

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2021-3024750
Office of Consumer Advocate	:	C-2021-3025538
Office of Small Business Advocate	:	C-2021-3025462
Nationwide Energy Partners, LLC	:	C-2021-3026057
Sean Ferris	:	C-2021-3026365
Jan Vroman	:	C-2021-3026521
Diane Buzzard	:	C-2021-3027067
	:	
v.	:	
	:	
Duquesne Light Company	:	

**RECOMMENDED DECISION**

Before  
Joel H. Cheskis  
Deputy Chief Administrative Law Judge

and

John M. Coogan  
Administrative Law Judge

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## I. INTRODUCTION

This decision recommends that the Pennsylvania Public Utility Commission (Commission) approve the Joint Petition for Approval of Settlement filed in the above-captioned proceeding in its entirety without modification because it is in the public interest, consistent with the Public Utility Code, and supported by substantial evidence. In general, in lieu of the originally requested increase of \$115 million per year in additional annual operating revenues, the Settlement provides the company an increase of \$74.2 million per year. If the Settlement is approved, a residential customer using 600 kWh per month will be billed an additional \$4.23 (4.23%), rather than the originally proposed \$7.73 (7.72%). The Settlement resolves all issues except one regarding proposed master metering and submetering, which was litigated.

As such, this decision also recommends that the Commission deny Nationwide Energy Partners, LLC's (NEP) complaint against Duquesne Light Company, which included a proposal that Duquesne Light Company adopt new master metering tariff rules, for failure of NEP to meet its burden of proof that its proposal should be adopted.

The end of the suspension period for Duquesne Light Company's proposed tariff filing is January 15, 2022.

## II. HISTORY OF THE PROCEEDING

On April 16, 2021, Duquesne Light Company (Duquesne Light or Company) filed Supplement No. 25 – PA P.U.C. No. 25 to become effective June 15, 2021, seeking an increase in total annual operating revenues for electric service by approximately \$115 million, which includes rolling the Distribution System Improvement Charge (DSIC) Rider charges into base rates. If the Company's entire request is approved, the proposed metered usage rates would increase from \$100.12 to \$107.85 per month, or by 7.72% for a residential customer using 600 kWh per month.

On April 23, 2021, the Office of Small Business Advocate (OSBA) filed a formal complaint and public statement against the tariff filing, docket number C-2021-3025462, averring, among other things, that upon review of the materials filed by Duquesne Light, those materials may be insufficient to justify the rate increase requested. On April 23, 2021, the Commission's Bureau of Investigation and Enforcement (I&E) intervened into this case. On April 27, 2021, the Office of Consumer Advocate (OCA) filed a formal complaint and public statement against the tariff filing, docket number C-2021-3025538, averring, among other things, that a preliminary examination of Duquesne Light's proposed rate increase request indicates that present and proposed rates, rules and regulations are not just and reasonable or otherwise proper under the Public Utility Code and applicable ratemaking principles. Petitions to intervene were filed by the Pennsylvania Weatherization Providers Task Force, Inc. (PWPTF), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), the Natural Resources Defense Council (NRDC), United States Steel Corporation (U.S. Steel), Peoples Natural Gas Company LLC (Peoples), ChargePoint, Inc. (ChargePoint), and the International Brotherhood of Electrical Workers, AFL-CIO, Local Union 29 (IBEW Local 29).

On May 20, 2021, the Commission suspended the filing by operation of law until January 15, 2022, pursuant to Section 1308(d) of the Public Utility Code, unless permitted by the Commission to become effective at an earlier date. The Commission initiated an investigation to determine the lawfulness, justness, and reasonableness of the proposed rates, rules, and regulations. The Commission determined that consideration should be given to the reasonableness of Duquesne Light's existing rates, rules and regulations. The Commission assigned the case to the Office of Administrative Law Judge for the prompt scheduling of hearings as may be necessary culminating in the issuance of a recommended decision.

On May 25, 2021, Nationwide Energy Partners, LLC (NEP) filed a formal complaint against the tariff filing, docket number C-2021-3026057, averring, among other things, that based on the terms and interpretation of its tariff provisions relating to master metering for commercial buildings, specifically Tariff Rule 18 and Rule 41, Duquesne Light is depriving certain commercial customers the opportunity to reduce their rates for service and, therefore, Duquesne Light's current and proposed rates may be contrary to law.

On May 27, 2021, a prehearing conference was convened amongst the parties, wherein various procedural matters were addressed. A scheduling order was issued on May 28, 2021, which consolidated the OCA and the OSBA complaints with the Commission's investigation at docket number R-2021-3024750, granted the petitions to intervene of CAUSE-PA, U.S. Steel, PWPTF, and NRDC, and provided Duquesne Light until June 4, 2021, to file any answer or response to the complaint filed by NEP and the petition to intervene filed by Peoples. Additionally, a schedule for the submission of pre-served testimony was set and evidentiary hearings were scheduled for August 16, 17, and 18, 2021.

On June 2, 2021, ChargePoint filed a petition to intervene. Parties were provided until June 4, 2021, to file any answer or response to ChargePoint's petition to intervene.

On June 2, 2021, and in response to a request from the presiding officers, NEP filed a motion to consolidate its formal complaint with Duquesne Light's general rate case, arguing that such consolidation is consistent with the Commission's regulations and precedent and will promote judicial economy and administrative efficiency because there are common questions of law and fact.

On June 4, 2021, Duquesne Light filed an answer to NEP's complaint. In its answer, Duquesne Light specifically denied NEP's characterization of the Company's current and proposed master metering tariff rules, namely Rule 18 and Rule 41, and attached copies of those tariffs to its answer.

Also on June 4, 2021, Duquesne Light filed a preliminary objection to NEP's complaint. In its preliminary objection, Duquesne Light argued that NEP's complaint should be dismissed in its entirety because NEP does not have a direct, immediate or substantial interest in the proceeding and therefore lacks standing to bring its complaint.

On June 4, 2021, Duquesne Light filed an answer to Peoples' petition to intervene, stating it did not object to Peoples' intervention in this base rate proceeding. No answers or responses were filed to ChargePoint's petition to intervene.

On June 9, 2021, NEP filed an answer to Duquesne Light's preliminary objection. In its answer, NEP argued that, by attempting to obtain dismissal of NEP's complaint in this proceeding, Duquesne Light is repeating the legal error it committed in its prior base rate increase case when it attempted to exclude the participation of Peoples. Positing that its interests are direct, immediate and substantial, NEP argued that it has a legitimate business interest in providing service in Duquesne Light's service territory and it would be directly and substantially impaired by NEP's proposed changes to Rule 41. NEP concluded that Duquesne Light's preliminary objection should be denied.

On June 8, 2021, customer Sean Ferris filed a formal complaint against the rate increase at docket number C-2021-3026365. On June 14, 2021, customer Jan Vroman filed a formal complaint against the rate increase at docket number C-2021-3026521. Duquesne Light filed an answer to these complaints on June 18, 2021, and June 21, 2021, respectively. Also on June 14, 2021, IBEW Local 29 filed a petition to intervene. By letter dated June 15, 2021, Duquesne Light indicated it did not object to IBEW Local 29's petition to intervene.

On June 21, 2021, an order was issued denying Duquesne Light's preliminary objections and granting consolidation of NEP's complaint at docket number C-2021-3026057 with Duquesne Light's base rate proceeding.

On June 22, 2021, two public input hearings were held. In addition to the Commission's June 7, 2021 press release, notice of the public input hearings was provided to the public by Duquesne Light through advertisement in two newspapers of general circulation within the service area, the Pittsburgh Tribune-Review on June 11, 2021, and the Pittsburgh Post-Gazette on June 13, 2021. Additional notice of the public input hearings was available on Duquesne Light's and the OCA's websites and its social media channels. The first public input hearing was held at 1:00 p.m. and generated transcript pages 38 through 82. During the first public input hearing, the complaints of customers Sean Ferris at docket number C-2021-3026365 and Jan Vroman at docket number C-2021-3026521 were consolidated with Duquesne Light's base rate proceeding. Also at the first public input hearing, Peoples', ChargePoint's, and IBEW

Local 29's petitions to intervene were granted, and Greenlots Exhibit 1<sup>1</sup> was marked and admitted into the record. The second public input hearing was held at 6:00 p.m. and generated transcript pages 83 through 124. No additional exhibits were introduced into the record. A total of six witnesses testified at both hearings. Appendix I to this Recommended Decision contains a list of the individuals who testified at the public input hearings, and a summary of their testimony.

On July 1, 2021, customer Diane Buzzard filed a formal complaint against the rate increase at docket number C-2021-3027067. Duquesne Light filed an answer to Ms. Buzzard's complaint on July 16, 2021.

The parties submitted pre-served written testimony and exhibits pursuant to the litigation schedule established in the May 28, 2021, scheduling order.

By e-mail dated August 12, 2021, Duquesne Light indicated on behalf of the parties that settlement discussions were ongoing, and to allow more time for discussion, Duquesne Light requested that evidentiary hearings scheduled for August 16, 2021, be cancelled, and hearings commence instead on August 17, 2021. Duquesne Light indicated parties either supported or did not oppose its request. Duquesne Light's request was approved via e-mail on August 12, 2021, and the August 16, 2021, hearing date was formally cancelled by hearing cancellation notice.

An evidentiary hearing was held on August 17, 2021. Anthony Kanagy, Esquire, Emily Farah, Esquire, and Michael Zimmerman, Esquire, appeared on behalf of Duquesne Light. Christy Appleby, Esquire, appeared on behalf of the OCA. Sharon Webb, Esquire, appeared on behalf of the OSBA. Scott Granger, Esquire, appeared on behalf of I&E. Ria Pereira, Esquire, appeared on behalf of CAUSE-PA. Alan Seltzer, Esquire, and John Povilaitis, Esquire, appeared on behalf of NEP. Andrew Karas, Esquire, and Sophia Al Rasheed, Esquire, appeared on behalf of NRDC. Joseph Vullo, Esquire, appeared on behalf of PWPTF. Scott Dunbar, Esquire,

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<sup>1</sup> Greenlots is a provider of electric vehicle charging software and services, and is a wholly owned subsidiary of Shell. *See* Appendix I.



appeared on behalf of ChargePoint. Parties waived cross examination of witnesses, and preserved testimony and exhibits were admitted into the record via stipulation. The documents that were marked and admitted into evidence at the evidentiary hearing are itemized by party in a document marked as Appendix II, attached to this Recommended Decision. Additionally, Diane Buzzard's complaint was consolidated with Duquesne Light's base rate proceeding.

During the hearing, the parties indicated all issues were settled, except NEP's complaint regarding master metering. Therefore, on August 17, 2021, a briefing order was issued for the parties to address NEP's complaint.

On September 3, 2021, main briefs were received from Duquesne Light, NEP, CAUSE-PA, the OCA, and the OSBA.

Also on September 3, 2021, Duquesne Light, on behalf of all signatories, filed a Joint Petition for Approval of Settlement (Settlement), including statements in support. Attached to the Settlement were the following appendices: Appendix A – tariff supplement; Appendix B – proof of revenues; Appendix C – effect of the Settlement on customer rates; Appendix D – proposed findings of fact, conclusions of law, and ordering paragraphs; Appendices E through L – the statements in support of Duquesne Light, I&E, the OCA, the OSBA, CAUSE-PA, PWPTF, NRDC, and ChargePoint; and Appendices M, N, and O – letters of non-opposition from Peoples, NEP, and U.S. Steel.

Also on September 3, 2021, the OCA served a cover letter along with a copy of the Settlement and accompanying appendices to the three *pro se* complainants to this proceeding, Diane E. Buzzard, Jan Vroman, and Sean D. Ferris. The OCA's cover letter explained how the *pro se* complainants could either join, object to, or disagree with but not actively oppose, the Settlement by no later than September 13, 2021.

On September 13, 2021, reply briefs were received from Duquesne Light, NEP, CAUSE-PA, the OCA, and the OSBA. No communications were received from the *pro se* complainants.

The record closed on September 13, 2021, the date reply briefs and comments to the Settlement were due to be submitted. The suspension period for this matter ends on January 15, 2022. For the reasons discussed further below, this decision recommends that the Settlement filed on September 3, 2021, be approved in its entirety without modification because it is in the public interest and supported by substantial evidence. Additionally, this decision recommends that the Commission deny NEP’s proposal that Duquesne Light adopt new master metering tariff rules.

### III. FINDINGS OF FACT

#### *Settlement*

Findings of fact 1 through 82 regarding the Settlement were proposed by the settling parties and are substantially adopted herein:

1. Duquesne Light provides electric distribution and transmission services to approximately 596,000 customers in Allegheny and Beaver Counties, Pennsylvania.

2. Duquesne Light is a “public utility” and an “electric distribution company” as defined under the Public Utility Code, *see* 66 Pa.C.S. §§ 102 & 2803, serving customers within its certificated service territory and subject to the regulatory jurisdiction of this Commission.

3. Duquesne Light also provides default service to customers that are not being served by an electric generation supplier (“EGS”).

4. On April 16, 2021, Duquesne Light filed Supplement No. 25 to Tariff Electric – PA PUC No. 25 pursuant to 66 Pa.C.S. § 1308(d). Duquesne Light requested that the Commission approve an overall annual increase in distribution revenue of approximately \$115.0 million. Included in the requested increase is approximately \$29.2 million in revenue currently

recovered under surcharges, resulting in a net increase in distribution revenue of approximately \$85.8 million.

5. Two public input hearings were held on June 22, 2021, at 1:00 p.m. and 6:00 p.m.

6. An evidentiary hearing was held before the ALJs on August 17, 2021. At the hearing, parties waived cross examination of witnesses, and pre-served testimony and exhibits were admitted in the record via stipulation. In addition, Diane Buzzard's complaint was consolidated with Duquesne Light's base rate proceeding.

7. During the evidentiary hearing, the parties advised the ALJs that they anticipated settling all issues, except for the issue regarding NEP's master metering and submetering proposal, as described in NEP Statement Nos. 1 and 2. As such, a discussion was held regarding the opportunity to submit briefs on the remaining disputed issue and when the formal settlement petition and statements in support would be due.

8. The Parties filed a Joint Petition for Settlement on September 3, 2021.

9. The Settlement is supported by Duquesne Light, I&E, the OCA, OSBA, CAUSE-PA, PWPTF, ChargePoint, and the NRDC, also referred to collectively as the "Joint Petitioners."

10. The other parties in the proceeding, including U.S. Steel, Peoples, IBEW Local 29, and NEP have indicated that they do not oppose the settlement.

11. The Settlement resolves all issues related to Duquesne Light's April 16, 2021 distribution base rate increase filing ("2021 Base Rate Case"), except those related to NEP's complaint and proposal regarding master metering and submetering, as described in NEP Statement Nos. 1 and 2.

12. Issues related to NEP's master metering and submetering proposal are reserved for litigation.

13. All active parties in this proceeding either support or do not oppose the settlement.

14. There are three customer complaints in this proceeding: Sean Ferris (Docket No. C-2021-3026365), Jan Vroman (Docket No. C-2021-3026521), and Dianne Buzzard (Docket No. C-2021-3027067). These Customer Complainants have not been active parties. The OCA served a copy of the Settlement on the Customer Complainants.

15. The Settlement reflects a carefully balanced compromise of the interests of the Joint Petitioners, who represent a broad array of residential, commercial, and other important customer interests.

16. The Settlement also, and importantly, contains provisions designed to address the impacts of the coronavirus disease 2019 ("COVID-19") pandemic.

17. The Joint Petitioners agree that the Settlement is in the public interest. (Settlement ¶¶ 72-75.)

18. The Settlement was achieved only after a comprehensive investigation of Duquesne Light's proposals set forth in its 2021 Base Rate Case. In addition to informal discovery, the active parties submitted several rounds of testimony, including the Company's direct testimony, other parties' direct testimony, rebuttal testimony, surrebuttal testimony, and rejoinder testimony. Further, the parties engaged in numerous settlement discussions and formal negotiations, which ultimately led to the Settlement.

19. The settlement determines the revenue increase under settlement, which provides for distribution rates be designed to produce increased distribution operating revenues of \$74.2 million based upon the pro forma level of operations for the twelve months ended

December 31, 2022, inclusive of the \$29.2 million of revenues currently recovered under surcharges, for a net increase in revenues of \$45.00 million. (Settlement ¶ 34.)

20. Duquesne Light, I&E and OCA presented testimony on revenue requirement issues. During the course of the proceeding, the difference between the parties' litigation positions narrowed.

21. In rebuttal testimony, the Company revised its proposed net revenue increase down from its original position to \$85.528 million. (Duquesne Light St. 9-R at 9.)

22. In surrebuttal, both I&E and OCA increased their litigation positions with regard to the Company's revenue requirement. (See I&E St. 1-SR at 3 (proposed increase of \$35.288 million as opposed to \$34.8 million in I&E direct); OCA St. 1-SR at 6 (proposed increase of \$3.785 million as opposed to a proposed decrease of \$2.754 million in OCA direct).)

23. Through negotiations, the Joint Petitioners were able to compromise their competing litigation positions and arrive at the settlement increase.

24. The settlement addresses when the Company will be permitted to charge the Distribution System Improvement Charge (DSIC). (Settlement ¶ 35.) Specifically, the Company will be permitted to charge the DSIC when the Company's total distribution plant balances exceed the corresponding projected levels reflected in the FPFTY.

25. The settlement specifies, as required by the Commission, a mechanism for determining the return on equity to be used in future DSIC calculations. (Settlement ¶ 35.)

26. The settlement states that Duquesne Light will continue to use normalization accounting with respect to the benefits of the tax repairs and IRC Section 263A deductions. (Settlement ¶ 37.) Duquesne Light will reverse excess deferred income taxes ("EDIT") with regard to prior tax repairs and IRC Section 263A deductions pursuant to the Average Rate Assumption Method ("ARAM") used to reverse EDIT associated with accelerated

depreciation deductions. In addition, the remaining unamortized EDIT balance will continue as a reduction to rate base in all future base rate proceedings until the full amount is returned to ratepayers. (Settlement ¶ 37.) This provision of the settlement is fully supported by the testimony of Duquesne Light witness Mr. Matthew L. Simpson. (*See* Duquesne Light St. 12 at 10-13.)

27. The settlement also resolves the Company's claims regarding incremental expenses incurred due to the COVID-19 pandemic. (Settlement ¶¶ 38-40.)

28. Duquesne Light witness Jaime A. Bachota testified regarding the impacts of COVID-19 on the Company's operations. (Duquesne Light St. 2 at 22-25.) The Company's claim included a regulatory asset reflecting incremental uncollectible expense in the historic test year ended December 31, 2020 ("HTY") and the first three months of the FTY. (Duquesne Light St. 2 at 23.)

29. The Company included an adjustment to normalize the incremental uncollectible expenses over three years and proposed to continue to record incremental uncollectible costs above what is included in this rate proceeding as a regulatory asset to be recovered in future rate proceedings. (Duquesne Light St. 2 at 23-24; *see also* Duquesne Light St. 10.)

30. OCA witness Mr. Morgan recommended that the incremental uncollectible accounts expense be recovered over a five-year period and I&E witness Ms. Wilson recommended the use of a 43-month period. (OCA St. 1 at 25; I&E St. 1 at 10.) Both OCA and I&E also argued the Company should discontinue tracking incremental uncollectibles expense incurred due to COVID-19. (*See* OCA St. 1 at 25-26; I&E St. 1 at 10-11.)

31. The Company maintained its proposal to recover incremental uncollectibles expense, and opposed the parties' proposals to change the normalization period. (Duquesne Light St. 2-R at 17-19; Duquesne Light St. 10-R at 49-52.) Furthermore, the

Company updated its uncollectible expenses claim to reflect the level of incremental uncollectible expenses as of June 30, 2021. (Duquesne Light St. 2-R at 19-20.)

32. The Company included a claim for other non-uncollectible, extraordinary, nonrecurring incremental COVID-19 related expenses, and similarly proposed to normalize these incremental costs net of savings over a three-year period and continue to record incremental costs. (Duquesne Light St. 2 at 24-25; *see also* Duquesne Light St. 10.)

33. Both OCA and I&E identified additional alleged savings, and/or opposed the recovery of incremental, non-uncollectible COVID-19 related costs. (*See* OCA St. 1 at 26-27; I&E St. 1 at 13-21.)

34. The Company maintained that its proposal to recover incremental non-uncollectibles costs, as well as its proposed three-year normalization period, were reasonable and appropriate. (*See* Duquesne Light St. 2-R at 19-25; Duquesne Light St. 10-R at 52-60.) However, the Company did reflect adjustments to its claim for other non-uncollectible, extraordinary, nonrecurring incremental COVID-19 related expenses upon further review. (*See* Duquesne Light St. 2-R at 19-20 (discussing three adjustments to the Company's claim that reduced its original claim by \$1.3 million or \$0.4 million per year).)

35. Paragraphs 38-40 of the settlement constitute a reasonable compromise of the parties' positions, which included adjustments to the proposed amortization periods and the incremental costs that the Company would be permitted to recover.

36. The settlement also addresses the Company's pension contributions. (Settlement ¶ 41.)

37. The Company projected to make pension contributions of \$10 million per year over the next six years, *i.e.*, 2021-2026. (Duquesne Light St. 2 at 29.) Half of those costs are recovered as expense and half are provided initially with non-ratepayer funds and treated as capitalized costs. The Company also proposed a provision, used in its prior rate cases, that any

expense recovery from customers for pensions that is not contributed to the pension would be returned to customers.

38. The Company also proposed that Company-provided funds contributed to the pension trust that are not included in rate base under accounting rules be included in rate base in this proceeding. (Duquesne Light St. 2 at 30-35.)

39. OCA opposed the Company's proposed adjustment to rate base. (OCA St. 1 at 10-17.)

40. The rate base adjustment is resolved along with other disputed revenue requirement issues by the black box settlement of the compromise revenue increase; Settlement Paragraph 41 includes these commitments in the final order in this proceeding.

41. Paragraph 42 of the settlement provides for the Company's proposals with regard to the Company's OPEB claim and also provides commitments similar to those for pensions for inclusion in the final order in this proceeding. (Duquesne Light St. No. 2, pp. 27-30.) This settlement provision is consistent with prior Company settlements approved by the Commission.

42. The Company's study used to separate the Company's assets, revenues and expenses into Federal Energy Regulatory Commission ("FERC") and state jurisdictional amounts, with separated amounts used to set rates for interstate and intrastate service is approved. (Settlement ¶ 43; *see also* Duquesne Light St. 15 at 14-17.)

43. The settlement provides for the filing of actual data for the FTY and FPFTY after those years are completed. (Settlement ¶ 44.) The purpose of this provision is to permit the Commission and Parties to review the accuracy of Company projections in this proceeding.



