corrections* (Pa. Cmwlth., No. 697 C.D. 2016, filed April 19, 2017), 2017 WL 1398876, at *2 (citing *Levy v. Senate of Pennsylvania*, 65 A.3d 361, 381 (Pa. 2013), and *Allen v. Department of Corrections*, 103 A.3d 365, 370 (Pa. Cmwlth. 2014)).[15] More relevant here, where a requester asserts that a Commonwealth agency has not complied with an OOR final determination, a petition to enforce pursuant to Pa.R.A.P. 3761(b) is the appropriate mechanism for obtaining compliance, not a direct appeal. *Anand v. Pennsylvania Insurance Department*, 329 A.3d 1, 12 (Pa. Cmwlth. 2024) (citing, in part, Pa.R.A.P. 3761(b)).[16]

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[15] We may cite to unreported decisions of this Court for their persuasive value. *See* Section 414(a) of the Commonwealth Court Internal Operating Procedures, 210 Pa. Code § 69.414(a).

[16] Rule 3761(b)(1) provides:

(Footnote continued on next page…)

In sum, Requester has not established that the PUC failed to produce a copy of the official transcript of the November 21, 2024 hearing in response to the OOR's Final Determination. Because the OOR otherwise concluded, and we agree, that the PUC adequately responded to the Request, Requester has not established in this Court any grounds for further relief. As we have noted, any alleged inaccuracies or errors in any of the records produced by the PUC must be addressed through appropriate procedural channels and not in a RTKL appeal to this Court.

Of final note, Requester contends that the PUC acted in bad faith by initially declining to produce a copy of the November 21, 2024 transcript and then, in response to the OOR's Final Determination, producing one with material defects. We disagree that these facts, even if established, could constitute bad faith. The PUC initially declined to copy the transcript on the ground that it was protected by copyright. Although the OOR ultimately concluded that copying the transcript was not prohibited in these circumstances, the PUC's original response was not unreasonable or unaccompanied by legal authority. Further, Requester has presented no other evidence suggesting that the PUC failed to conduct a good-faith search for responsive records, failed to send its responses in a timely fashion, or otherwise acted in bad faith. *Accord Office of the District Attorney of Philadelphia v. Bagwell*, 155

> **(b) Enforcement of final determinations of the Office of Open Records.**
>
> (1) Petition. When a party to a proceeding before the [OOR] seeks to enforce a final determination regarding a record requested from a Commonwealth Agency, Legislative Agency, or Judicial Agency, it may initiate proceedings in the Commonwealth Court by filing a petition to enforce.

Pa.R.A.P. 3761(b)(1) (emphasis in original). Rule 3761(b) goes on to authorize a hearing on a petition to enforce and, if necessary, discovery. Pa.R.A.P. 3761(b)(8), (9).

A.3d 1119, 1142 (Pa. Cmwlth. 2017) (district attorney's office engaged in bad faith in RTKL proceedings by failing to conduct a good faith search for records, basing its denial on the identity of the RTKL requester and the intended use of the requested records, and denying access in a written response devoid of any supporting legal authority). Requester's bad faith claim therefore is without merit.

IV. CONCLUSION

Because Requester's issues on appeal do not warrant relief, we affirm the OOR's Final Determination.[17]

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PATRICIA A. McCULLOUGH, Judge

[17] Given our disposition, we need not address the PUC's waiver or mootness arguments.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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v.	:	No. 1380 C.D. 2025
Pennsylvania Public Utility Commission (Office of Open Records), Respondent	:	

ORDER

AND NOW, this 13th day of November, 2026, the September 23, 2025 Final Determination of the Office of Open Records is hereby AFFIRMED.

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PATRICIA A. McCULLOUGH, Judge