Emily Farah
Counsel, Regulatory

411 Seventh Avenue
Mail Drop 15-7
Pittsburgh, PA 15219

Tel: 412-393-6431
efarah@duqlight.com

December 14, 2021

Via Electronic Filing
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Keystone Bldg. 2nd Floor W
400 N. Street
Harrisburg, PA 17120

RE: Gualberto and Lisa Fedorka-Carhuaslla v. Duquesne Light Company
Docket No. C-2021-3028698

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Joint Motion for a Protective Order in the above-referenced matter. A copy of this document and the enclosed filing have been served upon the parties in the manners indicated on the Certificate of Service.

Please contact me with any questions, comments, or concerns.

Respectfully Submitted,

Emily M. Farah
Duquesne Light Company
Counsel, Regulatory

Enclosures

cc: Certificate of Service

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

GUALBERTO CARHUASLLA AND LISA FEDORKA-CARHUASLLA,	:	
Complainants,	:	
v.	:	No: C-2021-3028698
DUQUESNE LIGHT COMPANY,	:	
Respondent.	:	

JOINT MOTION
FOR A PROTECTIVE ORDER

Duquesne Light Company ("Duquesne Light" or the "Company") and Complainants Gualberto Carhuaslla and Lisa Fedorka-Carhuaslla, through counsel (collectively, "Parties") hereby request that the attached Protective Order be entered in the above-captioned proceeding pursuant to the provisions of 52 Pa. Code § 5.365(a). In support thereof, Duquesne Light states as follows:

1. Duquesne Light was served with a Pennsylvania Public Utility Commission ("Commission") Formal Complaint filed by Gualberto Carhuaslla and Lisa Fedorka-Carhuaslla ("Complainants"), though counsel, William Kaczynski on September 24, 2021, which initiated the above-captioned proceeding.

2. On October 14, 2021, the Company filed an Answer to the Formal Complaint.

3. On November 3, 2021, a telephonic mediation was scheduled to occur on December 1, 2021.

4. On November 30, 2021, the Parties requested the matter be referred to the Office of the Administrative Law Judge ("ALJ") for a hearing.

5. On December 2, 2021, the Parties were served with an Initial Call-In Telephonic Hearing Notice, which assigned a Presiding Officer and scheduled a hearing for January 18, 2021.

6. The Parties are engaging in the discovery process in this proceeding.

7. Proprietary Information within the definition of 52 Pa. Code § 5.365 has been or may be requested during the course of this proceeding, which justifies the issuance of a Protective Order. Parties have sought or may seek information that is customarily treated as sensitive, proprietary, or highly confidential, including but not limited to, recorded telephone call(s) between Complainants and Duquesne Light Customer Service Representative(s) that contain personally identifiable customer information. These considerations constitute cause for the restrictions specified in 52 Pa. Code § 5.365 and in ALJ or Commission Orders granting relief pursuant to said regulation.

8. Under 52 Pa. Code §§ 5.362(a)(7) and 5.365, the Office of the ALJ or the Commission may issue a Protective Order to limit or prohibit disclosure of confidential commercial information where the potential harm to a participant would be substantial and outweighs the public's interest in having access to the confidential information. In applying this standard, relevant factors to be considered include: The extent to which disclosure would cause unfair economic or competitive damage; the extent to which the information may already be known by others; and the potential value of such information to the party and the party's competitors. 52 Pa. Code §§ 5.365(a)(1)-(3).

9. The attached proposed Protective Order defines two categories of protected information. The first is "CONFIDENTIAL," which is defined in Paragraph 3 of the attached proposed Protective Order as "those materials which customarily are treated by that Party as sensitive or proprietary, which are not available to the public, and which, if disclosed freely,

would subject that Party or its clients to risk of competitive disadvantage or other business injury." The second is "HIGHLY CONFIDENTIAL," which is defined in Paragraph 3 of the attached proposed Protective Order as "those materials that are of such a commercially sensitive nature or of such a private, personal nature that the producing Party is able to justify a heightened level of confidential protection with respect to those materials."

10. Paragraph 17 of the attached proposed Protective Order protects against overly broad designations of protected information by giving all Parties the right to question or challenge the confidential or proprietary nature of the "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" information.

11. Limitation on the disclosure of "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" information will not prejudice the rights of the participants, nor will such limitation frustrate the prompt and fair resolution of this proceeding. The proposed Protective Order balances the interests of the Parties, the public, and the Commission.

12. Duquesne Light has provided an advance copy of this Motion and the Protective Order to counsel for the Complainants.

13. Both Parties agree to the issuance of this Protective Order.

14. The attached proposed Protective Order will protect the confidential information while allowing the Parties to use such information for purposes of the instant litigation.

WHEREFORE, for all the reasons stated herein, Complainants and Duquesne Light Company respectfully requests that the Administrative Law Judge grant this Joint Motion for Protective Order and issue the attached Protective Order pursuant to 52 Pa. Code § 5.365(a).