44. Requests for these reports were made in I&E testimony as a requirement in this proceeding. (I&E St. 4 at 7.)

45. This proposal was accepted by the Company as a part of its rebuttal testimony. (Duquesne Light St. 2-R at 15.)

46. Paragraph 45 of the settlement addresses the Company's capitalization of the development costs for cloud-based information systems, consistent with the Partial Settlement approved in the Company's last base rate case. *Pa. P.U.C., et al. v. Duquesne Light Company*, Docket Nos. R-2018-3000124, R-2018-3000829, *et al.* (Order approving Partial Settlement entered Dec. 20, 2018); *see also* Duquesne Light St. 2 at 4-5.

47. OCA raised some concerns regarding the Company's proposal and claimed that the adjustment is not necessary given the adoption of FERC's accounting method. (OCA St. 1 at 9-10.)

48. I&E also proposed a decrease in rate base of \$693,000 related to an increase in accrued depreciation for cloud-based software. (I&E St. 4 at 6.)

49. The Company responded to each of the concerns raised by OCA (Duquesne Light St. 2-R at 13-14; St. 2-SR at 7-8) and the adjustment proposed by I&E (Duquesne Light St. 10-R at 22-23; St. 2-SR at 7-8).

50. The settlement provision provides for capitalization of these costs, in a manner that is consistent with prior Commission approvals received by the Company, but preserves rights to challenge the reasonableness and prudence of costs in future base rate proceedings. Specifically, the settlement provides for transfer of the unamortized portion of Commission approved regulatory asset to rate base and the recording of future cloud costs to rate base commencing January 1, 2022. (Settlement ¶ 45.)

51. Paragraph 46 of the settlement re-affirms a prior commitment by Duquesne Light to provide notice if annual dividends exceed 85% of annual net income for the preceding twelve months ended March 31.

52. Paragraph 47 of the settlement provides that the Company's proposed New Business Stimulus Rider ("NBSR"), described in Duquesne Light St. 5 and memorialized as Rider No. 25 in Duquesne Light Exhibit No. DBO-1 is withdrawn without prejudice.

53. Paragraph 48 of the settlement provides that the proposed Crisis Recovery Program ("CRP"), as described in Duquesne Light St. 5 and memorialized as Rider No. 26 in Duquesne Light Exhibit No. DBO-1, is withdrawn without prejudice.

54. The issue regarding NEP's master metering and submetering proposal, as described in NEP Statement Nos. 1 and 2, was reserved for litigation. Paragraphs 49-50 of the settlement withdraw Duquesne Light's revisions to Retail Tariff Rules 41 and 41.1 regarding master metering consistent with Duquesne Light St. 6-SR and reserve resolution of these issues for litigation.

55. The Company proposed a residential COVID-19 debt relief program. (Duquesne Light St. 7 at 11-13.) The residential COVID-19 debt relief program was designed to provide targeted, short-term assistance to low- to moderate-income residential customers that experienced payment delinquencies due to the pandemic. (Duquesne Light St. 7 at 11.)

56. Several other parties submitted testimony regarding the Company's proposed residential COVID-19 debt relief program and its universal service programs. (*See* I&E St. 1 at 33-35; OCA St. 4; NRDC St. 1 at 4-5, 21-26; CAUSE-PA St. 1; and PWPTF St. 1 at 5-8.)

57. Duquesne Light's rebuttal testimony (Duquesne Light St. 7-R) addressed the claims and concerns raised by the other parties regarding its proposed residential COVID-19 debt relief program, and universal service programs.

58. Paragraphs 51 through 56 of the settlement resolve all issues related to the Company's proposed assistance and universal service programs raised in this proceeding. Among other things, these provisions include a voluntary increase of the Company's shareholder contribution to the Hardship Fund by \$1 million per year for 2022 and 2023. (Settlement ¶ 53.)

59. In addition, these provisions increase annual funding for LIURP by \$400,000 per year, which will be recovered through Rider No. 5 – Universal Services Charge, beginning January 1, 2022 and ending January 1, 2025. (Settlement ¶ 54.) This provision addresses concerns by CAUSE-PA and PWPTF regarding the funding level and administration of LIURP. (CAUSE-PA St. 1 at 40-42; PWPTF St. 1 at 5-7.)

60. Duquesne Light proposed to implement Transportation Electrification Programs (“TE Programs”) in order to increase utilization of and equitable access to safe and reliable electric transportation fuel in the Company's service territory. (Duquesne Light St. 8 at 3.)

61. Duquesne Light further explained that transportation electrification market trends demonstrated there is a need and benefit for utility planning and investment in infrastructure and programs. (Duquesne Light St. 8 at 3, 6-14.)

62. The Components of the proposed TE Programs were also depicted in Table 1 of Duquesne Light St. 8, reproduced below.

Table 1: TE Programs Budgets

Component	Description	2022 Budget
<b>Charging Infrastructure Portfolio</b>		
Public, Workplace, and Multi-Unit Dwelling Make-Ready Pilot	Public, workplace, and multi-unit dwelling make-ready investment to support Level 2 and DC fast charging stations	\$1,047,940
Fleet and Transit Charging Pilot	Optional fleet and public transit make-ready and charging station program to install and support Level 2 and DC fast charging stations	\$2,013,730
Home Charging Pilot	Optional turnkey service for residential customers to install Level 2 charging stations at their home.	\$503,650
<b>Customer Portfolio</b>		
Awareness, Education, and Engagement	Support for customers to make informed decisions about fueling vehicles with electricity.	\$392,460
Fleet Electrification Advisory Service	Vehicle and charging infrastructure planning and analysis support for public and private fleet customers.	\$292,400
Registration Incentive	\$50 one-time registration incentive for customers who own or lease an EV.	\$68,000
	Capital Program Cost For 2022	\$2,964,090
	Expense Program Cost For 2022	\$1,353,090
	Total Program Cost For 2022	\$4,317,180

63. Several parties submitted testimony addressing the Company’s proposed TE Programs, and took diverse positions on these issues. (See Duquesne Light St. 8-R at 3-5.)

64. In response to the variety of positions taken by the parties regarding the proposed TE Programs, the Company has agreed to revise the proposed TE Programs, consistent with the terms and conditions reflected in Paragraphs 57-59 of the Settlement. (Settlement ¶¶ 57-59.) The settlement includes approval of The Public, Workplace, and Multi-Unit Dwelling Make-Ready Pilot (Make-Ready Pilot) and The Fleet and Transit Charging Pilot with certain modifications. (Settlement ¶ 57(a)-(b).) It also withdraws the Home Charging Pilot, including Rider No. 23 in Duquesne Light Exhibit No. DBO-1, without prejudice. (Settlement ¶ 57(d).) The settlement also provides for approval of the Awareness, Education, and Engagement programs; the Fleet Electrification Advisory Service; and the Registration Incentive. (Settlement ¶ 57(d)-(g).) In addition, it includes evaluation and reporting requirements for the TE Programs. (Settlement ¶ 57(h)-(i).)

65. The Company and the Parties have carefully considered the proposed TE Programs and made modifications in the settlement to ensure that the expenditures included in rates under settlement will produce benefits to customers with minimal effects on rates charged to customers.

66. Paragraph 60 of the settlement provides that Duquesne Light's proposed Rider No. 4, Federal Tax Adjustment Charge, as discussed in Duquesne Light St. Nos. 9 and 16 and Duquesne Light Exhibit No. DBO-1, is withdrawn without prejudice.

67. Paragraph 61 of the settlement provides that Duquesne Light's revised Street Lighting options, as discussed in Duquesne Light St. 16, are approved. No parties contested this aspect of the Company's filing.

68. Paragraph 62 of the settlement provides that Duquesne Light's proposed changes to Rider No. 16, as described in Duquesne Light St. 17, are approved. No parties contested the Company's proposed changes to Rider No. 16.

69. Paragraph 63 of the settlement provides for the approval of the Company's proposed Community Development Rider, with two modifications which address concerns raised by I&E and OSBA. (*See* I&E St. 1 at 8-11; OSBA St. 1 at 28-29.)

70. Paragraph 64 of the settlement provides that Duquesne Light's proposed Residential Subscription Rate Pilot, as described in Duquesne Light St. Nos. 9 and 17 and memorialized as Rider No. 7 in Duquesne Light Exhibit No. DBO-1, is withdrawn without prejudice.

71. Paragraph 65 of the settlement provides that the special rate contract identified as CONFIDENTIAL Exhibit CJD-2 is approved. No parties opposed the Company's proposed special contract rate.

72. Paragraph 66 of the settlement provides for the approval of the Company's other Retail Tariff revisions, as set forth in Duquesne Light St. 16. Such revisions were not contested by any of the parties.

73. Paragraph 67 of the settlement provides that the revenue allocation to each class at the net settlement increase of \$45 million is reflected in Appendix B to the settlement.

74. In reaching the allocation of the increase to the classes, the Parties have generally compromised their positions to achieve a settlement. The primary tool for allocating increases to the rate classes is a class cost of service study.

75. The Company's initial proposed allocation is basically in the middle of the Parties' proposed allocations. (*See* Duquesne Light Exh. No. 6; OCA St. 3; OSBA St. 1.) At the settlement revenue increase, the increases in rates for customers are basically scaled back from the Company proposal, with minor adjustments, to reflect the lower revenue increase.

76. The Parties agreed to maintain the base rate residential customer charge at \$12.50 per month. (Settlement ¶ 69.) However, Paragraph 69 of the settlement further provides that customer charges of the non-residential classes were reduced to reflect the lower than proposed increases to those classes and other factors as agreed to by the Parties and are shown in Appendix A to the settlement.

77. The OCA proposed to allocate universal service costs to all customer classes in its direct testimony. (OCA St. 4 at 57-91.) The Company and OSBA both opposed the OCA's proposal, for a number of reasons. (Duquesne Light St. 7-R at 14; OSBA St. 1-R at 6-9.)

78. Paragraph 68 of the settlement provides and states that universal service costs will continue to be recovered only from residential rate classes and that the parties retain all rights to challenge, refute, or propose modifications to the allocation of universal service costs to all customer classes in future proceedings.

79. The OSBA proposed that the Company evaluate its rate designs for nonresidential heating rate classes. (OSBA St. 1 at 24-26.) The Company indicated that it would be amenable to undertaking an internal process review with respect to these rate classes. (Duquesne Light St. 16-R at 18).

80. Paragraph 70 of the settlement provides and states that the Company will undertake an evaluation of rates GMH and GLH, and will provide its results and any resulting rate design proposals with its filing in its next base rate proceeding.

81. The OSBA proposed to eliminate Rider No. 3 from the Company's tariff. (OSBA St. 1-R at 14.) The Company opposed this recommendation. (Duquesne Light St. 16-SR at 4-5.)

82. Paragraph 71 of the settlement provides that OSBA's recommendation regarding Rider No. 3 is withdrawn without prejudice.

#### *Master Metering*

83. Duquesne Light's Tariff Rule 18 requires that a customer consume the energy they purchase from Duquesne Light, with limited exceptions. (Duquesne Light St. 6 at 2: 12-17.)

84. Duquesne Light's Tariff Rule 41 requires that each residential dwelling unit in the building have an individual meter through Duquesne Light and prohibits master metering of residential buildings connected to the Company's system after January 1, 1981. (Duquesne Light St. 6 at 2: 12-17.)

85. NEP is a Columbus, Ohio-based provider of installation, submetering, billing, collections, electrification and energy efficiency services to the owners and developers of multifamily properties with more than twenty years of experience serving over 32,000 residents

at over 150 properties, including in excess of 1,600 tenant residents in PECO's service territory. (NEP St. 1 at 2: 14-18.)

86. NEP installs advanced meters and other electric infrastructure behind the master meter; charges customers a security deposit; acquires electricity supply for its customers; reads customers' meters; bills customers for electricity usage; process customers' payments for electricity; charges customers late fees; terminates service to customers for non-payment; and charges customers reconnection fees; among other functions. (*See* NEP St. 1 at 10; Duquesne Light St. 6-R at 13-15.)

87. NEP is proposing a new Duquesne Light Tariff provision, Rule 41.2., which would allow master metering and the associated redistribution of energy necessary to allow for sub-metering and re-billing by the landlord or a third-party billing company such as NEP. (NEP St. 1 at 24.)

88. NEP proposes that master metering will be allowed for non-low income new and existing multifamily properties. (OCA St. 1-R at 6; NEP St. 1 at 24.)

89. NEP's tariff proposal seeks to allow residential multifamily building owners, landlords, and private third-party companies to master and/or sub-meter residential multifamily buildings, allowing these entities to perform billing, collections, and terminations. (CAUSE-PA St. 1-R at 14.)

90. NEP proposes that submetering must be AMI or other advanced revenue metering. (OCA St. 1-R at 6; NEP St. 1 at 24.)

91. NEP proposes that technologies must be provided with billing to allow tenants access to their usage and optional controls to receive a credit based on conservation actions. (OCA St. 1-R at 6; NEP St. 1 at 24.)



92. NEP witness Ringenbach proposed that NEP’s master and submetering program would be limited to 130 existing developments and new buildings with requests to convert existing buildings treated on a first come, first service basis and a mandatory minimum \$2 per tenant bill credit regardless of income or usage to ensure that tenants receive a benefit. (NEP St. 2 at 14-15 (Public Version).)

93. NEP witness Ringenbach proposed to match the following to Duquesne Light’s tariff and Commission regulations: (1) “number of days due from bill issue date including number of days grace period;” (2) “any past due or collection recovery fees may not exceed the collection recovery fees of the utility based on the tariff requirements in effect for the month the bill to collect such costs is issued;” (3) “meter testing fees and testing request requirements will match the applicable time to test and fee recovery amounts applicable;” and (4) “notices of disconnection must match the number and type of notices provided by the rules, regulations and statutes applicable to Duquesne.” (NEP St. 2 at 14-16 (Public Version).)

94. NEP also proposes that “a payment plan option must be made available to tenants having trouble paying their bills, but such plan shall not [sic] greater than the lesser of (i) 12 months or (ii) the remaining term of the tenant’s lease.” (NEP St. 2 at 14 (Public Version).)

95. NEP proposes that electric vehicle charging or “other technologies chosen by the property owner” may not be separately billed to the tenant, or otherwise treated as a separate line item of usage. NEP stated that they are also “subject to the total bill cap amount less \$2 credit to qualify for Tariff Rule 41.2. (NEP St. 2 at 16 (Public Version).)

96. NEP also proposes that tenants will be informed prior to signing the lease that the lease will involve submetering electric service; certain low-income programs will not be available to tenants; the property owner has chosen a competitive supplier on their behalf, including an explanation of emissions and environmental attributes of the supply; and an explanation of how the bill has been calculated and the technologies provided under Tariff Rule 41.2 such as smart thermostats, smart energy control devices and electric vehicle (EV) charging). (NEP St. 2 at 16 (Public Version).)

97. NEP proposed to include extensive rules in Duquesne Light's tariff over submetering, including landlord customer verifications that they will comply with statutory resale requirements, metering and EV charging requirements, bill credit requirements, collection and billing requirements, tenant notification requirements and mediation requirements. (NEP Exhibit TR-22.)

98. Duquesne Light withdrew its proposed Tariff Rule 41.1 as a result of concerns about NEP's proposed Tariff Rule 41.2. (Duquesne Light St. 6-SR at 3: 1-4.)

99. NEP's tariff proposal does not require tenants under master and submeters to be treated as utility "customers" under Chapter 14 of the Public Utility Code and Chapter 56 of the Commission regulations. (CAUSE-PA St. 1-R at 14: 16-20; OCA St. 4-R at 6-8.)

100. Tariff Rule 41.2 would eliminate consumer protections currently provided for under law in Duquesne's service territory for residential customers. (Duquesne Light St. 6-R, pp. 13-25; NEP Exhibit No. Tr. 22; CAUSE-PA St. 1-R at 15-45, 49-51; OCA St. 4-R at 6-8.)

101. NEP's tariff proposal would not require landlords or third-party submetering companies to notify residents of proposed or upcoming changes in rates. (CAUSE-PA St. 1-R at 48: 15-19.)

102. Efforts of the Commission, natural gas and electric distribution utilities, and other stakeholders have been seeking to ensure the provision of affordable service to low-income customers have resulted in a suite of universal service programs offered to income-qualified customers. (OCA St. 4-R at 6-7.)

103. NEP defines non-low-income housing as housing that does not meet the requirements that were included in Tariff Rule 41.1. (NEP St. 2 at 21.)

104. Rule 41.1 defined low-income housing as either a Public Housing Authority development or a building that housed only low-income tenants. (Duquesne Light St. 6 at 5.)

105. NEP does not collect income data to determine whether tenant customers are low-income or not. (CAUSE-PA St. No. 1-R at 54.)

106. The Commission allows for the use of annualized income (e.g., 30-day or 90-day income annualized to 12-months) to establish eligibility for universal service programs (e.g., hardship fund) and customer protections (e.g., winter shutoff protections). (OCA St. 4-R at 6-7.)

107. NEP's tenant customers will not have access to Duquesne Light's Customer Assistance Program (CAP), Hardship Fund, the Smart Comfort Program, LIHEAP or other low-income customer programs. (Duquesne Light St. No. 6-R, pp. 17-18.)

108. Low- and moderate-income customers without access to universal service programs provided by CAP and other universal service programs are at increased risk of termination and potentially eviction. (CAUSE-PA St. 1-R at 52: 10-13.)

109. Compared to the \$2 per month bill credit provided by NEP, the average Duquesne Light customer that elects the SOP saves about \$3 per month. (Duquesne Light St. 6-R, pp. 15-16.)

110. Compared to the \$2 per month bill credit provided by NEP, Duquesne Light's CAP customer receive an average bill reduction of \$57 per month (Duquesne Light St. 6-R at 17; CAUSE-PA St. 1-R at 54-55.)

111. The fees and charges in NEP's tariff proposal do not align with what Duquesne Light may charge. (CAUSE-PA St. 1-R at 18-19.)

112. NEP charges higher reconnection fees, late payment charges, payment processing charges, returned payment charges and deferred payment arrangement charges than Duquesne Light. (Duquesne Light St. No. 6-R at 13-14.)

113. NEP also may assess other utility related charges that are not regulated by the Commission. (Duquesne Light St. 6-R at 15.)

114. NEP did not substantiate its claims that master-metering improves the overall energy efficiency of properties or reduces usage in individual tenant units. (CAUSE-PA St. 1-R at 56: 16-19.)

115. Duquesne Light's Energy Efficiency and Conservation Plan ("EE&CP") has programs designed for building owners and tenants of multifamily residential buildings. (Duquesne Light St. No. 6-R at 7-8.)

116. For building owners, the EE&CP has a direct-install program design which installs energy efficiency measures at no cost to tenants and splits costs with the building owner. (Duquesne Light St. No. 6-R at 7-8.)

117. The EE&CP also has specific energy efficiency measures that multifamily buildings and tenants can use such as LED lighting, advanced power strips, ENERGY STAR dehumidifiers, refrigerators, freezers, room air conditioners, smart thermostats, heat pumps, water heaters, insulation and low-flow showerheads, among others. (Duquesne Light St. 6-R at 7-8.)

118. Duquesne Light provided energy efficiency measures to over 70 separate multifamily facilities from June 1, 2019 – May 31, 2021. (Duquesne Light Exhibit YP-1-SR.)

119. Duquesne Light's residential customers can compare their usage to other residential customers and can adopt energy efficiency measures offered under Duquesne Light's Commission approved EE&CP. (NEP Cross Exhibit 14 at 38.)

120. Duquesne Light's Commission approved energy efficiency program provides for measurement and verification of energy efficiency measures. (Duquesne Light St. 6-R, p. 8; NEP Cross Exhibit 14.)

121. Duquesne Light offers customers expertise for interactions and account decisions through its customer service function. (Duquesne Light St. 9 at 9; NEP Cross Exhibit 14 at 40-55.)

122. Duquesne Light offers tenants move-in and move-out processes. (Duquesne Light St. 6-R at 13: 13-16.)

123. NEP's proposal would reduce Duquesne Light's customer base, thereby reducing Duquesne Light's customer revenues which offset customer costs in base rate proceedings. (*See e.g.* Duquesne Light St. 15 at 10.)

124. Duquesne Light staffs a team of customer service representatives trained to respond to and manage hundreds of thousands of customer accounts. (*See* Duquesne Light St. 9.)

#### IV. DISCUSSION

##### 1. Legal Standard

In this case, the parties submitted a settlement of all issues, except for the master metering issue raised by NEP. Commission policy promotes settlements. 52 Pa. Code § 5.231. Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve administrative resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401. The focus of inquiry for determining whether a proposed settlement should be recommended for approval is not a "burden of proof" standard, as is utilized for contested matters. *Pa. Pub. Util. Comm'n v. City of Lancaster – Bureau of Water*, Docket No. R-2010-

2179103 (Opinion and Order entered July 14, 2011) (*Lancaster*). Instead, the benchmark for determining the acceptability of a settlement or partial settlement is whether the proposed terms and conditions are in the public interest. *Id.*, citing, *Warner v. GTE N., Inc.*, Docket No. C-00902815 (Opinion and Order entered April 1, 1996) (*Warner*); *Pa. Pub. Util. Comm'n v. CS Water & Sewer Assocs.*, 74 Pa. PUC 767 (1991). In addition, the Commission has held that parties to settled cases are afforded flexibility in reaching amicable resolutions, so long as the settlement is in the public interest. *Pa. Pub. Util. Comm'n v. MXenergy Elec. Inc.*, Docket No. M-2012-2201861 (Opinion and Order entered Dec. 5, 2013).

Furthermore, it is noted that the parties have reached what is referred to as a “black box” settlement where the settlement provides for an increase in the utility’s revenues but does not indicate the specifics of how the parties calculated the increase. The Commission has permitted “black box” settlements as a means of promoting settlements in contentious base rate proceedings. *Pa. Pub. Util. Comm'n v. Wellsboro Elec. Co.*, Docket No. R-2010-2172662 (Order entered January 13, 2011); *Pa. Pub. Util. Comm'n v. Citizens' Elec. Co. of Lewisburg*, Docket No. R-2010-2172665 (Order entered January 13, 2011). The Commission has observed that determining a utility’s revenue requirement is a calculation that involves many complex and interrelated adjustments affecting expenses, depreciation, rate base, taxes and the utility’s cost of capital. Reaching an agreement among the parties on each component can be difficult and impractical. As a result of this complexity, the Commission supports the use of “black box” settlements. *Pa. Pub. Util. Comm'n v. Peoples TWP LLC*, Docket No. R-2013-2355886 (Opinion and Order entered December 19, 2013).

With regard to the master metering issue raised by NEP, a public utility’s rates must be just and reasonable. 66 Pa.C.S. § 1301. The burden of proof to establish the justness and reasonableness of every element of the utility’s rate increase rests solely upon the public utility. 66 Pa.C.S. § 315(a). The burden of proof is satisfied by establishing a preponderance of evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990). The preponderance of evidence standard requires proof by a greater weight of the evidence. *Commonwealth v. Williams*, 557 Pa. 207 (Pa. 1999). This standard is satisfied by

presenting evidence that leads the fact-finder to find that the existence of a contested fact is more probable than its nonexistence. *Brown v. Commonwealth*, 940 A.2d 610 (Pa. Cmwlth. 2008).

However, there are certain limitations to a utility's burden of proof. A public utility need not affirmatively defend every claim it has made in its filing absent prior notice that such claim is to be challenged. *Allegheny Ctr. Assocs. v. Pa. Pub. Util. Comm'n*, 131 Pa. Cmwlth. 352, 570 A.2d 149 (1990). Additionally, separate from Section 315(a), Section 332(a) of the Public Utility Code establishes a separate burden of proof for entities that propose a rule or order in a base rate proceeding. 66 Pa.C.S. § 332(a); *NRG Energy, Inc. v. Pa. Pub. Util. Comm'n*, 233 A.3d 936 (Pa. Cmwlth. 2020).

If the party seeking a rule or order from the Commission sets forth a *prima facie* case, then the burden shifts to the opponent. See *MacDonald v. Pa. R.R. Co.*, 348 Pa. 558, 36 A.2d 492 (1944). Once a *prima facie* case has been established, if contrary evidence is not presented, there is no requirement that the party seeking a rule or order from the Commission must produce additional evidence to sustain its burden of proof. See *Replogle v. Pa. Elec. Co.*, 54 Pa. PUC 528 (1980).

Commission-approved tariffs are *prima facie* reasonable. *Kossmann v. Pa. Pub. Util. Comm'n*, 694 A.2d 1147 (Pa. Cmwlth. 1997); *Zucker v. Pa. Pub. Util. Comm'n*, 43 Pa. Cmwlth. 207, 401 A.2d 1377 (1979). A party challenging the tariff provision faces a heavy burden of proof to show that circumstances have changed so drastically as to render the approved provision unreasonable. *Shenango Twp. Bd. of Supervisors v. Pa. Pub. Util. Comm'n*, 686 A.2d 910 (Pa. Cmwlth. 1996), *app. den.*, 698 A.2d 597 (Pa. 1997); see also *Brockway Glass Co. v. Pa. Pub. Util. Comm'n*, 63 Pa. Cmwlth. 238, 437 A.2d 1067 (1981).

In this case, because NEP has proposed modifications to Duquesne Light's tariffs with regard to master metering, NEP has the burden of proof that its proposal should be adopted.

Finally, the decision of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704. "Substantial evidence" is such relevant evidence that a reasonable

mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & W. Ry. Co. v. Pa. Pub. Util. Comm'n*, 489 Pa. 109, 413 A.2d 1037 (1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Review*, 194 Pa. Super. 278, 166 A.2d 96 (1961); and *Pa. Dep't of Pub. Welfare, White Haven Ctr.*, 85 Pa. Cmwlth. 23, 480 A.2d 382 (1984).

## 2. Settlement

### a. Settlement

In the Settlement, the parties agreed to resolve all outstanding issues, except for the master metering issue raised by NEP. The relevant terms of the Settlement are as follows, verbatim, with the original paragraph numbering provided in the Settlement:

#### A. REVENUE REQUIREMENT AND ACCOUNTING

34. The distribution rates set in this proceeding will be designed to produce increased distribution operating revenues of \$74.2 million based upon the pro forma level of operations for the twelve months ended December 31, 2022, inclusive of the \$29.2 million of revenues currently recovered under surcharges, for a net increase in revenues of \$45.00 million.

35. As of the effective date of rates in this proceeding, Duquesne Light will be eligible to include plant additions in the Distribution System Improvement Charge ("DSIC") once the total distribution account balances exceed \$3,367,154,000, which are the levels projected by the Company in this proceeding at December 31, 2022 per DLC Exhibit 2, Book 5, Schedule C-2, page 2. The foregoing provision is included solely for purposes of calculating the DSIC, and is not determinative for future ratemaking purposes of the projected additions to be included in rate base in a Fully Projected Future Test Year ("FPFTY") filing.

36. For purposes of calculating its DSIC, Duquesne Light shall use the equity return rate for electric utilities contained in the Commission's most recent Quarterly Report on the Earnings of Jurisdictional Utilities and shall update the equity return rate each quarter consistent with any changes to the equity return rate for



electric utilities contained in the most recent Quarterly Earnings Report, consistent with 66 Pa. C.S. § 1357(b)(3), until such time as the DSIC is reset pursuant to the provisions of 66 Pa. C.S. § 1358(b)(1).

37. Duquesne Light will continue to use normalization accounting with respect to the benefits of the tax repairs and Internal Revenue Code (“IRC”) Section 263A deductions. Duquesne Light will reverse EDIT with regard to prior tax repairs and IRC Section 263A deductions pursuant to the Average Rate Assumption Method (“ARAM”) used to reverse excess deferred income taxes (“EDIT”) associated with accelerated depreciation deductions. The remaining unamortized EDIT balance will continue as a reduction to rate base in all future base rate proceedings until the full amount is returned to ratepayers.

38. This Settlement provides for recovery of deferred COVID-19 uncollectible accounts expense of \$6.1 million incurred from March, 2020 through June 30, 2021, which is recovered through an amortization of such costs over 36 months commencing with the effective date of rates in this proceeding. No uncollectibles balance will be added to the regulatory asset after the effective date of new rates in this proceeding for deferred COVID-19 uncollectible accounts expense.

39. This Settlement resolves the Company’s claim for COVID-19 costs and lost revenues other than uncollectible accounts expenses.

40. Duquesne Light will be permitted to create a regulatory asset for the incremental extraordinary, nonrecurring uncollectible accounts expense incurred commencing from July 1, 2021 through January 14, 2022, as a result of compliance with the Commission’s March 13 Emergency Order, October 13, 2020 Order, March 18, 2021 Order, and July 15, 2021 Order at Docket Nos. M-2020-3019244 and M-2020-3019775.

41. Commencing with calendar year 2022, Duquesne Light will deposit into its pension trusts an amount equal to \$10,000,000 per year; provided, however, that contribution(s) in any year in excess of the foregoing may be used on a cumulative basis to satisfy future contribution obligations under this Settlement. The Settlement provides for recovery of the expense component of \$5,000,000 (50% of the average cash contributions) of projected future pension contributions. Issues concerning the effects on rate base of capitalizing the difference between pension contributions and ASC 715 costs are resolved by the revenue requirement provisions of this

Settlement. The depreciation expense for book and ratemaking purposes will be based on the ASC 715 capitalized amounts. If Duquesne Light concludes that a contribution less than \$10,000,000 to the pension trust is appropriate, the Company may reduce the pension contribution and will record a regulatory liability on its books of account that is equal to 50% of the reduction to the pension contribution below the level of \$10,000,000. Any regulatory liability recorded will be reduced to the extent of 50% of contributions in excess of \$10,000,000 in subsequent years. If a regulatory liability remains at the time of the Company's next rate proceeding, the regulatory liability amount will be returned to ratepayers as directed in the next base rate proceeding. Duquesne Light shall provide a report and affidavit attesting to the actual contributions to pension trusts during each calendar year. The report and affidavit shall be publicly filed with the Commission, with copies provided to I&E, OCA and OSBA on or before January 31 of the following calendar year, with the first report and affidavit due on or before January 31, 2023.

42. The Company's distribution rate allowance for Other Post-Employment Benefits ("OPEBs") is based upon the estimated ASC 715 cost for the FPFTY of approximately \$217,000 (\$179,000 on a distribution basis), which reflects a two-year normalization of the Net Periodic Benefit Cost for historic and future test year distribution costs. The distribution expense component included in rates is approximately 50% of this estimated cost less the annual effect of the 3-year amortization of the regulatory liability of \$2,012,000 (\$1,663,000 on a distribution basis) as explained in Duquesne Light St. No. 2, p. 37, for a net distribution credit of \$372,000. The remaining 50% of actual ASC 715 cost will be the amount to be capitalized on the Company's books. The actual labor capitalization ratio will be used to determine the split between capitalized and expensed amounts. The Company accounts for and funds OPEBs through a Voluntary Employees Beneficiary Associated ("VEBA") trust, into which it will deposit the full amount of annual costs calculated by the Company's actuary pursuant to ASC 715. Retiree OPEBs and administrative costs of maintaining the trusts and/or accounts are paid from amounts deposited in the trust. The Company accounts for the difference between the net periodic postretirement benefit expense determined annually by the actuary in accordance with ASC 715 and the amount of ASC 715 postretirement benefit expense used to establish rates. That difference is recorded as a regulatory asset or liability and will be expensed or credited in future rate proceedings in determining OPEB expense included in rates.

43. Duquesne Light's jurisdictional separation study of distribution and transmission costs and assets shall be approved for purposes of this case only and shall hold no precedential value in a future base rate proceeding. All parties reserve the right to challenge the jurisdictional separation study in future matters.

44. Duquesne Light will file a Total Company Pennsylvania jurisdictional report showing capital expenditures, plant additions and retirements, by month, for the Future Test Year ("FTY") ending December 31, 2021, and the FPFTY ending December 31, 2022, by July 31 of each of the years following the test years. In Duquesne Light's next base rate proceeding, the Company will prepare a comparison of its actual expenses and rate base additions for the twelve months ending December 31, 2022, to its projections in this case. However, it is recognized by the Parties that this is a black box settlement that is a compromise of the Parties' positions on various issues.

45. Consistent with the settlement in the Company's last base rate case, Docket No. R-2018-3000124, the Company shall be permitted to capitalize the development costs for cloud-based information systems. The Company has recorded the costs related to the development of cloud-based information systems as a regulatory asset at the time such costs are incurred and has begun amortization of the costs after the systems were placed in service. The Company has elected, as of January 1, 2022, pursuant to ASU 2018-15, to capitalize all future-cloud based information system development costs. Pursuant to this Settlement, the Company will be permitted to transfer any remaining unamortized cloud-based information system costs to the appropriate plant account as of December 31, 2021. Nothing in this provision shall preclude a challenge to the prudence or reasonableness of specific cloud-based expenditures in a future base rate proceeding.

46. The Company shall provide notice and explanation to the Commission when annual dividend payments in the preceding 12 months ended March 31<sup>st</sup> exceed 85% of annual net income of the prior calendar year.

## **B. DUQUESNE LIGHT PROGRAMS**

### **1. SMALL AND MEDIUM COMMERCIAL CUSTOMER PROPOSALS**

47. Duquesne Light's proposed New Business Stimulus Rider, as described in DLC Statement No. 5 and memorialized as Rider No.

25 in Duquesne Light Exhibit No. DBO-1, is withdrawn without prejudice.

48. Duquesne Light's proposed Crisis Recovery Program, as described in DLC Statement No. 5 and memorialized as Rider No. 26 in Duquesne Light Exhibit No. DBO-1, is withdrawn without prejudice.

## **2. MASTER METERING**

49. Duquesne Light's revisions to Retail Tariff Rules 41 and 41.1 regarding master metering, as initially proposed in DLC Statement No. 6 and later withdrawn in DLC Statement No. 6-SR, are withdrawn.

50. Nationwide Energy Partners' proposal regarding master metering and submetering, as described in NEP Statement Nos. 1 and 2, is reserved for litigation.

## **3. COVID-19 AND UNIVERSAL SERVICE PROGRAMS**

51. Duquesne Light's proposed residential COVID-19 Relief Program, as described in DLC Statement No. 7, is withdrawn without prejudice.

52. Tariff Rule 5 will be modified to include the following:

When the Company determines a deposit is required for new service or for reconnection of service as described in Rule No. 40, such deposit shall be payable within a reasonable time period after commencing or reconnecting electric service, not to be fewer than four (4) twenty-five percent (25%) installments with the first installment billed no less than 30 days after the reconnection of service in the event of a reconnection.

53. For the period January 1, 2022 through December 31, 2023, (i) the maximum household income eligibility criterion for Duquesne Light's Hardship Fund shall be increased from 200% to 300% of the Federal Poverty Level; and (ii) Duquesne Light shall contribute an additional \$1 million per year to its Hardship Fund, which will be contributed by the Company's shareholders. All Hardship Funds, exclusive of the additional funds identified in this paragraph, will be directed to households with income at or below 200% of the Federal Poverty Level, unless unspent in the year in which they are so reserved. At least 75% of the additional funds identified in this paragraph will be directed to households with income at or below

200% of the Federal Poverty Level. On July 1 of each year, unused Hardship Funds initially directed to households with incomes above 200% of the Federal Poverty Level shall be made available to all customers eligible for the Hardship Fund.

54. Duquesne Light will increase annual funding for its Low Income Usage Reduction Program (“LIURP”) by \$400,000 annually, which will be recovered through Rider No. 5 – Universal Services Charge, beginning January 1, 2022 and ending January 1, 2025.

55. Duquesne Light will continue to use a competitive procurement process to select a vendor to administer its LIURP program. Duquesne Light will invite member agencies of the PA Weatherization Providers Task Force and other CBOs to participate in the competitive procurement process to select a LIURP vendor upon the expiration of the existing contract.

56. The Company will increase its maximum CAP credit thresholds by a percentage equal to the annual average increase in residential rates approved through this Settlement.

a. Duquesne Light will waive the high usage threshold for participation in LIURP for households that exceed the maximum CAP credit limit prior to the end of the program year.

#### **4. TRANSPORTATION ELECTRIFICATION PROGRAM AND LOAD MANAGEMENT**

57. Duquesne Light’s proposed Transportation Electrification (“TE”) Program, as described in DLC Statement No. 8, is resolved as follows:

a. The Public, Workplace, and Multi-Unit Dwelling Make-Ready Pilot (Make-Ready Pilot) is approved with the following modifications:

i. Duquesne Light will equitably apportion the Make-Ready annual budget across its service territory.

ii. Duquesne Light will track the census tract and nine-digit zip code of Make-Ready infrastructure installed through this pilot project. This information will be reported annually to stakeholders through the collaborative described in subpart (c) of this paragraph. Duquesne Light will work with stakeholders to identify ways to ensure equitable delivery of these programs to unserved and underserved areas identified through this data tracking.

b. The Fleet and Transit Charging Pilot is approved with the following modifications:

i. Duquesne Light will equitably apportion the annual budget across its service territory.

ii. Duquesne Light will track the census tract and nine-digit zip code of Fleet and Transit Charging infrastructure installed through this pilot project. This information will be reported annually to stakeholders through the collaborative described in subpart (c) of this paragraph. Duquesne Light will work with stakeholders to identify ways to ensure equitable delivery of these programs to unserved and underserved areas identified through this data tracking.

iii. The Company's outreach for the Fleet and Transit Charging Pilot will include outreach specifically targeting low-income communities, providers who service low-income communities, and Title I schools as defined at 20 U.S.C. § 6301 et. seq.

iv. The Company's Fleet and Transit Charging Pilot investments will comprise (1) make-ready infrastructure, and (2) rebates to participating customers for the costs of electric vehicle charging stations. Each rebate provided to a participating customer will not exceed more than 50 percent (for customers participating in the Fleet program) or 100 percent (for customers participating in the Transit program) of the customer's contribution for the costs of electric vehicle charging stations.

v. For the Fleet programs of the Fleet and Transit Charging Pilot: Program participation will be capped at 10 new customers per year.

vi. All cost incurred by the Company through the rebates will be recorded in a regulatory asset. The Company may seek recovery of these costs in the Company's next base rate proceeding. All parties reserve their rights to challenge recovery of these costs in the next base rate proceeding.

c. Within 120 days of a final order in this proceeding, and at least once annually for the duration of Duquesne Light's approved EV programs, Duquesne Light will convene a collaborative working group, including the parties to this proceeding and other interested stakeholders, to discuss aspects of the TE Programs including but not limited to: the results of the Company's equitable apportionment; the provision of the TE Programs to low income communities and other

historically disadvantaged communities; potential local impacts; and other related issues.

d. The Home Charging Pilot, including Rider No. 23 in Duquesne Light Exhibit No. DBO-1, is withdrawn without prejudice.

e. The Awareness, Education, and Engagement programs are approved. The budgets for these programs are included in the revenue requirement identified in Paragraph 34.

f. The Fleet Electrification Advisory Service is approved. The budgets for these programs are included in the revenue requirement identified in Paragraph 34.

g. The Registration Incentive is approved.

h. No later than July 1, 2022, Duquesne Light will provide a draft evaluation and assessment plan for its TE Programs for parties' review and comment.

i. No later than the earlier of (i) one year following the deployment of the Company's Outage Management System or (ii) the filing of its next base rates proceeding, Duquesne Light will provide a non-confidential report describing its (i) load management programs implemented to date; and (ii) plans for the development of additional load management programs. For the purposes of this subparagraph, "load management program" means offerings by the Company to support passive or active managed charging, including but not limited to Automated (or Active/Dynamic) Load Management ("ALM"), other technologies that enable automated load-side actions in response to market and/or operational signals, and rate designs and mechanisms. Approximately six months prior to the issuance of such report, the Company will convene a non-confidential collaborative meeting of stakeholders to discuss the Company's load management initiatives.

j. Duquesne Light will provide a report on its TE Programs in its next base rates proceeding that includes, at a minimum:

i. The total number of charging stations installed, broken down by year, type of charging station (e.g., Level 2 or DC Fast Charger), site host type (and public accessibility of station), kWh utilized, number of charging sessions, and nine-digit zip code and census tract location of the charging station.

ii. Total charging station and installation costs, broken down by year and by customer low-income status (as applicable).

- iii. Revenues received from charging station hosts.
- iv. A description of Awareness, Education, and Engagement efforts undertaken, including a breakdown of channels used to educate customers about EVs, charging stations, and the TE Programs, as well as the programs geared specifically toward low-income customers by year.
- v. The total number of customers broken down by nine-digit zip code and census tract of the charging station and (for participants in the Transit Charging Pilot) the routes served, the customer class, and the type of entity (non-profit, government, education, or for-profit entity) that participated in the Fleet Electrification Advisory Service program per year.
- vi. The number of customers that participated in the EV Registration Incentive per year, broken down by the following FPL ranges: 0-50% FPL; 51-100% FPL; 100-150% FPL; 151-200% FPL; 200-250% FPL, 251-300% FPL; over 300% FPL; and income not reported. Customers will be given the option to provide their household income during the EV Registration Incentive application process, but will not be required to provide household income as a condition of participation. Duquesne Light will also separately track the number of confirmed low-income customers and CAP customers, based on its existing customer data, who participate in the EV Registration Incentive.
- vii. An evaluation, broken down by TE Program, of customer participation, feedback, and charging station usage, including an evaluation of low-income customer participation in TE Programs.
- viii. Description of the procedures employed to procure products and services related to the TE Programs from third-party vendors.
- ix. Aggregate EV charging load profile, including the size and timing of the peak, broken down by site type (i.e., public, workplace, multi-unit dwelling, and fleet).

58. Duquesne Light's proposals to refund or recover, respectively, unused EV Registration Incentive funds and Level 2 Charging Evaluation rebate expenses over a three-year period, as described in DLC Statement No. 8, p. 65, is approved. Such refund/recoupment is included in the revenue requirement identified in Paragraph 34.



59. Duquesne Light's proposal to include \$854,736 in rate base associated with the DC Fast Charging Evaluation, as described in DLC Statement No. 8, pp. 66-67, is approved.

## **5. OTHER RIDERS AND TARIFF MODIFICATIONS**

60. Duquesne Light's proposed Rider No. 4, Federal Tax Adjustment Charge, as discussed in DLC Statement Nos. 9 and 16 and Duquesne Light Exhibit No. DBO-1, is withdrawn without prejudice.

61. Duquesne Light's revised Street Lighting options, as discussed in Duquesne Light Statement No. 16, are approved. See Duquesne Light Exhibit No. DBO-1.

62. Duquesne Light's proposed changes to Rider No. 16, as described in DLC Statement No. 17, are approved. See also Duquesne Light Exhibit No. DBO-1.

63. Duquesne Light's proposed Community Development Rider, as described in DLC Statement No. 17 and memorialized as Rider No. 19 in Duquesne Light Exhibit No. DBO-1, is approved with the following modifications:

a. The costs of this program will not be recovered from customers, and are not included in the revenue requirement identified in Paragraph 34.

b. In addition to the eligibility requirements identified in DLC Statement No. 17, customers may only be eligible for the Community Development Rider if they show either (i) that they have a competitive energy alternative to electricity delivered by the Company; or (ii) affirm that they will not be able to commence and/or sustain the business without participating in Rider No. 19.

64. Duquesne Light's proposed Residential Subscription Rate Pilot, as described in DLC Statement Nos. 9 and 17 and memorialized as Rider No. 7 in Duquesne Light Exhibit No. DBO-1, is withdrawn without prejudice.

65. The special rate contract identified as CONFIDENTIAL Exhibit CJD-2 is approved.

66. Except where noted otherwise herein, the Company's proposed Retail Tariff revisions, as discussed in DLC Statement No. 16, are approved. Such Retail Tariff revisions include the changes to

the following Tariff rules as identified in Exhibit Nos. DBO-1 and DBO-2 and are reflected in Appendix A:

- a. Rule No. 3.1 – Definitions
- b. Rule No. 5 – Deposits and Advance Payments
- c. Rule No. 6.1 – Service Point
- d. Rule No. 7 – Supply Line Extensions
- e. Rule No. 10 - One Service of a Kind
- f. Rule No. 16.1 – Interconnection, Safety and Reliability Requirements
- g. Rule No. 22.1 – Vegetation Management and Right-of-Way
- h. Rule No. 40 - Reconnection Charge.

### **C. REVENUE ALLOCATION AND RATE DESIGN**

67. The revenue allocation to each class at the net settlement increase of \$45 million is reflected in **Appendix B**. This revenue allocation is a “black box” agreement representing a compromise among the parties’ filed revenue allocation proposals and it does not reflect any agreement among the Settling Parties regarding the appropriate cost allocation methodology.

68. Universal service costs will continue to be recovered only from residential rate classes. The parties retain all rights to challenge, refute, or propose modifications to the allocation of universal service costs to all customer classes in future proceedings.

69. The Company’s residential RS rate, RH rate, and RA rate customer charges will be maintained at \$12.50. The customer charges of the non-residential classes were reduced to reflect the lower than proposed increases to those classes and other factors as agreed to by the Parties and are shown in Appendix A.

70. The Company agrees to undertake an evaluation of the GMH and GLH rate classes as described in DLC Statement No. 16-R at page 18. The Company will provide the detailed results of its evaluation and any resulting rate design proposals with its filing in its next base rate proceeding.

71. The OSBA withdraws its recommendations as discussed in OSBA Statement No. 1-R to modify the treatment of certain government customers in Rider No. 3, without prejudice to its ability to raise the issue in future rate proceedings.

*Settlement* at 13-22. In addition, the Settlement is conditioned upon the standard conditions found in most settlements. For example, if the Commission modifies the Settlement, any petitioner may elect to withdraw from the Settlement and proceed with litigation and, in such event, the Settlement will be void and of no effect. *Id.* at 23. Furthermore, the Settlement is made without any admission against or prejudice to any position which any petitioner may adopt in the event of any subsequent litigation of these proceedings or any other proceeding. *Id.* The settling parties also agreed that the Settlement should not constitute or be cited as precedent in any other proceeding, except to the extent required to implement the Settlement. *Id.* at 24. The parties also noted that a copy of the Settlement is being served upon the customer complainants. *Id.*

b. Position of Parties

As noted above, the benchmark for determining whether a settlement should be approved is whether the proposed terms and conditions are in the public interest. *See, Lancaster, Warner, supra.* In the Settlement, the parties stated that “[t]his Settlement was achieved by the Joint Petitioners after an extensive investigation of Duquesne Light’s filing, including extensive informal and formal discovery and the filing of direct, rebuttal, surrebuttal and rejoinder testimony by a number of Joint Petitioners.” *Settlement* at 22. The Settlement further states that “[t]he Settlement rates will allocate the agreed upon revenue increase to each customer class in a manner that is reasonable given the rate structure and cost of service positions advanced in the testimony and exhibits of the various parties.” *Id.* at 22. The parties then referenced the statements in support of the Settlement by the settling parties, setting forth the basis upon which the settling parties consider the Settlement to be in the public interest, as well as letters of non-opposition filed by Peoples, NEP and U.S. Steel. *Id.* at Appendices E through O.

i. Duquesne Light

In its statement in support of the Settlement, Duquesne Light first noted that the matters related to revenue requirement and accounting are in the public interest and thus support adoption of the Settlement without modification. Duquesne Light referred to specific paragraphs

of the Settlement and recognized that the Settlement is designed to produce increased distribution operating revenue of \$74.2 million which is inclusive of the \$29.2 million of revenues recovered through surcharges for a net increase of \$45 million. Duquesne Light noted its efforts to control costs while improving customer service and providing highly reliable service since the 2018 base rate proceeding, including implementing several customer assistance programs. Duquesne Light added that its return on equity in this proceeding of 10.95% would be substantially higher than its current return on equity. Duquesne Light stated that the net increase of \$45 million, although less than requested, will allow the company to recover its necessary expenses, provide a reasonable opportunity to earn a fair return and allow the company to attract capital on reasonable terms. Duquesne Light noted that the revenue requirement in the Settlement is a “black box” number where the parties do not identify specific amounts that are allowed or disallowed and that the Commission generally encourages black box settlements.

Duquesne Light then discussed in its statement in support of specific paragraphs of the Settlement that it believes warrant adopting the Settlement without modification. For example: Duquesne Light noted that paragraph 35 addresses when the Company will be permitted to charge the DSIC; paragraph 37 allows Duquesne Light to continue to use normalization accounting with respect to the benefits of the tax repairs and deductions; paragraphs 38-40 resolve Duquesne Light’s claims regarding incremental expenses incurred due to the COVID-19 pandemic, including non-uncollectibles, extraordinary nonrecurring incremental COVID-19 related expenses; paragraph 41 addresses \$60 million in pension expenses Duquesne Light will make over six years; and various reporting requirements in paragraphs 43 and 44, among other things. For each of these issues, Duquesne Light addressed the various positions taken by the parties in litigation to demonstrate how the resolution in the Settlement is in the public interest.

Next, Duquesne Light discussed various improvements to many Duquesne Light programs, again articulating the varying positions taken by the parties on those programs in litigation. For example, Duquesne Light noted that the Settlement withdraws the Company’s proposed New Business Stimulus Rider and Crisis Recovery Program that were opposed by I&E and OSBA. Duquesne Light also noted the resolution of all issues related to the Company’s

proposed assistance and universal service programs that were raised in the proceeding, including withdrawing the COVID-19 debt relief program, modifying the Hardship Fund maximum household income eligibility criterion and company shareholder contribution, increasing annual funding for LIURP and continuing a competitive procurement process for the administrator of the program, and providing an increase to Duquesne Light's maximum CAP credit thresholds.

Also with regard to improvements in Duquesne Light's various programs, Duquesne Light noted the implementation of its TE Programs in order to increase utilization of and equitable access to safe and reliable electric transportation fuel in the company's service territory. Duquesne Light provided an extensive discussion of this program in support of its position that the Settlement is in the public interest. Duquesne Light noted that there is a need and benefit for utility planning and investment in infrastructure and programs and summarized its programs, as well as the other parties' responses to those programs. Duquesne Light also noted that it responded to the parties' various concerns regarding the TE Programs and has made necessary revisions as articulated in the Settlement, including the refund or recovery of unused funds and additions to rate base.

Duquesne Light also noted the various riders and tariff modifications that are addressed in the Settlement. These include withdrawing the Federal Tax Adjustment Clause, approving the revised Street Lighting options, approving changes to Rider 15 regarding implementing standby rates, approving the proposed Community Development Rider, with two modifications, withdrawing the proposed Residential Subscription Rate Pilot and approving a confidential special rate contract. Again, Duquesne Light provided the parties' various positions on these matters.

Finally, Duquesne Light noted that the Settlement is in the public interest because of the various provisions regarding revenue allocation and rate design. With regard to these issues, Duquesne Light noted that the proposed increase is \$45 million and that the revenue allocation is a "black box" agreement representing a compromise amongst the parties. Duquesne Light noted that the Company, OCA and OSBA each submitted cost of service studies in this proceeding, noting that Duquesne Light's initial proposed allocation study was in the middle of

the parties' proposed allocations but with the increase for customers scaled back to reflect the lower revenue increase agreed to in the Settlement. Duquesne Light added that, with regard to rate design, the parties agreed to maintain the base rate residential customer charge at \$12.50 per month and that universal service costs will continue to be recovered only from the residential rate classes. Furthermore, Duquesne Light agreed to perform an evaluation of its nonresidential electric heating rates as recommended by OSBA and OSBA's proposal to eliminate Rider 3 which provides an extended payment grace period to certain school and government customers has been withdrawn.

Duquesne Light concluded its statement in support of the Settlement by arguing that the Settlement is a fair and reasonable compromise, especially given the diverse and competing interests represented in this case and the challenges presented by COVID-19. Duquesne Light requests that the Settlement be approved without modification.

ii. I&E

In its statement in support of the Settlement, I&E noted twenty-six reasons why the Settlement satisfies the public interest. Of note, I&E identified several provisions regarding revenue requirement. This includes the fact that the overall increase in distribution operation revenues of \$74.2 million is less than the as-filed requested increase of approximately \$115 million. I&E noted the extensive discovery it conducted and testimony it submitted regarding various adjustments and modifications to various expenses and noted that it fully supports the negotiated level of overall distribution rate revenue increase as compared to Duquesne Light's original proposal, adding that the Settlement is a "black box" settlement. I&E also stated that the Settlement allows Duquesne Light to include plant additions in the DSIC once the total distribution account balances exceed \$3,367,154,000 and that for purposes of DSIC calculation, Duquesne Light will use the equity return rate for electric utilities contained in the Commission's most recent Quarterly Report on Earnings of Jurisdictional Utilities.

With regard to revenue allocation and design, I&E noted that revenue allocation represents a compromise among the parties' filed revenue allocation proposals, and does not reflect

any agreement among the settling parties regarding the appropriate cost allocation methodology. I&E added that universal service costs will continue to be recovered only from the residential class. With regard to rate design, I&E noted the customer charge will be maintained at \$12.50 and the proposed increases in customer charges will be scaled back in proportion to the scale back of the revenue requirement in the Settlement. I&E supports the revenue allocation and rate design elements of the Settlement as a full and fair compromise that is in the public interest.

I&E then addressed several other issues agreed upon in the Settlement in support of its position that the Settlement is in the public interest. For example, I&E noted that Duquesne Light will continue to use normalization accounting with respect to the benefits of the tax repairs and Internal Revenue Code deductions. I&E also noted that the settling parties agreed that Duquesne Light will deposit into its pension trusts \$10 million per year and other post-employment benefits (“OPEB”) agreed to in the Settlement.

I&E discussed several provisions that relate to COVID-19 in support of its position that the Settlement is in the public interest and should be approved. I&E noted that paragraphs 38-40 of the Settlement provide for the recovery of deferred COVID-19 uncollectible accounts expenses of \$6.1 million amortized over 36 months, instead of being normalized as Duquesne Light proposed. I&E noted that the Settlement also resolves Duquesne Light’s claim for COVID-19 costs and lost revenues of \$1,931,667 other than uncollectible accounts expenses, noting this claim was resolved within the “black box” portion of the Settlement. In addition, I&E noted that the Settlement permits Duquesne Light to create a regulatory asset for the incremental extraordinary, nonrecurring uncollectible accounts expense incurred as a result of the Commission’s emergency orders. Finally, I&E noted the withdrawal of the proposed residential COVID-19 Debt Relief Program.

I&E also noted in its statement in support the jurisdictional separation study of distribution and transmission costs and assets and that Duquesne Light will file a Total Company Pennsylvania jurisdictional report showing capital expenditures, plant additions and retirements, noting again that this is part of the “black box” agreement. I&E noted as well the withdrawal of Duquesne Light’s proposed Crisis Recovery Program.

I&E addressed the provisions in the Settlement regarding Duquesne Light's customer assistance programs. I&E noted that the maximum household income eligibility criterion for the Hardship Fund will be increased, and that Duquesne Light will contribute an additional \$1 million per year to the Hardship Fund from shareholders. With regard to LIURP, I&E noted that Duquesne Light will increase its funding for LIURP and will continue to use the competitive procurement process to select a vendor to administer the LIURP program. I&E added as well that Duquesne Light will increase its maximum CAP credit thresholds as part of the Settlement.

Finally, I&E addressed the provisions in the Settlement regarding Duquesne Light's TE Programs. I&E noted that it submitted extensive testimony on this issue and recommended that the programs be approved with minor modifications. The program included Duquesne Light's proposal to refund or recover unused EV registration incentive funds and \$854,736 in rate base associated with the DC Fast Charging Evaluation.

I&E also referenced several items in the Settlement that it did not submit testimony on but that it believes demonstrate that the Settlement is in the public interest. These provisions include that Duquesne Light will be permitted to capitalize the development costs for cloud-based information systems as part of the agreement, that Duquesne Light will provide notice and an explanation to the Commission when annual dividend payments in the preceding 12 months exceed 85% of annual net income for the prior year, the withdrawal of the New Business Stimulus Rider, the modifications to Tariff Rule No. 5 regarding deposits for new service or reconnection of service, Duquesne Light's revised street lighting and Rider No. 16, provisions regarding a specific rate contract and provisions regarding other retail rate revisions.

In conclusion, I&E stated that all issues raised in testimony have been satisfactorily resolved and the Settlement exemplifies the benefits to be derived from a negotiated approach to resolving what can at first seem like irreconcilable regulatory differences. I&E also noted that a line-by-line identification of the ultimate resolution is not necessary, but the Settlement maintains the proper balance of the interests of all parties. I&E also argues that the Settlement provides regulatory certainty and negates the need for further litigation.



iii. OCA

In its statement in support of the Settlement, the OCA noted the agreed upon increase in annual operating revenues is approximately 52% of Duquesne Light's net requested increase of \$85 million and is well within the range of possible outcomes in this proceeding. The OCA added that several notable provisions in the Settlement will protect ratepayers and prevent inclusion of costs contested by the OCA while providing sufficient funds to maintain Duquesne Light's distribution system in a reliable manner. The OCA also noted that the increased rates will not go into effect until January 15, 2022, and, with limited exceptions, represents a "black box" settlement of all revenue requirement and return on equity issues. The OCA also added that the Settlement provides that Duquesne Light will not be entitled to include plant additions in DSIC until the total eligible account balances exceed the levels projected by Duquesne Light as of December 31, 2022.

The OCA also referenced other issues related to revenue requirement that support its position that the Settlement is in the public interest. For example, the OCA noted Duquesne Light's agreement to deposit \$10 million per year into its pension trusts and that half of this amount would be collected from customers as an expense. Other revenue requirement related issues the OCA referenced include: Duquesne Light's agreement to file a Total Company and Pennsylvania Jurisdictional report showing its capital expenditures, plant additions and retirement for the full projected future test year; Duquesne Light being permitted to capitalize the development costs for cloud-based information systems; and the withdrawal of Duquesne Light's Federal Tax Adjustment Clause which would have adjusted base rates to reflect the effects of future increases or decreases in the federal income tax.

As with other parties, the OCA also referenced several issues related to COVID-19 in its statement in support of the Settlement. With regard to COVID-19 issues impacting revenue requirement, the OCA noted that the Settlement provides that Duquesne Light will be permitted to recover the deferred COVID-19 accounts expense of \$6.1 million incurred from March 2020 to June 30, 2021, amortized over 36 months beginning with the effective date of rates in this proceeding. The OCA added that the Settlement is consistent with the

Commission's directive to allow the recovery of prudently incurred expenses as a result of COVID-19, including permitting Duquesne Light to create a regulatory asset for the incremental, extraordinary, non-recurring uncollectible accounts and expenses.

In addition, the OCA noted that the Settlement provides that Duquesne Light will withdraw its proposed COVID-19 Relief Program but contribute an incremental \$1 million in shareholder dollars to the Hardship Fund, which will increase the fund's eligibility from 200% to 300% of the federal poverty level. The OCA also recognized the modification of Tariff Rule 5 regarding when a deposit is required for new service or for reconnection of service, as well as Duquesne Light's agreement to increase the LIURP budget by \$400,000 annually from January 1, 2022 and ending January 1, 2025.

Next, the OCA discussed the various provisions of the Settlement regarding Duquesne Light's Transportation and Electrification Programs and load management. The OCA noted that the Settlement adopts many of the OCA's positions, including denying the Home Charging Pilot and that it is in the public interest that the efforts be directed towards the proposed Fleet and Transit Charging Pilot and Make-Ready Pilot. The OCA also noted that the Settlement also approves the Awareness, Education and Engagement Programs, the Fleet Electrification Advisory Service and the Registration Incentive program. The OCA added that the Settlement approves Duquesne Light's proposal to refund or recover unused Electric Vehicle Registration Incentive funds and Level 2 Charging Evaluation rebate expenses over a three-year period and requires Duquesne Light to draft an evaluation and assessment plan for its TE programs.

Finally, the OCA noted in its statement in support the withdrawal of Duquesne Light's Residential Subscription Rate Rider which would have moved customers away from a volumetric rate structure and instead select a specific level of demand for a set monthly charge. In addition, the OCA recognized the portions of the Settlement regarding revenue allocation and rate design noting that, based on its review of the cost-of-service studies presented in this proceeding and varying revenue allocation proposals presented by other parties, the Settlement is within the range of reasonable outcomes that would result from full litigation of this case, and it

is in the public interest. The OCA also noted that, under the Settlement, Duquesne Light's monthly residential customer charge for rates RS, RH and RA will be maintained at \$12.50 as the OCA recommended.

The OCA concluded that the terms and conditions of the Settlement, taken as a whole, represent a fair and reasonable resolution of the issues and claims arising in this proceeding and that the Commission should approve the Settlement without modification as it is in the public interest.

#### iv. OSBA

In its statement in support of the Settlement, OSBA noted the net increase in revenues of \$45 million stating that "at a time when all types of utility service are becoming more expensive, the significant reduction in the distribution revenue increase provided by the settlement will benefit Duquesne Light's small business customers." *OSBA St. in Support* at 3.

The OSBA then addressed three initiatives Duquesne Light proposed in its initial filing to address perceived problems facing general service customers within its service territory. In particular, OSBA indicated that it opposed the Community Development Rider but that the Settlement provides that the costs of the program will not be recovered from customers and not included in the revenue requirement, which OSBA believes reasonably addresses the issues it raised about the program. The OSBA also noted that Duquesne Light's proposed New Business Stimulus Rider and Crisis Recovery Program will be withdrawn as a result of the Settlement.

The OSBA also recognized the modifications made in the Settlement to Duquesne Light's TE Program and load management, noting that it supports the proposed pilot programs in the interest of garnering data for EV infrastructure in Duquesne Light's service territory, including through detailed reporting requirements set forth in the Settlement.

Next, the OSBA addressed the cost allocation and revenue allocation issues. The OSBA noted its disagreement with the litigation position of the other parties on these issues.

However, OSBA agrees that the Settlement resolves the issue of revenue allocation through a compromise among the parties, pointing out that the Settlement explicitly states that the revenue allocation does not reflect agreement of the parties on any particular cost allocation methodology. The OSBA also notes that the Settlement rejects the OCA's proposal to change the recovery of universal service costs. The OSBA stated that it deemed the risks of a highly unfavorable outcome for small businesses in a fully litigated proceeding were substantial, either through a non-unanimous Settlement among the parties or a Commission decision. The OSBA concluded, therefore, that the Settlement revenue allocation is reasonable in the current regulatory climate for small businesses in Pennsylvania.

Finally, with regard to small/medium general service rate design, while the OSBA agrees that a detailed evaluation of the general service rate design cannot reasonably take place in the current proceeding, Duquesne Light has agreed to provide the detailed results of its evaluation and any related rate design proposals in its next base rate proceeding.

The OSBA concludes that it supports the proposed Settlement and requests that the Settlement be approved in its entirety without modification.

#### v. CAUSE-PA

In its statement in support of the Settlement, CAUSE-PA noted that the revenue requirement agreed to in the Settlement is a significant decrease from Duquesne Light's original proposed rate increase of approximately \$115 million, inclusive of the \$29.9 million of revenue currently recovered under surcharges, for a net increase in revenues of \$85.8 million. CAUSE-PA noted that this is a significant decrease for low-income and moderate-income consumers who already struggle to keep up with the cost of basic utility services, adding that 15% of Duquesne Light's customers are low-income. CAUSE-PA also recognized that the Settlement includes several critical enhancements to Duquesne Light's universal service programs and consumer protections.

CAUSE-PA also recognized in its statement in support of the Settlement the portions of the Settlement regarding COVID-19 and related universal service programs. In particular, CAUSE-PA stated that the Settlement withdraws without prejudice Duquesne Light's proposed residential COVID-19 Relief Program which it believes represents a reasonable compromise that balances the varied interests of the parties in this proceeding in light of the other improvements to Duquesne Light's universal service programs elsewhere in the Settlement. Notably, CAUSE-PA stated that, among other things, the Settlement increases the maximum household income eligibility for the Hardship Fund from 200% to 300% of the federal poverty level and provides an additional \$1 million a year to the fund that is contributed by the company's shareholders. CAUSE-PA also recognized the improvements in the Settlement to Duquesne Light's LIURP whereby annual funding will be increased by \$400,000 which will be recovered through Rider No. 5 and use a competitive procurement process to select a vendor to administer the program. CAUSE-PA also stated that the improvements regarding Duquesne Light's CAP also support adopting the Settlement. CAUSE-PA added that, while the Settlement does not adopt all of its recommendations related to CAP, the Settlement represents a reasonable compromise between the parties that will help mitigate the effects of Duquesne Light's proposed rate increase on low-income customers' ability to remain connected to vital basic electric services.

Next, CAUSE-PA stated that provisions of the Settlement regarding Duquesne Light's TE programs and load management support adopting the Settlement. CAUSE-PA stated that Duquesne Light's Make Ready Pilot raised concerns regarding low-income customers not realizing direct benefits but that the Settlement provides an equitable apportionment, includes the provision of TE programs to low-income communities and other historically disadvantaged communities, potential local impacts and other issues. CAUSE-PA then noted with regard to the Fleet and Transit Charging Pilot proposed by Duquesne Light that the Settlement requires equitable apportionment of the annual budget for the program across the service territory, among other things. CAUSE-PA noted the withdraw in the Settlement of Duquesne Light's proposed Home Charging Pilot and then referenced the reporting requirements Duquesne Light agreed to in the Settlement for the TE program.

Finally, CAUSE-PA addressed the revenue allocation and rate design portions of the Settlement. CAUSE-PA stated that it supports the revenue allocation set forth in the Settlement as a balanced compromise of the competing interests in this proceeding, including the agreement to continue to recover universal service costs only from the residential rate class. CAUSE-PA noted that the Settlement maintains the customer charge at \$12.50 and that, for all other rate class customer charges, the proposed increase customer charges will be scaled back in proportion to the scale back of the revenue requirement.

CAUSE-PA concluded that the Settlement was achieved after extensive investigation of Duquesne Light's filing and represents a balanced and reasonable compromise of the settling parties' competing interests. CAUSE-PA added that the Settlement provides critical, common-sense improvements to bill affordability to lessen the impact of the rate increase on low-income households. CAUSE-PA requested that the Settlement be approved without modification.

vi. Pennsylvania Weatherization Providers Task Force, Inc.

In its statement in support of the Settlement, PWPTF stated that it believes the Settlement is in compliance with the applicable laws and regulations and serves the public interest because it increases funding for Duquesne Light's LIURP program for the residential class which will help low-income customers deal with the effect of the rate increase resulting from this Settlement, including Duquesne Light's agreement to increase shareholders' contributions to the Hardship Fund by \$1 million annually. PWPTF also noted that the fixed monthly residential customer charge will not increase from \$12.50 to \$16.00 as Duquesne Light proposed but will remain at \$12.50 under the Settlement. PWPTF added that the Settlement is consistent with the Electric Generation Customer Choice and Competition Act to ensure that universal service is appropriately funded and available and that energy conservation measures are promoted and available to consumers, particularly low-income consumers.

PWPTF concluded that the Settlement should be approved.

vii. Natural Resources Defense Council

In its statement in support of the Settlement, NRDC noted that its top institutional priority is building an equitable clean energy future in which the impacts of extracting and combusting fossil fuels are minimized, if not eliminated. NRDC noted that the Settlement resolves the need for litigation on the issues it raised in this case.

In particular, NRDC noted that the Settlement allows Duquesne Light to recover expenses associated with uncollectible accounts as a result of COVID-19 in the amount of \$6.1 million incurred from March 2020 through June 30, 2021, amortized over a three-year period and that the Settlement allows Duquesne Light to create a regulatory asset for expenses for COVID-19-related uncollectible accounts incurred between July 1, 2021 and January 4, 2022. With regard to COVID-19-related debt relief, NRDC stated that the Settlement withdraws Duquesne Light's proposed residential COVID-19 Relief Program and also strengthens and expands the reach of certain existing programs in a manner that will benefit customers who would have benefitted from the COVID-19 residential debt relief proposal. NRDC noted in particular the expansion of the Hardship Fund from 200% to 300% of the federal poverty level and the \$1 million annual shareholder contribution to the Hardship Fund and increased funding for LIURP.

Next, NRDC noted the Settlement provisions regarding the TE Program, adding that it generally supported Duquesne Light's proposal, with some modifications. NRDC notes that the Public, Workplace and Multi-Unit Dwelling Make-Ready Pilot and Fleet and Transit Pilot are approved under the Settlement with modifications to ensure the equitable deployment of resources across Duquesne Light's service territory. NRDC also noted Duquesne Light's agreement to hold annual stakeholder collaboratives regarding the TE Programs and that Duquesne Light has made specific program reporting commitments in its next base rate proceeding. NRDC concluded that the Settlement terms related to the transportation initiatives reflect a careful and considered compromise of NRDC's litigation position and the litigation position of other parties.

NRDC concluded that the Settlement serves the public interest and should be approved without modification.

viii. ChargePoint

ChargePoint filed a one paragraph statement in support of the Settlement wherein it stated that the modifications made to Duquesne Light's Transportation Electrification Program by the Settlement represent reasonable compromises among the various parties. ChargePoint added that the TE program, as modified by the Settlement, will encourage electric vehicle adoption, support the competitive market for electric vehicle charging infrastructure and services and provide benefits to Duquesne Light's customers. ChargePoint recommended that the Settlement be approved.

ix. Other parties

As noted in the Settlement, U.S. Steel, Peoples, IBEW Local 29 and NEP indicated that they do not oppose the Settlement. In addition, no consumer complainant filed anything opposing the Settlement.

c. Disposition

The joint petition for Settlement will be recommended for approval in its entirety without modification because it is in the public interest and supported by substantial evidence.

Most notably, the Settlement is in the public interest because the reduced revenue requirement represents a more moderate increase for end-users than originally proposed while still allowing Duquesne Light the opportunity to provide safe and reliable utility service. For example, the total monthly bill for the average residential electric service customer using 600 kwh per month would increase by 4.32% instead of the originally proposed 7.72% as first requested by Duquesne Light. Similarly, the total bill for the average residential heating service customer using 1000 kwh per month would increase by 8.78% instead of the originally proposed



13.98% as first requested by Duquesne Light. The reduced revenue requirement provided for as part of the Settlement constitutes a net increase in revenues of \$45 million per year and is in the public interest because it will be less burdensome to end-users, especially low-income end-users, but it will still allow Duquesne Light the opportunity to earn a fair return on its investment and be attractive to investors.

At the core of every settlement of a base rate case is the agreed upon revenue requirement and, although this Settlement is a “black box” settlement where specific revenue and expense adjustments are not identified, the \$45 million net revenue increase is within the range of the parties’ litigation positions and is likely within the range of where a revenue requirement would be set if the case were fully litigated. As noted above, I&E’s original revenue requirement in its litigation position was an increase of only \$34.8 million and the OCA’s original revenue requirement in its litigation position was a decrease of \$2.754 million. This illustrates that the revenue requirement agreed to in the Settlement represents a reasonable compromise among the competing interests of the parties in this case and is in the public interest.

Furthermore, the agreed upon revenue requirement in the Settlement is in the public interest in large part due to the universal service provisions contained in the Settlement that will help offset the burden created by the rate increase for many low-income customers. For example, and as noted above by many parties in their statements in support, more Duquesne Light low-income consumers will be able to benefit from the Hardship Fund because the maximum household income eligibility criterion will be increased from 200% of the federal poverty level to 300% of the federal poverty level. Allowing more consumers to take advantage of the program is in the public interest. It is also significant that additional funding for the Hardship Fund will come from the company’s shareholders by \$1 million per year and at least 75% of the additional funds will be directed to households at or below 200% of the federal poverty level. The Settlement is also in the public interest and should be approved without modification because Duquesne Light has agreed to increase annual funding for LIURP by \$400,000 per year from January 1, 2022 to January 1, 2025. These enhancements to Duquesne Light’s universal service programs are consistent with the declarations of the General Assembly in the Public Utility Code to promote universal service and support finding that the Settlement is

in the public interest. *See e.g.*, 66 Pa.C.S. § 2802(10) (“the Commonwealth must, as a minimum, continue the protections, policies and services that now assist customers who are low-income to afford electric service”); *see also*, 66 Pa.C.S. § 2802(17).

We also find the Settlement to be in the public interest, and therefore should be approved without modifications, because of the adoption of Duquesne Light’s Transportation Electrification Program. The Settlement contains significant detail regarding the TE program and the parties are commended for their efforts to address such details of this important program. Specifically, the agreements in the Settlement pertaining to Duquesne Light’s TE program are in the public interest because they will be equitably spread throughout Duquesne Light’s territory – that is, as the Settlement requires, Duquesne Light will work with stakeholders to identify ways to ensure equitable delivery of these programs to unserved and underserved areas identified through data tracking. The parties are commended for seeking to ensure that unserved and underserved customers are treated equitably in the provision of these new programs. The parties have also agreed to several reporting requirements for Duquesne Light to present in its next base rate proceeding. This additional data will aid in the proliferation of these new technologies and are in the public interest. Finally, it is reiterated that, ChargePoint, who intervened into this proceeding to focus on Duquesne Light’s TE Program, supports the Settlement because it will “encourage EV adoption, support the competitive market for EV charging infrastructure and services, and provide benefits to Duquesne Light’s customers.” *ChargePoint St. in Support* at 1. We agree.

In general, the agreements in the Settlement pertaining to Duquesne Light’s TE Program are in the public interest because of the larger public policy and environmental goals associated with the use of electric vehicles. We note that the Commission’s mission statement in part is to foster new technologies and competitive markets in an environmentally sound manner, and the Commission has previously indicated its interest in supporting increased investment in EV charging infrastructure. *See In re: Policy Statement on Third Party Electric Vehicle Charging – Resale/Redistribution of Utility Service Tariff Provisions*, Docket No. M-2017-2604382 (Final Policy Statement Order entered November 8, 2018). The parties are commended

for providing a framework upon which can be built greater usage of environmentally friendly technologies.

We also note our belief that the Settlement is also in the public interest and should be approved without modification because Duquesne Light has committed to depositing into its pension trusts an amount equal to \$10 million per year commencing with the calendar year 2022 because of the rate design provisions in the Settlement. The funding of the pension trust is an important public benefit. In addition, we see that maintaining the residential rate customer charge at \$12.50 will help ensure that low-volume users, especially those who are low-income, will not be asked to pay more of their share of the expenses covered by the customer charge.

In addition to all of these individual factors that support approving the Settlement as being in the public interest, the Settlement is also in the public interest because of the general benefits of a settlement resolution. The Settlement will save the parties from expending substantial time and expense involved with further litigation. Although the parties exchanged discovery and extensive pre-served testimony, additional costs could have included lengthy hearings, briefs, exceptions and possible appeals. Avoiding such expenditures minimizes the costs that might ultimately be passed on to the ratepayers, and also conserves the resources of all other parties involved in these proceedings and Commission resources as well. The Settlement also addresses many of the issues raised by the witnesses who testified at the public input hearings, including issues pertaining to energy efficiency, COVID-19, electric vehicles and, most notably, the burden on consumers.

The fact that the parties have engaged in extensive discovery and other litigation-related efforts in order to properly investigate and resolve the issues presented also supports finding that the Settlement is in the public interest. These efforts demonstrate that the initial filings and the responses to the filings have been thoroughly vetted and considered by all concerned parties. The Settlement is also the result of extensive and fruitful negotiations between all the parties and represents what each party believes to be a fair and reasonable compromise. This is of particular note as the parties in this matter have diverse and competing interests but were able to reach a settlement on most of the issues.

In addition, the Settlement is supported by substantial evidence. On appeal, decisions of the Commission will be examined to determine if they are supported by substantial evidence. 2 Pa.C.S. § 704. The parties moved into the record via stipulation and with cross examination waived dozens of pieces of pre-served testimony with accompanying exhibits and verifications. The inclusion of that pre-served testimony supports adopting the Settlement as being in the public interest.

As a result, the Settlement will be recommended for approval without modification because it is in the public interest, consistent with the Public Utility Code and supported by substantial evidence. Again, the parties are commended for obtaining a complete resolution of many of the issues in this case. Settlements can be difficult under normal circumstances. Achieving the Settlement during the COVID-19 pandemic and with multiple novel issues was likely even more difficult.

### 3. Master Metering

As noted previously, the remaining issue for litigation concerns NEP's complaint against Duquesne Light's Tariff Rules 18 and 41. Because NEP has proposed modifications to Duquesne Light's tariffs with regard to master metering, NEP has the burden of proof that its proposal should be adopted. 66 Pa. C.S. § 332(a).

#### a. Position of parties

##### i. NEP Main Brief

NEP is a Columbus, Ohio-based provider of installation, sub-metering, billing, collections, electrification and energy services to the owners and developers of multifamily properties. NEP Main Brief (M.B.), p. 1. NEP serves over 32,000 residents at over 150 properties, including over 1,600 tenant residents in PECO's service territory. NEP M.B., p. 1. NEP offers demand management and frequency response technology, ChargePoint electric vehicle charging stations, designed infrastructure, plus usage data and analytics for property

managers and maintenance personnel, along with an online resident portal to provide tenants with visibility into and control over their personal utility usage. NEP M.B., p. 1. NEP's customers are typically multifamily development owners, developers, or condominium associations. NEP M.B., p. 1.

NEP acknowledges that, to the extent NEP has proposed Tariff Rule 41.2, the burden of proof on the reasonableness of the rule falls on NEP in accordance with 66 Pa. C.S. § 332(a). NEP M.B., pp. 7-8. NEP claims it has met its evidentiary burden that Duquesne Light's current tariff rules are unreasonable because they preclude a reasonable option that benefits commercial customer multifamily dwelling property owners, tenants, Duquesne Light and the public interest. NEP M.B., p. 28. Therefore, NEP states that, through its complaint, it seeks to remedy Duquesne Light's existing tariff provisions on redistributing electric energy and master metering. NEP M.B., p. 2. In contrast, NEP argues its proposed Tariff Rule 41.2 provides a fair and measured ability to allow a limited amount of master metering in existing and new multi-family buildings in Duquesne Light's service territory, with carefully designed restrictions, guardrails and consumer protections that balance the interest of all stakeholders, including building tenants, property owners, Duquesne Light, and the public generally. NEP M.B., pp. 2, 15. NEP notes master metering is available in PECO's service territory and claims such service has been made available without measurable harm to tenants in eastern Pennsylvania. NEP M.B., pp. 2, 15.

NEP's Main Brief describes NEP's business model in detail. NEP M.B., pp. 9-10. NEP notes that it did not object to Duquesne Light's proposed Tariff Rule 41.1, but proposed a new Tariff Rule 41.2 at NEP Exhibit TR-11. NEP M.B., p. 11. NEP's Main Brief also describes features of its original proposed Tariff Rule 41.2, and certain modifications it proposed during the proceedings to address other parties' concerns with NEP's proposal. NEP M.B., pp. 11-14. NEP argues opposition to its revised Tariff Rule 41.2 is predicated on speculative and unproven concerns for tenant consumers and ignores the benefits to a broad array of stakeholders. NEP M.B., p. 16. NEP avers that no demonstrated adverse consequences have occurred with master metering and sub-meter service in PECO's service territory, or in Duquesne Light's territory, where 130 master metered buildings continue to operate. NEP M.B.,

p. 16. NEP also notes that the ban on master metering does not exist for commercial customers with non-residential tenants under Duquesne Light Tariff Rule 18. NEP M.B., p. 16.

NEP's Main Brief highlights the benefits to a commercial customer to engineer its energy infrastructure behind the meter. NEP M.B., pp. 17-19. NEP avers the primary goal of its master metering is not to economically advantage the property owner at the cost of conservation of energy. NEP St. No. 1, at 9:15-18. NEP avers the parties opposing master metering have not given any weight to the 40 years of innovation in sub-metering. Additionally, NEP asserts the parties have failed to recognize the importance of commercial customers being able to demonstrate awareness of the importance of climate change, conservation and efficiency to prospective tenants, LEED certifiers, and investors/banks who provide capital to fuel the rental property market. NEP M.B., pp. 19-20. NEP only shops for carbon free or renewable energy supply to ensure a property can claim the carbon or renewable benefit. NEP St. No. 1, at 11:11-23. 12:1-6.

NEP acknowledges that the tenant would voluntarily forgo the opportunity to shop for an electricity supplier, but highlights the benefits for an entire property, including: using a carbon free and climate focused electricity supply without an additional cost; more tenant load participating in the competitive market than would otherwise occur; creating a fully carbon neutral or green property; allowing a capped bill, insights into lowering bills, and customized customer-specific approaches; and potential economic benefits to submetered tenants, especially if the property owner passes along a bill credit based on the lower cost of a commercial load versus a residential load. NEP St. No. 1, at 22:19-23, 23:1-8. NEP claims it resolves doubt about whether it can comply with 66 Pa. C.S. § 1313, *infra*, by making it a requirement in proposed Tariff Rule 41.2 that master metered tenants receive a minimum of a two dollar discount each month from the otherwise applicable utility charge for residential service. NEP M.B., p. 52.

NEP claims another benefit to property owners and the public is the current interest by investors and banks in making more climate sensitive deployments of capital. NEP M.B., p. 22-24. NEP notes that conservation and efficiency programs provided by Duquesne

Light are only one source of conservation/efficiency options for customers, and some non-utility options are tied to financing. NEP M.B., p. 22. NEP argues Duquesne Light's Energy Efficiency and Conservation Act 129 Program appears focused and marketed only toward low-income multi-family building tenants, when, by contrast, low-income tenants are not the focus of NEP's customers. NEP M.B., p. 23 (citing NEP Cross Exhibit 14, at 21, 42). NEP argues that complying with environmental and efficiency program certifications by aggregating individual tenant usage is nearly impossible. NEP M.B., pp. 24-25. Also, NEP argues that deployment of smart thermostats and replacement of inefficient appliances is more likely when property owners can make decisions on a property-wide basis. NEP M.B., p. 25. NEP avers master metering will also provide benefits to Duquesne Light. NEP M.B., p. 25.

NEP avers master metering will also provide benefits to tenants, including that the smart sub-meter will provide tenants detailed insight into their electricity usage and control over consumption. NEP M.B., pp. 27-28. NEP counters the claim that residential tenant bills would be higher under Tariff Rule 41.2 than if Duquesne Light provided service because its CAP program and other forms of utility provided bill payment assistance would be unavailable by stating that NEP's proposal requires notice to prospective tenants that certain low-income programs would be unavailable. NEP M.B., p. 52.

NEP argues its proposed master metering and sub-metering program and Tariff Rule 41.2 are consistent with the Public Utility Regulatory Policies Act of 1978, 16 U.S.C. § 2601 *et seq.* ("PURPA") and its policy directives. NEP M.B., p. 29. NEP notes that, although PURPA generally prohibits master metering of electric service for new buildings, it did not impose a complete ban, and under certain circumstances individual meters might not be an appropriate alternative to master metering. NEP M.B., pp. 29-30. NEP witness Ringenbach noted that the policy behind PURPA was to incentivize residential customers, including tenants in multi-family buildings, to conserve electric energy by metering and paying based on their actual usage, rather than being billed without regard to their individual use. NEP St. No. 1, at 4:8-11. Therefore, PURPA is rooted in high level policies in favor of conservation and energy efficiency, and not the consumer protection approach used by NEP's critics in this proceeding. NEP St. No. 2, at 6:2-4. NEP argues PURPA's policy emphasis predated the availability of

smart sub-meters and programs like those administered by NEP, which provide tenants control through submetering and substantial opportunities for energy conservation and energy efficiency. NEP M.B., p. 31. Therefore, NEP avers that its proposed master metering and sub-metering program and Tariff Rule 41.2 are consistent with PURPA. NEP M.B., p. 31.

NEP also argues that legal precedent in Pennsylvania supports its proposed master metering and sub-metering program and Tariff Rule 41.2. In *Pa. Pub. Util. Comm'n v. W. Penn Power Co.*, 1979 Pa. PUC LEXIS 37 (Pa. P.U.C. 1979) (*West Penn Power Co.*), the Commission restricted West Penn's then Tariff Rule 21 by limiting master metering to present customer locations. NEP M.B., p. 32. NEP notes that the Commission's rationale was focused on conservation of energy. NEP M.B., p. 32 (citing *West Penn Power Co.* at 156-157). By contrast, NEP avers that, because its business model expressly incorporates smart sub-meters and incentivizes property owners to invest in energy efficiency, there is no need to limit master metering as suggested by NEP's critics.

NEP cites to *Motheral, Inc. v. Duquesne Light Co.*, 2001 Pa. PUC LEXIS 4 (Pa. P.U.C. 2001) (*Motheral*), where Motheral, Inc. ("Motheral") leased a 28-unit apartment building to Carnegie Mellon University, and Motheral sought Commission relief from the burden and cost of paying 29 separate bills each month. NEP M.B., p. 32 (citing *Motheral* at 3). The Commission rejected Motheral's request and stated protection of a property owner's economic interest is not an objective of the Public Utility Code, and a claim of economic hardship from the use of individual meters was outweighed by the inequities that would befall Duquesne Light's other customers. NEP M.B., p. 33 (citing *Motheral* at 12-13). NEP claims the facts in *Motheral* are distinguishable from its proposal because NEP is not solely seeking personal economic advantage, but its proposed master metering and sub-metering program brings a host of economic, conservation and energy efficiency benefits to property owners, tenants, Duquesne Light, and the public interest. NEP M.B., p. 33.

NEP also cites to *Tiffany Assocs. v. Duquesne Light Co.*, 1998 Pa. PUC LEXIS 206 (Pa. P.U.C. 1998) (*Tiffany Associates*), where complainant filed a complaint against Duquesne Light for its refusal to grant the complainant's request to master meter its senior



citizen apartment building. NEP M.B., p. 33. NEP avers that Duquesne Light argued in *Tiffany Associates* that PURPA “is more than just equitable rates to electric customers”, but Tariff Rule 41 “is the direct result of PURPA and is designed to conserve energy”. NEP M.B., pp. 33-34 (citing *Tiffany Associates* at 6). NEP summarizes that the Commission denied complainant Tiffany Associates’ request because (i) banning or limiting master metering is justified to conserve energy and (ii) “[t]he public interest in the conservation of energy and in keeping energy costs low outweighs the benefits resulting from master metering.” NEP M.B., p. 34 (citing *Tiffany Associates* at 13).

Finally, NEP cites *Crown Am. Corp. v. Pa. Pub. Util. Comm’n*, 76 Pa. Cmwlth. 305, 463 A.2d 1257 (1983) (*Crown American*), where the Commonwealth Court upheld PPL’s tariff that allowed master metering of multi-tenancy commercial buildings in certain limited circumstances. NEP M.B., p. 34. NEP highlights the Commonwealth Court’s observation that there was ample record evidence “indicating that tenants of residential multi-family dwellings who are individually metered, and thus are made aware of their true energy costs, substantially reduce their energy consumption to decrease those costs.” NEP M.B., p. 34 (citing *Crown American* at 1260). NEP therefore argues that the reason the Commonwealth Court upheld the PPL limitation on master metering, i.e., the inability of customers to be aware of and reduce their energy costs, is the reason NEP’s proposed master metering and sub-metering program should be approved. NEP M.B., pp. 34-35.

NEP asserts Duquesne Light is predisposed to reject any expansion of master metering. NEP M.B., p. 35, 37-38, 53. NEP also claims Duquesne Light has shifted the issues around master metering as found at Tariff Rule 18 from energy conservation to customer protection. NEP St. No. 2, at 7:20-23.

NEP notes that it is not a public utility, and therefore NEP states it is unreasonable to impose on it legal and other standards applicable to Duquesne Light as a regulated public utility. NEP M.B., pp. 39-40. NEP witness Ringenbach states NEP does provide consumer protection services different from Duquesne Light’s, and that there is no reason NEP must offer the same protections. NEP St. No. 2, at 3:23 and 4:1-5. NEP notes that none of Duquesne

Light's consumer protections apply to the currently master metered properties in its territory, and no problems have been demonstrated with NEP's service elsewhere that merit identical consumer protections between Duquesne Light and NEP. NEP M.B., pp. 40-41, 43, 50. NEP further notes that CAUSE-PA's witness in Duquesne Light's 2018 base rate proceeding supported some amount of master metering for reasons similar to NEP's reasons in this proceeding. NEP M.B., pp. 41-43.

NEP asserts that consumer protection laws applicable to regulated utilities are unnecessary, and 66 Pa. C.S. § 1313 already provides a key consumer protection by ensuring tenants will not be charged more than they would pay if they were individually metered residential customers of the utility. NEP M.B., p. 43-44. Further, 66 Pa. C.S. §§ 1521-1533 provides service termination and protections to tenants in residential buildings that are receiving service from a public utility if a landlord fails to pay for service. NEP M.B., p. 44. Nonetheless, as addressed in Section I.E. of NEP's M.B., NEP is amenable to modifications to its proposed Tariff Rule 41.2 to address some of the parties' concerns. NEP M.B., pp. 44-45.

NEP counters Duquesne Light's concern that master metering may cause inter-class and intra-class revenue allocation impacts by claiming Duquesne Light has produced little information and analysis regarding such concerns, and has actually assiduously avoided looking into master meter cost/revenue shifts or uncollectible impacts. NEP M.B., pp. 46-47. NEP witness Ringenbach testified that there would not be significant shifts in Duquesne Light's inter-class or intra-class revenue allocations between now and Duquesne Light's likely next base rate case. NEP St. No. 1, at 24:19-22, 25:1-6. Although Duquesne Light challenged NEP witness Ringenbach's testimony, NEP avers that its position is most credible and probative, because, in surrebuttal testimony, NEP witness Ringenbach proposed that new multifamily buildings with four or more units and conversions of existing individually metered buildings approved under Rule 41.2 be limited to no more than 130 existing and new developments. NEP M.B., p. 48 (citing NEP St. No. 2, at 13:13-23, 14:1-3). NEP notes that this limited new master metering to the same range that already exists in Duquesne Light's territory, i.e., 130 properties, and this number of master metered properties has not been a cost/revenue allocation issue up to now. NEP M.B., p. 48.

Lastly, NEP's proposal would have Commission staff be available to mediate requests under proposed Tariff Rule 41.2 that are alleged by Duquesne Light to have deficiencies. NEP M.B., p. 52-54; NEP Exhibit TR-22.

In conclusion, for the reasons stated in its Main Brief, NEP requests that the Commission approve its proposed Tariff Rule 41.2 in its entirety. NEP M.B., p. 55.

ii. Opposing parties' Main Briefs

1. Duquesne Light

Duquesne Light asserts NEP's master metering and electricity redistribution proposal should be denied because it will allow entities such as NEP to provide unregulated electric service to residential tenants in Duquesne Light's service territory to the detriment of those tenants and to the detriment of Duquesne Light's customers. Duquesne Light M.B., p. 1. Such service would be outside of the jurisdiction of the Commission and without all the protections afforded by regulated service. Duquesne Light M.B., p. 4. Duquesne Light also avers that NEP's proposal would require Duquesne Light to unwillingly act as a regulator to oversee NEP's proposed tariff conditions, which could subject Duquesne Light to potential complaints and/or penalties for violations. Duquesne Light M.B., pp. 4-7, 10.

Duquesne Light asserts there is no legal requirement that Duquesne Light allow master metering of multifamily residential properties with resale of electricity by non-regulated entities to residential customers. Duquesne Light M.B., pp. 5, 10. Duquesne Light cites *Pa. Pub. Util. Comm'n v. Columbia Gas of Pa., Inc.*, 2018 Pa. PUC LEXIS 432 (Pa P.U.C. 2018), where the Commission found that Columbia's provision of on-bill billing service to certain affiliates was unreasonable discriminatory service, although Columbia maintained discretion as to whether or not to offer this service. Duquesne Light M.B., p. 5. Duquesne Light also cites *Petition of PPL Utilities Corp.; Requesting Approval of a Voluntary Purchase of Accts. Receivables Program & Merchant Function Charge*, 2009 Pa. PUC LEXIS 266 (Pa. P.U.C. 2009) (*PPL POR*), where the Commission "agree[d] with PPL that authority does not exist for

the Commission to compel any...jurisdictional EDCs to create and offer such a POR Program in the competitive electric generation marketplace.” Duquesne Light M.B., p. 6 (citing *PPL POR* at 22). Duquesne Light notes the Commonwealth Court has stated that the Commission “is not empowered to act as a super board of directors for the public utility companies of this state.” Duquesne Light M.B., p. 6, n.1 (citing *Metro. Edison Co. v. Pa. Pub. Util. Comm’n*, 62 Pa. Cmwlth. 460, 437 A.2d 76 (1981)). Because NEP’s proposal is a discretionary program, Duquesne Light concludes that Duquesne Light cannot be compelled to offer NEP’s proposed master metering and submetering program to customers. Duquesne Light M.B., pp. 7, 10.

Duquesne Light asserts that a party that raises an issue that is not included in a public utility’s general rate case filing bears the burden of proof. Duquesne Light M.B., p. 8-9. Duquesne Light states that Commission-approved tariffs, one of which NEP is attempting to change, are *prima facie* reasonable. Duquesne Light M.B., p. 9. Duquesne Light also notes that the Commission has previously upheld Duquesne Light’s prohibition against master metering in *Motheral, supra*, and it should not be revised to further the economic interests of third parties to the detriment of Duquesne Light’s customers. Duquesne Light M.B., p. 8, 19. Therefore, Duquesne Light avers that, by attempting to revise the terms of Duquesne Light’s Commission-approved tariff, NEP carries a very heavy burden to prove that the facts and circumstances have changed so drastically as to render the application of the tariff provisions unreasonable. Duquesne Light M.B., pp. 9-10.

Duquesne Light argues the primary benefits alleged by NEP related to energy efficiency and conservation are already provided by Duquesne Light’s Commission-approved Energy Efficiency and Conservation Plan (“EE&CP”). Duquesne Light M.B., p. 11. Additionally, Duquesne Light argues that NEP incorrectly references PURPA for support when Duquesne Light’s tariff is in compliance with PURPA. Duquesne Light M.B., p. 11. Duquesne Light states that the Commission has previously determined that Duquesne Light’s Tariff Rule 41 complies with PURPA. Duquesne Light M.B., p. 25 (citing *Pa. Pub. Util. Comm’n v. Duquesne Light Co.*, 1981 Pa. PUC LEXIS 89 (Pa. P.U.C. 1981), vacated in part on other grounds, *Duquesne Light Co. v. Pa. Pub. Util. Comm’n*, 507 A.2d 433 (Pa. Cmwlth. 1986).

Duquesne Light highlights what it avers would be negative impacts on NEP tenant consumers. First, Duquesne Light contends that it demonstrated that, contrary to NEP's assertions, many of its tenant customers would pay more taking service from NEP instead of Duquesne Light, through fees, charges, or ineligibility for Duquesne Light's Standard Offer Program. Duquesne Light M.B., pp. 14-15 (citing Duquesne Light St. No. 6-R, pp. 13-16). Duquesne Light argues that NEP's billing practices may violate 66 Pa. C.S. § 1313. Duquesne Light M.B., p. 15. Second, Duquesne Light states that, although NEP's proposal attempts to mimic some of the terms and conditions of service provided by Duquesne Light, it fails to provide tenant customers with protections and benefits that regulated utility customers are provided. Duquesne Light M.B., pp. 15-17. Duquesne Light highlights that NEP's tenant customers will not have access to low-income customer assistance programs. Duquesne Light M.B., pp. 16, 24. Duquesne Light claims NEP's attempt to mitigate this by limiting its proposal to non-low-income housing is deficient because low-income residents may still reside in what NEP defines as non-low-income housing. Duquesne Light M.B., pp. 16-17. Further, Duquesne Light claims NEP does not collect income data and therefore cannot know whether its tenant customers are low-income or not. Duquesne Light M.B., p. 17.

Duquesne Light also states that NEP's proposal would harm Duquesne Light's customers by reducing the customer base and revenues, which would increase rates to the remaining customers. Duquesne Light M.B., pp. 17-18. Duquesne Light repudiates NEP's claim its proposal will allow Duquesne Light to avoid the costs of serving hundreds of accounts and states that it handles hundreds of thousands of accounts and, as explained previously, decreasing the customer base increases average costs for customers. Duquesne Light M.B., pp. 18-19.

Duquesne Light contends that the majority of the alleged benefits offered by NEP are the result of NEP being able to offer services Duquesne Light cannot as a regulated utility. Duquesne Light M.B., p. 20. Duquesne Light argues that NEP's ability to offer unregulated services should not be viewed as a benefit to support providing unregulated distribution services. Duquesne Light M.B., p. 20. Duquesne Light states that it has demonstrated how the primary benefit claimed by NEP, that it can provide better energy and conservation measures than

Duquesne Light, is incorrect. Duquesne Light M.B., pp. 20-21 (citing Duquesne Light St. No. 6-R, pp. 7-9; DLC Exhibit YP-1-SR). Duquesne Light provides specific responses to counter the other alleged benefits of NEP's proposal. Duquesne Light M.B., pp. 21-24. Duquesne Light concludes that the benefits alleged by NEP are either not clear, can be obtained from Duquesne Light, or are in fact detriments. Duquesne Light M.B., p. 24. Further, Duquesne Light notes that if NEP's proposal is adopted, other entities similar to NEP would be able to provide service in Duquesne Light's territory, and they may have terms of service and service conditions different than that offered by NEP. Duquesne Light M.B., pp. 24-25.

In conclusion, Duquesne Light requests that NEP's proposal related to master metering and electricity redistribution be denied. Duquesne Light M.B., p. 26.

## 2. CAUSE-PA

CAUSE-PA asserts NEP's tariff proposal is not in the public interest. CAUSE-PA M.B., pp. 1, 9. Specifically, CAUSE-PA asserts NEP's proposal will foreclose tenants from accessing critical forms of existence, eviscerate existing residential tenant protections, and NEP's plan to address such concerns are inadequate. CAUSE-PA M.B., pp. 1, 8-10, 14, 21. Further, CAUSE-PA argues NEP has failed to meet its burden of proof to show that its proposed tariff is just, reasonable, and in the public interest, or that Duquesne Light's current tariff is unjust, unreasonable, or unlawful. CAUSE-PA M.B., pp. 1, 8-10, 21, 23.

CAUSE-PA states that, although a public utility typically has the burden to establish the justness and reasonableness of every element of its rate increase, in this instance, NEP bears the burden of proof as the proponent of revisions to Duquesne Light's tariff. CAUSE-PA M.B., pp. 4, 23. Additionally, CAUSE-PA asserts that tariff provisions approved by the Commission are presumed to be reasonable, and a party challenging a tariff provision carries a heavy burden of proof to show that circumstances have changed to render the approved provision unreasonable. CAUSE-PA M.B., pp. 4, 8. Therefore, CAUSE-PA concludes that NEP – as the proponent of the proposed Tariff Rule 41.2 and revisions to Duquesne Light's existing Tariff Rules 18 and 41 – has the burden of proof to show, by a preponderance of the evidence, that its

proposed tariff rule is just, reasonable, and in the public interest – and that Duquesne Light’s existing tariff rules are not. CAUSE-PA M.B., p. 5.

CAUSE-PA asserts that the Commission has both explicit jurisdiction over the Public Utility Code as well as implied authority in the absence of explicit statutory text. CAUSE-PA M.B., pp. 5-6. CAUSE-PA notes that the Commonwealth Court has stated that the Commission’s jurisdiction over an entity attaches only if there is specific authority or a “strong and necessary implication” of authority rooted in statutory text. CAUSE-PA M.B., p. 7 (citing *Blue Pilot Energy, LLC v. Pa. Pub. Util. Comm’n*, 241 A.3d 1254, 1264 (Pa. Cmwlth. 2020)). CAUSE-PA states that the Commission’s jurisdictional authority over landlords and other third-party master/sub-metering entities is an open legal question. CAUSE-PA M.B., pp. 7, 22-23. CAUSE-PA also notes that in *Crown American, supra*, the Commonwealth Court upheld a prohibition on master metering, finding economic disadvantage resulting from master metering was not unreasonable because protection of economic interests was not the purpose of the Public Utility Code. CAUSE-PA M.B., p. 7.

CAUSE-PA states that NEP’s assertion that Duquesne Light’s current tariff places it at an economic disadvantage is not substantial evidence and fails to meet the evidentiary burden in this proceeding. CAUSE-PA M.B., p. 8. CAUSE-PA states that, per *Crown American*, economic interests are not controlling when determining whether a tariff provision which restricts master and sub-metering is just and reasonable. CAUSE-PA M.B., p. 9 (citing *Crown American* at 1260). Instead, the statutory and/or regulatory objective controls, which is guided by the “fundamental duty of the Commission, assigned by the legislature” to protect the public and the ratepayers. CAUSE-PA M.B., p. 9 (citing *Crown American* at 1260). Therefore, CAUSE-PA concludes that the statutory and regulatory objective of the Commission is to uphold and enforce the Public Utility Code and the rights bestowed to tenants under those laws, of which Duquesne Light’s prohibition on master metering is of critical import. CAUSE-PA M.B., p. 9.

CAUSE-PA argues that Duquesne Light’s current master metering tariff rules protect tenants from unreasonable and unjust terms and conditions of service and preserve access

to universal service programs. CAUSE-PA M.B., p. 10. As customers of Duquesne Light, these tenants are eligible for Duquesne Light's assistance programs and receive service that is subject to the requirements of the Public Utility Code and Commission regulations. CAUSE-PA M.B., pp. 11-12. If NEP's tariff proposal were approved, tenants in Duquesne Light's service territory could lose the ability to access most of these protections. CAUSE-PA M.B., pp. 12.

By contrast, CAUSE-PA states it supported Duquesne Light's withdrawn Tariff Rule 41.1, which was adequately narrow to preserve the rights of tenants in newly master-metered buildings, as it would ensure the building owner was not able to pass along the cost of utility service to their tenants. CAUSE-PA M.B., pp. 12-13. In fact, Duquesne Light's withdrawn Tariff Rule 41.1 was a result of a recommendation from CAUSE-PA's expert witness in Duquesne Light's 2018 base rate case. CAUSE-PA M.B., pp. 13-14. CAUSE-PA notes that its original proposal in 2018 never contemplated sub-metering, which evades important Commission oversight functions. CAUSE-PA M.B., p. 14.

Although NEP states its proposal will be limited to non-low income new and existing multifamily properties, CAUSE-PA criticizes NEP for offering no definition of "non-low income" or any requirement that a property owner verify or confirm the income status of tenants. CAUSE-PA M.B., p. 15. CAUSE-PA states that the modifications NEP offered in response to criticisms to its proposal provide a modicum of protection to tenants, but not the same protections that are available to individually metered residential tenants. CAUSE-PA M.B., pp. 16-17. CAUSE-PA also expresses concern regarding how and to what extent these provisions of Duquesne Light's tariff could be enforced against a landlord or third-party billing agent. CAUSE-PA M.B., pp. 17-20. CAUSE-PA vehemently disagrees with NEP's assertion that there is no reason why tenants must be provided identical consumer protections, pointing to the legislature and Commission's establishment of requirements governing the provision of residential service. CAUSE-PA M.B., pp. 17-18.

CAUSE-PA cites NEP's statement that it is not trying to be a public utility in Pennsylvania and an opinion by the Supreme Court of Ohio that concerns NEP's challenge to the jurisdiction of the Public Utilities Commission of Ohio to hear a complaint from a NEP



customer. CAUSE-PA M.B., p. 20 (citing NEP St. 2 at 2-3 and *In re Complaint of Wingo v. Nationwide Energy Partners, LLC*, 163 Ohio St.3d 208, 169 N.E. 3d 617 (Ohio Sup. Ct. 2020)). CAUSE-PA states there is a likelihood that NEP may challenge the Commission's jurisdiction to enforce NEP's proposed tariff provisions, and it will be very difficult and expensive to reverse the tariff provision if NEP's proposed protections are later found to be unenforceable against third parties. CAUSE-PA M.B., pp. 20-21.

CAUSE-PA's Main Brief details provisions of the Public Utility Code, Commission regulations, Duquesne Light's tariff, and NEP's proposed tariff where CAUSE-PA argues NEP's proposal will negatively impact tenants and is unreasonable, unjust, and contrary to the public interest. CAUSE-PA M.B., pp. 23-56. Specifically, CAUSE-PA addresses billing, collections, and terminations standards; the Discontinuance of Service to Leased Premises Act; how rates are charges and payments are applied by a landlord or third-party sub-metering company for residential service, and the manner a consumer may seek relief; consumer protections related to notification of increased rates and tariff changes; confidentiality of consumer information; and tenants' access to universal service programs and bill affordability safeguards for low income tenants. *Id.* CAUSE-PA notes that NEP's policies and procedures only represent one potential model, and other models could include even more negative features. CAUSE-PA M.B., p. 28.

CAUSE-PA states that its witness concluded there was no evidence that master/sub-metering improves the overall energy efficiency of properties or reduces usage in individual tenant units. CAUSE-PA M.B., p. 56 (citing CAUSE-PA St. 1-R at 56: 16-17). CAUSE-PA criticizes NEP's proposal for not requiring any standards for energy conservation and not substantiating that master metering inherently leads to conservation. CAUSE-PA M.B., p. 56. CAUSE-PA notes that NEP's proposal would prevent tenants under master meters from accessing energy efficiency programs. CAUSE-PA M.B., pp. 56-57.

CAUSE-PA expresses concern with the Commission's practical ability to oversee landlords and master/sub-metering companies without clear definitions of authority and

responsibilities, and without any additional resources to finance an expanded regulatory function. CAUSE-PA M.B., pp. 57-58.

Finally, CAUSE-PA argues that Duquesne Light's Tariff Rules 18 and 41 are just, reasonable, and in the public interest, and should be affirmed. CAUSE-PA M.B., pp. 58-59. CAUSE-PA cites *Motheral, supra*, where the Commission rejected an exemption from Duquesne Light's ban on master metering based on economic hardship. CAUSE-PA M.B., p. 59. CAUSE-PA also notes the basis for *Motheral* was *Crown American* where the Commonwealth Court dismissed an argument that master metering prohibitions are improper because they deprive companies of commercial opportunities to operate master-sub-metering services. CAUSE-PA M.B., p. 59 (citing *Crown American* at 1260).

In conclusion, CAUSE-PA states NEP failed to meet its burden of proof to show that its proposed Tariff Rule 41.2 is just, reasonable, or in the public interest. CAUSE-PA M.B., p. 60. To the contrary, CAUSE-PA asserts NEP's tariff proposal contains inadequacies and ambiguities that would harm tenants in Duquesne Light's service territory. CAUSE-PA M.B., p. 60. Accordingly, CAUSE-PA asserts NEP's tariff proposal should be rejected in its entirety and Duquesne Light's current Tariff Rules 18 and 41 should be upheld. CAUSE-PA M.B., p. 60.

### 3. OCA

The OCA asserts NEP's proposed Tariff Rider 41.2 should be denied. OCA M.B., p. 7. The OCA argues NEP's proposal would potentially eliminate basic consumer protections, and low-income customers would be disadvantaged by not having access to universal service programs. OCA M.B., p. 7. If Tariff Rule 41.2 is adopted, the OCA states costs should only be allocated to commercial customers, not residential customers, as the OSBA contends. OCA M.B., pp. 7-8.

The OCA notes that, in Commission proceedings, the proponent of a rule or order bears the burden of proof with respect to the proposed rule. OCA M.B., p. 3. As the proponent of a rule, the OCA asserts NEP has the burden to prove its allegations by a preponderance of the

evidence. OCA M.B., pp. 3-4. The OCA states Duquesne Light has met its burden of proof as modified by the Joint Petition for Settlement, but that NEP has not met its burden as the proponent of Tariff Rule 41.2.

The OCA highlights certain features of NEP's proposal, including the modifications designed to address criticisms, and concludes the proposed conditions are not sufficient to address the broad scope of consumer protection issues raised by the OCA, Duquesne Light, and CAUSE-PA witnesses. OCA M.B., pp. 8-10. The OCA avers that, under NEP's proposal, tenants would potentially be without protections provided under Chapter 56 of the Commission's regulations and Chapter 14 of the Public Utility Code because they would not be considered customers of the utility. OCA M.B., pp. 10-13. The OCA states that NEP's proposal is not consistent with 66 Pa. C.S. § 1313. OCA M.B., p. 11. In particular, OCA argues that low-income customers would be impacted, and they would not be eligible to enroll in Duquesne Light's CAP program. OCA M.B., p. 11. The OCA states NEP's proposal fails to address the potential that tenants may experience unexpected hardships. OCA M.B., p. 12.

The OCA avers that NEP's assertion that tenants behind master metered buildings are not utility customers and should not be treated as such is precisely the concern. OCA M.B., p. 14. For example, the OCA illustrates how a tenant under NEP's proposal may be eligible for a payment arrangement shorter than for what a tenant may be eligible for under Chapter 14. OCA M.B., p. 14.

Finally, the OCA argues that the costs of any master-metered multi-family service should not be allocated to residential customers. OCA M.B., p. 15. The OCA avers the OSBA's proposal to allocate costs to residential customers is in error because first, the impact on the commercial class is unknown and speculative and, second, master metered facilities are clearly commercial customers. OCA M.B., pp. 15-16. The OCA submits that if the proposal for Tariff Rule 41.2 is approved, any costs should only be allocated to commercial customers. OCA M.B., p. 16.

In conclusion, the OCA requests that NEP's proposal be denied and the Joint Petition for Settlement be approved without modification. OCA M.B., p. 17.

#### 4. OSBA

The OSBA states that NEP, as the sponsor of the proposed Tariff Rule 41.2, has not met its burden of proof and its proposal should be denied. OSBA M.B., p. 3. The OSBA states that Duquesne Light has met its burden of proof in this case as modified by the Joint Petition for Settlement. OSBA M.B., p. 3.

OSBA avers that small and medium businesses are affected by NEP's proposal because master-metered residential properties with multiple dwelling units take service under a non-residential general service tariff. OSBA M.B., p. 3. OSBA claims that, since residential loads tend to have load shapes that are relatively costly to serve, increasing residential loads in master-metered buildings will tend to increase unit costs assigned to non-residential rate classes. OSBA M.B., p. 3. The OSBA states that it has raised a number of concerns about NEP's proposal as set forth in its witness' rebuttal testimony, and for the reasons detailed therein, NEP's proposal must be rejected. OSBA M.B., p. 5.

#### iii. NEP Reply Brief

NEP acknowledges its burden of proof in this proceeding, but avers the burden has been set inappropriately high out of an unsupported fear of material loss of protections to primarily low-income customers. NEP Reply Brief (R.B.), p. 1. NEP argues it has provided overwhelming evidence in support of its proposal, and the opposing parties have failed to produce evidence supporting their concerns. NEP R.B., p. 3.

NEP asserts there is no legal prohibition to its proposal, and that Duquesne Light's current ban on master metering is no longer reasonable. NEP R.B., pp. 4, 6-7. NEP notes that master metered properties currently operate in Duquesne Light's territory, and Duquesne Light's proposed Tariff Rule 41.1 was proposed without the full array of customer

protections demanded by the opposing parties. NEP R.B., p. 4. NEP asserts PURPA does not compel the Commission to ban master metering. NEP R.B., pp. 4-5.

NEP argues that adding more customer protections to a master metering tariff would force the commercial customer into the role of a public utility and exacerbate what opposing parties see as an enforceability problem. NEP R.B., p. 7. NEP states that its proposal does not burden Duquesne Light with any type of enforcement obligation that is fundamentally different from the many tariff rules it already applies and enforces. NEP R.B., p. 8. Regarding opposing parties' concern with enforcement under 66 Pa.C.S. § 1313, NEP cites *Coggins v. PPL Elec. Utils. Corp.*, Docket No. C-2012-2312785 (Order Entered July 18, 2013) (*Coggins*), for the proposition that the Commission has jurisdiction to award refunds for violations of 66 Pa.C.S. §§ 501(c) and 1313. NEP R.B., pp. 9-10.

NEP argues that the two cases that Duquesne Light cites regarding the Commission's power to require it to implement NEP's proposal are neither pertinent to nor dispositive of NEP's proposal here. NEP R.B., pp. 10-14. NEP avers the provision of master metering is not a discretionary service offering that may be permitted or banned on the whim and in the sole discretion of the utility. NEP R.B., p. 14. NEP also argues that CAUSE-PA's citation to *Tenant Action Grp. v. Pa. Pub. Util. Comm'n*, 100 Pa. Cmwlth. 468, 514 A.2d 1003 (1986) is not a legal mandate for individual meters in multi-family buildings and otherwise does not provide support for CAUSE-PA's position. NEP R.B., pp. 14-16.

NEP avers it painstakingly demonstrated energy efficiency and conservation related benefits to stakeholders. NEP R.B., pp. 16-19. NEP also avers that it is incorrect that the detriments to its proposal outweigh the benefits. NEP R.B., pp. 19-20. NEP states that the substantial preponderance of evidence of benefits to all key stakeholders amply demonstrates the value of NEP's proposal beyond NEP's financial gain. NEP R.B., pp. 26-27.

NEP contends that Duquesne Light and CAUSE-PA misconstrue the application of proposed Tariff Rule 41.2 by focusing on NEP rather than the commercial customers/property owners who may seek the master metering option. NEP R.B., pp. 21-22. NEP suggests it may

be helpful to view its proposal in the same context as a utility-sponsored “pilot” program. NEP R.B., pp. 22-23.

NEP states opposition to NEP’s proposal is incorrectly premised on the view that master metering was limited or eliminated in tariff rules in order to protect low-income residential customers. NEP R.B., pp. 24-25. NEP contends the OCA’s reading of 66 Pa.C.S. § 1313 is overbroad, and this law can only reasonably be read as requiring adherence to standard utility residential electric charges. NEP R.B., p. 25. NEP also alleges that: CAUSE-PA mischaracterizes NEP’s proceeding in Ohio; CAUSE-PA’s concerns about re-metering a building and tenants arranging for payment of an entire building in the event of property owner default are unfounded; under NEP’s proposal, tenants are required to receive an explanation of how their bills are calculated; CAUSE-PA misstates its 2018 testimony; all property owners and their agents will need to comply with Tariff Rule 41.2, irrespective of their own business model; and issues of cost allocation and loss of customers should be deferred until the first Duquesne Light base rate proceeding following implementation of NEP’s proposal. NEP R.B., pp. 27-30.

In conclusion, NEP again requests that the Commission find it has met its burden of proof and approve proposed Tariff Rule 41.2 in its entirety.

iv. Opposing parties’ Reply Briefs

1. Duquesne Light

Duquesne Light avers NEP’s Main Brief asks the ALJs and the Commission to subordinate the duty to protect the public and ratepayers to NEP’s desire to profit. Duquesne Light R.B., pp. 1-2. Duquesne Light asserts NEP’s arguments in its Main Brief are insufficient to overcome the infirmities with NEP’s proposal, and the relief requested by NEP should be denied. Duquesne Light R.B., p. 2.

Duquesne Light argues both residential tenant-customers and Duquesne Light’s other customers would be harmed by NEP’s proposal. Duquesne Light R.B., pp. 3, 5-7, 9.

Duquesne Light states NEP couches its proposal as providing energy efficiency benefits, but the record evidence clearly demonstrates the primary benefit is to support NEP's business model and expansion, and economic interests do not outweigh the public interest. Duquesne Light R.B., pp. 3, 7-8. Duquesne Light alleges NEP failed to provide any actual evidence of its primary alleged benefit, increased energy efficiency and conservation benefits. Duquesne Light R.B., pp. 9-10. Duquesne Light argues NEP's proposal does not have legal support, and NEP has failed to meet its burden of proof that its proposal is in the public interest. Duquesne Light R.B., pp. 3-5.

Duquesne Light avers that it lawfully revised Tariff Rule 18 in its 2018 base rate proceeding. Duquesne Light R.B., p. 10. Duquesne Light also argues it cannot be required to implement NEP's discretionary tariff provisions. Duquesne Light R.B., p. 10.

In conclusion, Duquesne Light requests that the Joint Petition for Approval of Settlement be approved without modification, and the relief requested by NEP be denied. Duquesne Light R.B., p. 11.

## 2. CAUSE-PA

CAUSE-PA argues NEP has failed to meet its burden of proof in this proceeding. CAUSE-PA R.B., pp. 1-2. CAUSE-PA argues NEP's Main Brief attempts to shift focus from the flaws in its proposal to the needs of property owners and NEP's business. CAUSE-PA R.B., pp. 1-3. CAUSE-PA also warns NEP's proposal opens the door to a broad range of possible entities that could undermine critical policy goals. CAUSE-PA R.B., pp. 4, 10.

CAUSE-PA argues NEP's business model, and others like it, provide speculative benefits to property owners, impose significant unfunded administrative burdens on Duquesne Light and the Commission, and present substantial risk of harm to tenants. CAUSE-PA R.B., pp. 5-32. CAUSE-PA asserts NEP has been unable to substantiate that its business model will promote greater conservation and energy efficiency, or advance clean energy goals. CAUSE-PA R.B., pp. 6-11. CAUSE-PA also asserts NEP's business model will cut residential customers off from energy efficiency programs, and cause tenants to pay for the cost of energy efficiency and

conservation services, even though they do not have access to these programs. CAUSE-PA R.B., p. 9. CAUSE-PA notes Duquesne Light's customers already have access to individualized usage analysis. CAUSE-PA R.B., p. 13. CAUSE-PA argues NEP's tariff proposal does not require any of the capabilities it touts as benefits to tenants. CAUSE-PA R.B., p. 14. CAUSE-PA discusses NEP's business practices, and alleges those practices harm the rights of tenants. CAUSE-PA R.B., pp. 14-32, 36-39, 46-49.

CAUSE-PA disputes NEP's argument that its proposal is consistent with PURPA by stating NEP's assertions regarding the conservation and energy efficiency benefits of its proposal are not supported by the record. CAUSE-PA R.B., pp. 32-33. CAUSE-PA also states Chapters 14 and 28 of the Public Utility Code provide an independent legal basis for upholding Duquesne Light's current prohibition on master metering. CAUSE-PA R.B., p. 33.

CAUSE-PA argues NEP's proposal is inconsistent with Pennsylvania law, as affirmed by multiple prior decisions of the Commission and the Commonwealth Court. CAUSE-PA R.B., p. 34-36. CAUSE-PA distinguishes its previous support for a limited exception to the prohibition against master metering by noting its proposal focused exclusively on permitting low-income housing providers to master meter a building where the provider was required to cover all utility costs, without passing those costs on to a tenant through rent. CAUSE-PA R.B., pp. 39-41. CAUSE-PA also argues NEP has failed to show that its tariff proposal allows tenants to assert their rights under 66 Pa.C.S. § 1313 and the Discontinuance of Service to Leased Premises Act. CAUSE-PA R.B., pp. 41-44.

CAUSE-PA avers that cost shifting between classes is inappropriate and fails to address the weight of issues raised by NEP's tariff proposal. CAUSE-PA R.B., pp. 44-46. CAUSE-PA also avers that NEP's proposal that the Commission staff review implementation under Tariff Rule 41.2 creates broad confusion about the scope of Commission authority and availability of Commission resources. CAUSE-PA R.B., pp. 49-50.

In conclusion, CAUSE-PA argues NEP has failed to meet its burden of proof, and NEP's proposal should be rejected. CAUSE-PA R.B., p. 50.



### 3. OCA

OCA states that nothing contained in the Main Briefs filed in this proceeding alter the OCA's position. OCA R.B., p. 1. The OCA submits that NEP's proposal is fundamentally flawed because it does not ensure ratepayers receive consumer protections they are entitled to under the Public Utility Code and the Commission's regulations. OCA R.B., pp. 1-6. OCA also states OSBA's arguments regarding cost allocation are flawed and OSBA's proposal regarding cost allocation of master-metered building costs to residential customers should be rejected. OCA R.B., pp. 1-2, 6.

### 4. OSBA

OSBA submits its reply brief for the limited purpose of responding to OCA's main brief regarding allocation of costs to residential customers. OSBA R.B., p. 3. OSBA's recommendation remains that NEP's proposal should be rejected. OSBA R.B., p. 4. OSBA notes that, as part of the settlement of Duquesne Light's last base rate case, Duquesne Light was to provide a revenue allocation impact analysis as part of any proposed change to master-metering of multifamily housing. OSBA R.B., pp. 3-4. OSBA states its recommendation regarding revenue allocation of costs related to master-metered multifamily customers is an effort to protect small business customers from the negative impacts of NEP's proposal absent the necessary revenue impact study. OSBA R.B., p. 4.

#### b. Disposition

We find that NEP has failed to carry its burden of proof that either Duquesne Light's current prohibition on master metering is unjust or unreasonable, or that NEP's proposed Tariff Rule 41.2 is just and reasonable.

First, we do not find that NEP has established by a preponderance of the evidence that the claimed benefits for property owners, tenants, and the public generally, prove that Duquesne Light's current prohibition on master metering is unjust or unreasonable. *See* NEP

M.B., p. 2. The economic benefit to a property owner choosing NEP's services is clear: NEP's business model buys electricity at a commercial customer rate and resells it to tenants at a residential rate, resulting in a net monetary gain to a property owner using NEP's services. NEP St. No. 1, at 17:22-23. NEP also cites other benefits of an economic nature unrelated to a price differential, e.g., purported economic advantages of installing infrastructure with NEP compared to the utility. NEP St. No. 1, at 13:6-23, 14:1-9. However, economic benefit to a property owner does not demonstrate Duquesne Light's current prohibition on master metering is unreasonable or that NEP's proposal should be adopted. The Commonwealth Court and Commission have already found that economic interest does not suffice to challenge a master metering prohibition. *Crown American, supra; Motheral, supra.*

We find NEP's claim that a property owner would use its net monetary gain for efficiency and conservation efforts to be speculative. As NEP states, master metering provides the property owner with control over the energy decisions for its property. NEP St. No. 1, at 12:12-13. NEP does not purport to control what a property owner does with its property, and there is no clear evidence that property owners would tend to use any net monetary gain for energy efficiency and conservation purposes. To the contrary, CAUSE-PA convincingly argued that NEP was unable to substantiate its claims that its proposal would lead to energy efficiency and carbon reduction. CAUSE-PA St. 1-R, p. 56, fn. 140 (citing NEP's responses to CAUSE-PA's interrogatories nos. I-25, I-65, I-70, I-71, I-75).

Regarding tenants, NEP acknowledges that the tenant would voluntarily forgo the opportunity to shop for an electricity supplier, but highlights other purported benefits for tenants, including: using a carbon free and climate focused electricity supply without an additional cost; more tenant load participating in the competitive market than would otherwise occur; creating a fully carbon neutral or green property; allowing a capped bill, insights into lowering bills, and customized customer-specific approaches; and potential economic benefits to sub-metered tenants, especially if the property owner passes along a bill credit based on the lower cost of a commercial load versus a residential load. NEP St. No. 1, at 21:14 through 23:18.

We are unconvinced that tenants are being denied a choice that makes Duquesne Light's prohibition on master metering unjust and unreasonable. We find the claim that a property owner may pass along a bill credit based on the lower cost of commercial load versus a residential load to be speculative. For tenants interested in using a carbon free or climate focused electricity supply, it is unclear from the evidence presented how those tenants may receive such a supply without an additional cost when NEP only states that its model prohibits charging tenants an energy cost more than what they would have paid to the utility for a premium, carbon free supply. NEP St. No. 1, at 11:21-23. Even if such a showing could be made, again, the Commonwealth Court and the Commission have found economic interest does not suffice to challenge a master metering prohibition. Additionally, benefits from carbon free or climate focused shopping are also speculative. First, there is nothing in the record for us to accept as true that this is a benefit that tenants universally seek. Second, NEP states that it only shops for carbon free or renewable energy supply as the authorized representative for a property owner. NEP St. No. 1, at 11:11-12. However, NEP's testimony indicates shopping can be done by the property owner rather than NEP. NEP St. No. 1, at 11:10-11. There is no guarantee that a property owner will choose a carbon free or renewable energy supply.

Although a capped bill, insights into lowering bills, and other customer specific approaches could provide benefits to a tenant, as discussed below, NEP's proposal to create an alternative scheme for customer protections and programs is not comparable to those already in effect and does not serve to demonstrate that Duquesne Light's current tariff prohibiting master metering is unjust and unreasonable.

NEP's other contention that the "public generally" is being denied a choice is similarly unconvincing, not least because NEP does not make clear who exactly constitutes the public generally and what is their interest in this choice.

In sum, NEP has not carried its burden to show that whatever benefits its proposal may provide to a property owner, tenants, or the public generally, suffice to show that circumstances have changed so drastically as to render Duquesne Light's current tariff prohibiting master metering unjust and unreasonable.

Second, NEP has failed to prove that its proposed Tariff Rule 41.2 is just and reasonable. Duquesne Light, CAUSE-PA, and OCA set forth in great detail the protections and benefits in the Public Utility Code, Commission regulations, and Duquesne Light's tariffs that NEP's customers will no longer be eligible for should they no longer be Duquesne Light's customers, whether low income or otherwise. Duquesne Light M.B., pp. 14-17; CAUSE-PA M.B., pp. 23-56; OCA M.B., pp. 10-14. NEP primarily attempts to address these concerns through the modifications to its proposal that it offered in surrebuttal testimony. NEP M.B., pp. 44-45. We agree with Duquesne Light, CAUSE-PA, and OCA that these modifications are not an adequate substitute for the array of important customer benefits and protections currently provided to Duquesne Light's customers.

Additionally, we are not convinced it has been established in this proceeding that NEP's proposal would comply with 66 Pa.C.S. § 1313, which states:

Whenever any person, corporation or other entity, not a public utility, electric cooperative corporation, municipality authority or municipal corporation, purchases service from a public utility and resells it to consumers, the bill rendered by the reseller to any residential consumer shall not exceed the amount which the public utility would bill its own residential consumers for the same quantity of service under the residential rate of its tariff then currently in effect.

66 Pa.C.S. § 1313.

NEP claims it resolves any question about its ability to comply with 66 Pa. C.S. § 1313 by making it a requirement in proposed Tariff Rule 41.2 that master metered tenants receive a minimum of a two-dollar discount each month from the otherwise applicable utility charge for residential service. NEP M.B., p. 52. However, we believe Duquesne Light presented compelling evidence that many of NEP's tenant customers would pay more taking service from NEP instead of Duquesne Light, through fees, charges, or ineligibility for Duquesne Light's Standard Offer Program. Duquesne Light M.B., pp. 14-15 (citing Duquesne Light St. No. 6-R, pp. 13-16). Additionally, Duquesne Light credibly argued that NEP's two-dollar bill credit does not come close to the bill reductions and other benefits Duquesne Light already provides to low-

income customers. Duquesne Light M.B., pp. 16 (citing Duquesne Light St. No. 6-R, pp. 17-18); *see also* OCA M.B., p. 11.

Although NEP states its proposal will be limited to non-low-income new and existing multifamily properties, we find its proposal to be lacking in important detail. We agree with Duquesne Light's and CAUSE-PA's criticisms that what NEP may consider "non-low-income" housing may still include low-income residents, and NEP's proposal fails to require that a property owner verify or confirm the income status of tenants. Duquesne Light M.B., pp. 16-17; CAUSE-PA M.B., p. 15.

Although NEP argues it should not be held to the standards of a public utility, this contention does not negate consideration of whether NEP's proposal may disadvantage certain residential tenants. Even were NEP's customer protections comparable, we agree Duquesne Light and CAUSE-PA also raise valid and complex concerns regarding the ability to enforce these protections before the Commission if any violations are identified in the future. In its Reply Brief, NEP responded to these concerns by citing *Coggins, supra*, where the Commission found a complainant could file a complaint with the Commission against a non-public utility that allegedly was violating 66 Pa.C.S. § 1313. However, *Coggins* does not squarely speak to a residential tenant's ability to pursue a complaint regarding NEP's Tariff Rules 41.2 before the Commission for issues unrelated to 66 Pa.C.S. § 1313. Such concerns may not be conclusively resolved until a future complaint is raised, at which point it will be difficult to reverse course should NEP's proposal be endorsed through Commission approved tariff language.

Although use of submetering may mitigate concerns regarding price signals, we disagree with NEP that PURPA, *Crown America, supra*, or *West Penn Power, supra*, support NEP's proposal. PURPA and the cited cases concern energy efficiency/conservation and customers receiving price signals, and Duquesne Light's service already addresses these goals. Duquesne Light provides conservation and energy efficiency programs through its Commission-approved Energy Efficiency and Conservation Program, and Duquesne Light's residential customers receive price signals for their accounts by being individually metered. Additionally,

just because PURPA and the cited cases focus on energy efficiency and conservation, they do not negate concerns with NEP's proposal regarding customer protections as discussed above.

NEP criticizes Duquesne Light for not providing any empirical or other hard data suggesting actual consumer or customer harm. NEP Main Brief, p. 35. However, it is NEP that carries the burden of proof in this proceeding to produce evidence to show that Duquesne Light's current prohibition on master metering is unjust and unreasonable, and that NEP's proposal is just and reasonable. Rather than provide hard data from territories it operates in to confirm the purported affirmative benefits of its proposal, NEP avers that no demonstrated adverse consequences have occurred with master metering and sub-metering service in PECO's service territory, or in Duquesne Light's territory.<sup>2</sup> NEP Main Brief, p. 16. We do not find that purported lack of adverse consequences demonstrate that the touted affirmative benefits of NEP's proposal will materialize so as to render Duquesne Light's prohibition on master metering unjust or unreasonable, or prove NEP's proposal is just and reasonable.

Lastly, because we do not find that NEP has met its burden of proof regarding its proposal, we do not recommend there be a cost allocation design regarding NEP's proposal, or a process regarding Commission mediation for requests under NEP's proposed Tariff Rule 41.2. Additionally, Duquesne Light argues that it cannot be compelled to adopt NEP's proposal because it is a discretionary program. Duquesne Light M.B., p. 7. Since NEP has failed to meet its burden to have its proposal implemented, Duquesne Light's argument regarding being compelled to adopt a discretionary program will not be considered.

As a result, we find that NEP has failed to carry its burden of proof that either Duquesne Light's current prohibition on master metering is unjust or unreasonable, or that NEP's proposed Tariff Rule 41.2 is just and reasonable.

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<sup>2</sup> Although the parties discussed the history of Duquesne Light's prohibition on master metering, we note that there was no similar discussion regarding the historical context of PECO's limited exception to master metering for energy efficiency.

#### 4. Conclusion

In this case, the parties have proposed a unanimous settlement of all issues regarding Duquesne Light's request to increase base rates, except for the master metering issue raised by NEP.

With regard to the Settlement, this decision recommends that the Settlement be approved in its entirety without modification because it is in the public interest and supported by substantial evidence. The parties are commended for their efforts to pursue settlement of the issues in this case. As noted above, the Commission strongly encourages settlement.

With regard to the master metering issue, this decision recommends that the Commission deny NEP's proposal that Duquesne Light adopt new master metering tariff rules. We find that NEP has failed to satisfy its burden to demonstrate that its proposal should be adopted.

#### V. CONCLUSIONS OF LAW

##### *Settlement*

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa. C.S. §§ 701, 1301, 1308(d).
2. Under Section 1301 of the Public Utility Code, a public utility's rates must be just and reasonable. 66 Pa. C.S. § 1301.
3. The Commission possesses a great deal of flexibility in its ratemaking function. *See Popowsky v. Pa. Pub. Util. Comm'n*, 542 Pa. 99, 665 A.2d 808 (Pa. 1995). "In determining just and reasonable rates, the [Commission] has discretion to determine the proper balance between the interests of ratepayers and utilities." *Popowsky v. Pa. Pub. Util. Comm'n*, 542 Pa. 99, 108, 665 A.2d 808, 812 (Pa. 1995).

4. The term “just and reasonable” is not intended to confine the ambit of regulatory discretion to an absolute or mathematical formula; rather, the Commission is granted the power to balance the prices charged to utility customers and returns on capital to utility investors. *Pa. Pub. Util. Comm’n v. Pa. Gas & Water Co.*, 494 Pa. 326 424 A.2d 1213 (Pa. 1980), *cert. denied*, 454 U.S. 824, 102 S. Ct. 112, 70 L. Ed. 2d 97 (1981).

5. Commission policy promotes settlements. 52 Pa. Code § 5.231. Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve administrative resources.

6. Settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401.

7. The Commission encourages black box settlements. *Pa. Pub. Util. Comm’n v. Aqua Pa., Inc.*, Docket No. R-2011-2267958 (Order entered June 7, 2012); *Pa. Pub. Util. Comm’n v. Peoples TWP LLC*, Docket No. R-2013-2355886 (Order entered December 19, 2013); Statement of Chairman Robert F. Powelson, *Implementation of Act 11 of 2012*, Docket No. M-2012-2293611, Public Meeting, August 2, 2012.

8. In order to accept a settlement, the Commission must determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm’n, et al. v. UGI Utils., Inc. – Gas Division*, Docket Nos. R-2015-2518438, et al. (Order entered Oct. 14, 2016); *Pa. Pub. Util. Comm’n v. Phila. Gas Works*, Docket No. M-00031768 (Order entered Jan. 7, 2004).

9. The Petitioners have the burden to prove that the settlement is in the public interest. *Pa. Pub. Util. Comm’n v. Pike County Light & Power (Elec.)*, Docket No. R-2013-2397237 (Order entered Sept. 11, 2014).

10. The decision of the Commission must be supported by substantial evidence. 2 Pa. C.S. § 704.



11. “Substantial evidence” is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & W. Ry. Co. v. Pa. Pub. Util. Comm’n*, 489 Pa. 109, 413 A.2d 1037 (1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Review*, 194 Pa. Superior Ct. 278, 166 A.2d 96 (1961); *Murphy v. Comm., Dep’t of Pub. Welfare, White Haven Ctr.*, 85 Pa. Commonwealth Ct. 23, 480 A.2d 382 (1984).

12. The rates and terms of service set forth in the settlement are supported by substantial evidence and are in the public interest.

#### *Master Metering*

13. The burden of proof to establish the justness and reasonableness of every element of the utility’s rate increase rests solely upon the public utility. 66 Pa.C.S. § 315(a).

14. The burden of proof is satisfied by establishing a preponderance of evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm’n*, 134 Pa. Cmwlth. 218, 578 A.2d 600 (1990).

15. The preponderance of evidence standard requires proof by a greater weight of the evidence. *Commonwealth v. Williams*, 557 Pa. 207 (Pa. 1999).

16. The preponderance of evidence standard is satisfied by presenting evidence that leads the fact-finder to find that the existence of a contested fact is more probable than its nonexistence. *Brown v. Commonwealth*, 940 A.2d 610 (Pa. Cmwlth. 2008).

17. A public utility need not affirmatively defend every claim it has made in its filing absent prior notice that such claim is to be challenged. *Allegheny Ctr. Assocs. v. Pa. Pub. Util. Comm’n*, 131 Pa. Cmwlth. 352, 570 A.2d 149 (1990).

18. Section 332(a) of the Public Utility Code establishes a separate burden of proof for entities that propose a rule or order in a base rate proceeding. 66 Pa.C.S. § 332(a); *NRG Energy, Inc. v. Pa. Pub. Util. Comm'n*, 233 A.3d 936 (Pa. Cmwlth. 2020).

19. As the proponent of a rule or order in this proceeding, NEP carries the burden of proof to show that Duquesne Light's current prohibition on master metering is unjust or unreasonable and that NEP's proposed Tariff Rule 41.2 is just and reasonable. . 66 Pa.C.S. § 332(a); *NRG Energy, Inc. v. Pa. Pub. Util. Comm'n*, 233 A.3d 936 (Pa. Cmwlth. 2020).

20. If the party seeking a rule or order from the Commission sets forth a *prima facie* case, then the burden shifts to the opponent. *See MacDonald v. Pa. R.R. Co.*, 348 Pa. 558, 36 A.2d 492 (1944).

21. Once a *prima facie* case has been established, if contrary evidence is not presented, there is no requirement that the party seeking a rule or order from the Commission must produce additional evidence to sustain its burden of proof. *See Replogle v. Pa. Elec. Co.*, 54 Pa. PUC 528 (Pa. P.U.C. 1980).

22. Commission-approved tariffs are *prima facie* reasonable. *Kossman v. Pa. Pub. Util. Comm'n*, 694 A.2d 1147 (Pa. Cmwlth. 1997); *Zucker v. Pa. Pub. Util. Comm'n*, 43 Pa. Cmwlth. 207, 401 A.2d 1377 (1979).

23. A party challenging the tariff provision faces a heavy burden of proof to show that circumstances have changed so drastically as to render the approved provision unreasonable. *Shenango Twp. Bd. of Supervisors v. Pa. Pub. Util. Comm'n*, 686 A.2d 910 (Pa. Cmwlth. 1996), *app. den.*, 698 A.2d 597 (Pa. 1997); *see also Brockway Glass Co. v. Pa. Pub. Util. Comm'n*, 63 Pa. Cmwlth. 238, 437 A.2d 1067 (1981).

24. Duquesne Light's current Tariff Rule 41 was previously upheld by the Commission, which concluded that Duquesne Light's master and sub-metering restrictions

cannot be disregarded in order to address economic concerns. *Motheral, Inc. v. Duquesne Light Co.*, 2001 Pa. PUC LEXIS 4, \*11-12 (Pa. P.U.C. March 23, 2001).

25. The Commonwealth Court has previously concluded that preventing economic disadvantages to multifamily building owners as a result of prohibitions on master metering is not an objective under the Pennsylvania Utility Code, and that “any economic disadvantage which may be the result of [master metering] [is] not unreasonable.” *Crown Am. Corp. v. Pa. Pub. Util. Comm’n*, 76 Pa. Cmwlth. 305, 311, 463 A.2d 1257, 1260 (1983).

26. *Crown Am. Corp. v. Pa. Pub. Util. Comm’n*, 76 Pa. Cmwlth. 305, 463 A.2d 1257 (1983); *Pa. Pub. Util. Comm’n v. West Penn Power Co.*, 1979 Pa. PUC LEXIS 37 (Pa. P.U.C. 1979); and the Public Utility Regulatory Policies Act of 1978, 16 U.S.C. § 2601 *et seq.* address energy efficiency/conservation and customers receiving price signals.

27. Redistribution of energy costs may never exceed the total bill a customer would have received for the same amount of usage for the tariffs in effect for the same time period consistent with Section 1313 of the Public Utility Code. 66 Pa. C.S. § 1313.

28. It has not been established in this proceeding that NEP’s proposed Tariff Rule 41.2 will comply with 66 Pa. C.S. § 1313.

29. A “customer”, as defined under Pennsylvania public utility law, receives certain consumer protections as outlined under Commission regulations and the Public Utility Code. *See*, 52 Pa. Code § 56.1, *et seq.*; 66 Pa. C.S. § 1401, *et seq.*

30. Tenants in master/sub-metered properties that receive service under NEP’s proposed Tariff Rule 41.2 would not be considered a “customer” as defined under Pennsylvania public utility law. *See*, 52 Pa. Code § 56.1, *et seq.*; 66 Pa. C.S. § 1401, *et seq.*

31. The Electric Choice and Competition Act requires that universal service programming be made “available” to ensure low-income consumers can maintain affordable service to their home. 66 Pa. C.S. §§ 2803, 2804(9).

32. The Commission “must, at a minimum, continue the protections, policies and services that now assist customers who are low-income to afford electric service.” 66 Pa. C.S. § 2802(10).

33. The Commission has the clear jurisdiction and authority to oversee and enforce tariff provisions against Duquesne Light, a public utility within the clear purview of the Commission; however, its authority to oversee and enforce tariff provisions against a third party absent explicit or implied statutory authority to do so is uncertain. *Blue Pilot Energy, LLC. v. Pa. Pub. Util. Comm’n*, 241 A.3d 1254 (Pa. Cmwlth. 2020); *ARIPPA v. Pa. Pub. Util. Comm’n*, 966 A.2d 1204 (Pa. Cmwlth. 2009).

34. Tenants subjected to a master/sub-metering scheme retain some limited rights pursuant to the Discontinuance of Service to Leased Premises Act, regardless of whether they are classified as customers of a utility. *See* 66 Pa. C.S. § 1521 *et seq.*

35. NEP has failed to carry its burden of proof that either Duquesne Light’s current prohibition on master metering is unjust or unreasonable, or that NEP’s proposed Tariff Rule 41.2 is just and reasonable.

ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That Duquesne Light Company shall not place into effect the rates contained in Supplement No. 25 to Tariff Electric – PA PUC No. 25 which was filed on April 16, 2021 at docket number R-2021-3024750.

2. That the Joint Petition for Approval of Settlement filed at docket number R-2021-3024750 on September 3, 2021 is approved and adopted in its entirety and without modification.

3. That Duquesne Light Company shall be permitted to file tariff supplements incorporating the terms of the Settlement and changes to its rates, rules and regulations as set forth in Appendix A to the Joint Petition for Settlement filed on September 3, 2021 at docket number R-2021-3024750 to become effective on at least one day's notice after entry of the Commission's order approving the Settlement, for service rendered on and after January 15, 2022, which tariff supplements increase Duquesne Light Company's rates so as to produce an increase in annual revenue of not more than \$74.2 million.

4. That after Duquesne Light Company files the required tariff supplements set forth in Paragraph 3 of this Recommended Decision, the investigation concerning Duquesne Light Company at docket number R-2021-3024750 shall be terminated and marked closed.

5. That the complaint filed by Nationwide Energy Partners LLC at docket number C-2021-3026057 against Duquesne Light Company's Tariff Rules 18 and 41 is denied.



## APPENDIX I

**Duquesne Light Company 2021 Base Rate Case  
Docket Nos. R-2021-3024750, et al.**

**List of Individuals Testifying at June 22, 2021 Public Input Hearings**

*1:00 p.m. Public Input Hearing*

1. John Kolesnik, Policy Counsel for the Keystone Energy Efficiency Alliance (KEEA), testified on behalf of KEEA. Mr. Kolesnik testified that KEEA is a Pennsylvania trade association for the energy efficiency industry. Mr. Kolesnik expressed KEEA's position that any energy efficiency measures taken by Duquesne Light in connection with this rate increase would strive for the goal of ultimately resulting in lower rates and bill savings for all of its ratepayers. Mr. Kolesnik also expressed KEEA's concern that any rate increase take into consideration the adverse impacts of the COVID-19 pandemic and help any customers with shortcomings.
2. Jeaneen Zappa, although employed by KEEA, testified on her individual behalf as a customer of Duquesne Light. Ms. Zappa urged the Commission to inquire about the reasonableness of the rate increases, which she stated would place undue burden on residential customers. Ms. Zappa also asserted that Duquesne Light was not able to meet its pledged volume of service to low and moderate-income residential customers through its low-income usage reduction program, and therefore the Commission should exercise caution in raising rates when commitments go unfulfilled. Ms. Zappa also expressed concern with a customer's ability to understand and effectively use Duquesne Light's proposed residential subscription rate. Last, Ms. Zappa stated time of use rates were piloted by Duquesne Light in 2016, but she does not receive the benefit from adjusting time of energy and usage, and therefore the Commission should consider revisiting time of use rates before entertaining further rate increases.



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3. Joshua Cohen, Director of Policy for Greenlots, testified on behalf of Greenlots. Greenlots Exhibit 1, the written comments of Greenlots, was marked and admitted into the record. Mr. Cohen testified that Greenlots is a provider of electric vehicle charging software and services, and a wholly owned subsidiary of Shell. Mr. Cohen stated Greenlots strongly supports Duquesne Light's transportation electrification programs and urged the Commission's approval of the full program as filed.

### *6:00 p.m. Public Input Hearing:*

1. Jan Vroman testified on her individual behalf. Ms. Vroman testified that she wants Duquesne Light to be a healthy company, but that the pandemic has and will continue to have devastating effects, and that the company Ms. Vroman works for told her that there would be no increases in pay due to the pandemic for 2020 and 2021. Ms. Vroman also testified that she wants to know why Duquesne Light needs an increase during what she stated is a very tough time, and that the consumer advocates are looking after her and her neighbors' interests. Finally, Ms. Vroman stated that the owners of Duquesne Light do not need an additional seven percent from her, and that consumers are also facing rate increases from other public utilities.
2. Savannah Pailloz testified on her individual behalf. Ms. Pailloz testified that recent power failures have adversely affected her and others. Ms. Pailloz also stated that she is a case manager for senior citizens, and many seniors are on a fixed income and would not be able to afford rate increases. Ms. Pailloz concluded that a rate increase in the context of power outages and a global pandemic is inappropriate at best.
3. Grant Ervin testified in his capacity as Chief Resiliency Officer for the City of Pittsburgh. Mr. Ervin testified that his work concerns climate and energy planning for the City of Pittsburgh. Mr. Ervin's testimony was related to support for Duquesne Light and a clean energy transition, including supporting an increase in the amount of renewable resources generated locally, addressing the challenges of energy burden and residential electrification storage and energy efficiency, building additional resilience into the grid,

## Appendix I

coordinating energy planning for commercial and residential developments with local government, and increasing resources to accelerate electrification of the Pittsburgh transportation network

## APPENDIX II

**Duquesne Light Company 2021 Base Rate Case  
Docket Nos. R-2021-3024750, et al.**

**List of Party Exhibits and Testimony**

*I. Duquesne Light Company*

**Duquesne Light Initial Filing**

- DLC Exhibit 1 – Summary of Filing
  - Book I
    - ◇ Part I – Schedule A and General Information
    - ◇ Part II – Primary Statements of Rate Base and Operation Income
  - Book 2
    - ◇ Part III – Rate of Return
  - Book 3
    - ◇ Part IV – Rate Structure and Cost Allocation
  - Book 4
    - ◇ Part V – Plan & Depreciation Supporting Data
    - ◇ Part VI – Unadjusted Comparative Balance Sheet and Operating Income Statements
- DLC Exhibits 2 through 4 – Summary of Measures of Value and Rate of Return
  - Book 5
    - ◇ DLC Exhibit 2 – Fully Projected Future Test Year (January 1, 2022 through December 31, 2022)
  - Book 6
    - ◇ DLC Exhibit 3 – Future Test Year (January 1, 2021 through December 31, 2021)
  - Book 7
    - ◇ DLC Exhibit 2 – Historic Test Year (January 1, 2020 through December 31, 2020)
- DLC Exhibit 5 – Direct Testimony
  - Book 8
    - ◇ DLC Statement No. 1 – Direct Testimony of C. James Davis (public and CONFIDENTIAL versions)<sup>3</sup>
      - \* CONFIDENTIAL Exhibit CJD-1
      - \* CONFIDENTIAL Exhibit CJD-2
    - ◇ DLC Statement No. 2 – Direct Testimony of Jaime A. Bachota
      - \* Exhibits JAB-1 through JAB-6
    - ◇ DLC Statement No. 3 – Direct Testimony of Todd A. Mobley
      - \* Exhibits TM-1 through TM-3
    - ◇ DLC Statement No. 4 – Supplemental – Direct Testimony of Scott Ward
      - \* Exhibits SW-1 through SW-2
    - ◇ DLC Statement No. 5 – Direct Testimony of Krysia Kubiak
    - ◇ DLC Statement No. 6 – Direct Testimony of Yvonne Phillips
    - ◇ DLC Statement No. 7 – Direct Testimony of Katie Scholl

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<sup>3</sup> The CONFIDENTIAL information contained in the Company’s initial filing (i.e., responses to filing requirements, testimony and exhibits) are all contained in CONFIDENTIAL Book 12.

## APPENDIX II

- ◇ DLC Statement No. 8 – Direct Testimony of Sarah Olexsak
  - \* Exhibits SO-1 through SO-5
- ◇ DLC Statement No. 9 – Direct Testimony of Jennifer Neiswonger
  - \* Exhibits JAN-1 through JAN-4.
- Book 9
  - ◇ DLC Statement No. 10 – Direct Testimony of Robert L. O’Brien
    - \* Exhibits RLO-1 through RLO-4
  - ◇ DLC Statement No. 11 – Direct Testimony of John J. Spanos
    - \* Exhibits JJS-1 through JJS-3
  - ◇ DLC Statement No. 12 – Direct Testimony of Matthew L. Simpson
    - \* Exhibits MLS-1 through MLS-3
  - ◇ DLC Statement No. 13 – Direct Testimony of Paul R. Moul
    - \* Exhibit PRM-1
  - ◇ DLC Statement No. 14 – Direct Testimony of Jim Milligan
    - \* Exhibit JHM-1
  - ◇ DLC Statement No. 15 – Direct Testimony of Howard S. Gorman
  - ◇ DLC Statement No. 16 – Direct Testimony of David B. Ogden
    - \* Exhibits DBO-1 through DBO-6
  - ◇ DLC Statement No. 17 – Direct Testimony of Margot Everett
    - \* Exhibits ME-1 through ME-2
- DLC Exhibit 6 / Book 10 – Jurisdictional Separation and Allocated Cost of Service Studies
- DLC Exhibit 7 / Book 11 – Depreciation Studies
- CONFIDENTIAL Book 12
  - Containing the Confidential Testimony and Exhibits included in the Company’s Initial Filing

### **Duquesne Light Rebuttal Testimony and Exhibits**

- DLC Statement No. 2-R – Rebuttal Testimony of Jaime A. Bachota
  - Exhibits JAB-1-R through JAB-4-R
- DLC Statement No. 5-R – Rebuttal Testimony of Krysia Kubiak
- DLC Statement No. 6-R – Rebuttal Testimony of Yvonne R. Phillips
  - Exhibits YP-1-R through YP-3-R
- DLC Statement No. 7-R – Rebuttal Testimony of Katherine M. Scholl
  - Exhibit KMS-1-R
- DLC Statement No. 8-R – Rebuttal Testimony of Sarah J. Olexsak
  - Exhibits SO-1-R through SO-10-R
- DLC Statement No. 9-R – Rebuttal Testimony of Jennifer Neiswonger
  - Exhibits JAN-1-R through JAN-2-R
- DLC Statement No. 10-R – Rebuttal Testimony of Robert L. O’Brien
  - Exhibits RLO-1-R through RLO-8-R
- DLC Statement No. 12-R – Rebuttal Testimony of Matthew L. Simpson
  - Exhibits MLS-1-R through MLS-2-R
- DLC Statement No. 13-R – Rebuttal Testimony of Paul R. Moul
  - Exhibit PRM-1-R

## APPENDIX II

- DLC Statement No. 14-R – Rebuttal Testimony of James Milligan
  - Exhibit JHM-1-R
- DLC Statement No. 15-R – Rebuttal Testimony of Howard S. Gorman
  - Exhibit 6-1(R)
  - Exhibit 6-2(R)
  - Exhibit 6-4(R)
  - Exhibit 6-10(R)
- DLC Statement No. 16-R – Rebuttal Testimony of David B. Ogden
  - Exhibit DBO-1-R
- DLC Statement No. 17-R – Rebuttal Testimony of Margot C. Everett
- DLC Statement No. 18-R – Rebuttal Testimony of Jason Harchick
  - Exhibit JMH-1-R

### **Duquesne Light Surrebuttal Testimony and Exhibits**

- DLC Statement No. 2-SR – Surrebuttal Testimony of Jaime A. Bachota
- DLC Statement No. 6-SR – Surrebuttal Testimony of Yvonne R. Phillips
  - Exhibit YP-1-SR
- DLC Statement No. 7-SR – Surrebuttal Testimony of Katherine M. Scholl
  - Exhibit KMS-1-SR
- DLC Statement No. 10-SR – Surrebuttal Testimony of Robert L. O’Brien
  - Exhibit RLO-1-SR
- DLC Statement No. 15-SR – Surrebuttal Testimony of Howard S. Gorman
- DLC Statement No. 16-SR – Surrebuttal Testimony of David B. Ogden

### **Duquesne Light Rejoinder Testimony and Exhibits**

- DLC Statement No. 2-RJ – Rejoinder Testimony of Jaime A. Bachota
- DLC Statement No. 6-RJ – Rejoinder Testimony of Yvonne R. Phillips
- DLC Statement No. 9-RJ – Rejoinder Testimony of Jennifer Neiswonger
- DLC Statement No. 13-RJ – Rejoinder Testimony of Paul R. Moul
- DLC Statement No. 16-RJ – Rejoinder Testimony of David B. Ogden
  - Exhibit DBO-1-RJ

### **Other**

- The Joint Stipulation of Duquesne Light Company and Nationwide Energy Partners, LLC (NEP)

### ***II. I&E***

- Christine Wilson I&E Statement No. 1 I&E Exhibit No. 1
  - I&E Statement No. 1-R
  - I&E Statement No. 1-SR
- Christopher Keller I&E Statement No. 2 I&E Exhibit No. 2

## APPENDIX II

- I&E Statement No. 2-R
- I&E Statement No. 2-SR I&E Exhibit No. 2-SR
- Esyan Sakaya I&E Statement No. 3 I&E Exhibit No. 3
  - I&E Statement No. 3-SR I&E Exhibit No. 3-SR
- Joseph Kubas I&E Statement No. 4 I&E Exhibit No. 4
  - I&E Statement No. 4-SR
- Ethan H. Cline I&E Statement No. 5 -I&E Statement No. 5-R -I&E Statement No. 5-SR

### *III. OCA*

#### OCA Direct Testimony

- OCA Statement No. 1- Direct Testimony of Lafayette K. Morgan
  - Appendix A
  - Schedules LKM-1 through LKM-15
  - Signed Verification
- OCA Statement No. 2- Direct Testimony of David J. Garrett
  - Exhibit DJG-1 through DJG-15
  - Signed Verification
- OCA Statement No. 3-Direct Testimony of Glenn A. Watkins
  - Exhibits GAW-1 through GAW-7
  - Signed Verification
- OCA Statement No. 4- Direct Testimony of Roger D. Colton
  - Appendix A
  - Signed Verification
- OCA Statement No. 5- Direct Testimony of Noah D. Eastman
  - Appendix A
  - Exhibit NDE-1
  - Signed Verification
- OCA Statement No. 6-Direct Testimony of Ron E. Nelson
  - Exhibit REN-1
  - Signed Verification

#### OCA Rebuttal Testimony

- OCA Statement No. 3-R Rebuttal Testimony of Glenn Watkins
  - Exhibit GAW-1R
  - Signed Verification
- OCA Statement No. 4-R Rebuttal Testimony of Roger Colton
  - Signed Verification

#### OCA Surrebuttal Testimony

- OCA Statement No. 1-SR- Surrebuttal Testimony of Lafayette K. Morgan
  - Surrebuttal Schedule LKM-1 through LKM-15

## APPENDIX II

- Appendix A
- Appendix B
- Signed Verification
- OCA Statement No. 2-SR- Surrebuttal Testimony of David J. Garrett
  - Signed Verification
- OCA Statement No. 3-SR- Surrebuttal Testimony of Glenn A. Watkins
  - Exhibit GAW-1SR
  - Signed Verification
- OCA Statement No. 4-SR- Surrebuttal Testimony of Roger D. Colton
  - Schedule RDC-1SR
  - Signed Verification
- OCA Statement No. 5-SR- Surrebuttal Testimony of Noah D. Eastman
  - Exhibit NDE-1S
  - Signed Verification
- OCA Statement No. 6-SR- Surrebuttal Testimony of Ron E. Nelson
  - Exhibit REN-1SR
  - Signed Verification

### *IV. OSBA*

- OSBA Statement No. 1: Direct Testimony of Robert D. Knecht
  - Exhibits IEC-1 and IEC-2
  - Mr. Knecht's signed Verification
- OSBA Statement No. 1-R: Rebuttal Testimony of Robert D. Knecht
  - Exhibit IEC-R1
  - Mr. Knecht's signed Verification
- OSBA Statement No. 1-S: Surrebuttal Testimony of Robert D. Knecht
  - Exhibits IEC-S1 and IEC-S2
  - Mr. Knecht's signed Verification

### *V. CAUSE-PA*

- CAUSE-PA Statement No. 1, the prepared Direct Testimony of Harry Geller
  - Appendix A: Resume of Harry Geller
  - Appendix B: PA Department of Human Services, Energy Assistance Summary (EASUM)
- CAUSE-PA Statement No. 1-R, the prepared Rebuttal Testimony of Harry Geller (**Public and Confidential Versions**)
  - Appendix A (Public and Confidential Versions): Interrogatory Responses
- CAUSE-PA Statement No. 1-SR, the prepared Surrebuttal Testimony of Harry Geller
  - Attachment A: CAP Bill Before/After CAP Maximum Threshold Reached
  - Attachment B: Interrogatory Responses
- Verification of CAUSE-PA expert witness, Harry Geller, Esq.
- CAUSE-PA Hearing Exhibits 3-17 (**Public and Confidential Versions**)
- The Joint Stipulation of CAUSE-PA and Nationwide Energy Partners, LLC (NEP)



## APPENDIX II

### ***VI. NEP***

- Nationwide Energy Partners LLC Statement No. 1 – Direct Testimony of Teresa Ringenbach
  - NEP Exhibit TR-1 through NEP Exhibit TR-11
- Nationwide Energy Partners LLC Statement No. 2 (Confidential Version)– Surrebuttal Testimony of Teresa Ringenbach
- Nationwide Energy Partners LLC Statement No. 2 (Public Version) – Surrebuttal Testimony of Teresa Ringenbach
- NEP Exhibit TR-12 through NEP Exhibit TR-23
  - NEP Cross Exhibits 1 through 14

### ***VII. NRDC***

- NRDC Statement No. 1 – Direct Testimony of Amanda Levin
  - Exhibit AML-001
- NRDC Statement No. 2 – Direct Testimony of Kathleen Harris
  - Exhibits KAH-001 through KAH-003
- NRDC Statement 2-R – Rebuttal Testimony of Kathleen Harris
- NRDC Statement 1-SR – Surrebuttal Testimony of Amanda Levin
  - Exhibits KAH-002 and AML-003
- NRDC Statement 2-SR – Surrebuttal Testimony of Kathleen Harris
  - Exhibit KAH-004

### ***VIII. PWPTF***

- Statement No. 1-Direct Testimony of Eugene M. Brady (and corresponding verification)

### ***IX. ChargePoint***

- ChargePoint Statement No. 1, Direct Testimony of Matthew Deal
  - Attachment MJD-1 – Matthew Deal Curriculum Vitae
- ChargePoint Statement No. 1-R, Rebuttal Testimony of Matthew Deal