[signatures on the following page]

Respectfully Submitted,

Emily M. Farah (ID # 322559)
411 Seventh Avenue, Mail Drop 15-7
Pittsburgh, PA 15219
Phone: 412-393-6431
E-mail: efarah@duqlight.com
Counsel for Duquesne Light Company

Respectfully Submitted,

William C. Kaczynski (ID # 23564)
202 Foxburg Dr.
Pittsburgh, PA 15205
Phone: 412-562-9465
E-mail: kazlawpgh@aol.com
Counsel for Complainants

Date: December 14, 2021

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

GUALBERTO CARHUASLLA AND LISA FEDORKA-CARHUASLLA,	:	
Complainants,	:	
v.	:	No: C-2021-3028698
DUQUESNE LIGHT COMPANY,	:	
Respondent.	:	

PROTECTIVE ORDER

Upon consideration of the Motion for a Protective Order that was filed by Duquesne Light Company on December 7, 2021;

IT IS ORDERED THAT:

1. The Protective Order is hereby granted with respect to all materials and information identified in Paragraphs 2 and 3 below, which have been or will be filed with the Commission, produced in discovery, or otherwise presented during the above-captioned proceeding and all proceedings consolidated therewith. All persons previously or hereafter granted access to the materials and information identified in Ordering Paragraphs 2 and 3 of this Protective Order shall use and disclose such information only in accordance with this Protective Order.

2. The materials or information subject to this Protective Order are all correspondence, documents, data, information, studies, methodologies and other materials which are believed by the producing Party to be of a proprietary or confidential nature, and which are so designated by being stamped "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" (hereinafter collectively referred to as "Proprietary Information"). When a statement or exhibit

is identified for the record, the portions thereof that constitute Proprietary Information shall be appropriately designated as such for the record.

3. This Protective Order applies to the following materials:

(a) The producing Party may designate as "CONFIDENTIAL" those materials which customarily are treated by that Party as sensitive or proprietary, which are not available to the public, and which, if disclosed freely, would subject that Party or its clients to risk of competitive disadvantage or other business injury;

(b) The producing Party may designate as "HIGHLY CONFIDENTIAL" those materials that are of such a commercially sensitive nature or of such a private, personal nature that the producing Party is able to justify a heightened level of confidential protection with respect to those materials. Each of the Parties shall endeavor to limit its designation of information as HIGHLY CONFIDENTIAL.

4. Proprietary Information shall be made available to counsel for the nonproducing Party, subject to the terms of this Protective Order. Such counsel shall use or disclose the Proprietary Information only for purposes of preparing or presenting evidence, cross examination or argument in this proceeding and not in any other proceedings or matters. To the extent required for participation in this proceeding, counsel for a Party may afford access to Proprietary Information subject to the conditions set forth in this Protective Order.

5. Proprietary Information produced in this proceeding shall be made available to the Commission and its Staff. For purposes of filing, to the extent that Proprietary Information is placed in the Commission's report folders, such information shall be handled in accordance with routine Commission procedures inasmuch as the report folders are not subject to public disclosure. To the extent that Proprietary Information is placed in the Commission's testimony

or document folders, such information shall be separately bound, conspicuously marked, and accompanied by a copy of this Protective Order. Public inspection of Protected Information shall be permitted only in accordance with this Protective Order.

6. Proprietary Information shall be made available to a Reviewing Representative in this proceeding pursuant to the following procedures:

(a) Information deemed as "CONFIDENTIAL", shall be made available to a "Reviewing Representative" who is a person who has signed a Non-Disclosure Certificate and who is:

(i) an attorney who has made an appearance in this proceeding for a Party;

(ii) attorneys, paralegals, and other employees associated for purposes of this case with an attorney described in Paragraph (i);

(iii) an expert or an employee of an expert retained by a Party for the purpose of advising, preparing for or testifying in this proceeding;

(iv) employees or other representatives of a Party appearing in this proceeding with significant responsibility for the docket.

(b) Information deemed as "HIGHLY CONFIDENTIAL," may be provided to a "Reviewing Representative" who has signed a Non-Disclosure Certificate and who is:

(i) an attorney for a statutory advocate pursuant to 52 Pa. Code §1.8 or an outside counsel who has made an appearance in this proceeding for a Party;

(ii) an attorney, paralegal, or other employee associated for purposes of this case with an attorney described in Paragraph (i);

(iii) an outside expert or an employee of an outside expert retained by a Party for the purposes of advising, preparing for or testifying in this proceeding;

(iv) a person designated as a Reviewing Representative for purposes of Highly Confidential Information pursuant to Paragraph 10.

Provided, further, that in accordance with the provisions of Sections 5.362 and 5.365(e) of the Commission's rules of Practice and Procedure, 52 Pa. Code §§ 5.362, 5.365(e), the producing Party may, by subsequent motion or objection, seek further protection with respect to HIGHLY CONFIDENTIAL material, including but not limited to, total prohibition of disclosure or limitation of disclosure only to particular Parties.

7. Proprietary Information shall not be made available to a "Restricted Person." For the purpose of this Protective Order, "Restricted Person" shall mean: (a) an officer, director, stockholder, partner, owner or employee of any competitor of a Party or an employee of such an entity if the employee's primary duties involve the development, marketing or pricing of the competitor's products or services; (b) an officer, director, stockholder, partner, or owner of any affiliate of a competitor of a Party (including any association of competitors of a Party) or an employee of such an entity if the employee's primary duties involve the development, marketing or pricing of the competitor's products or services; (c) an officer, director, stockholder, owner or employee of a competitor of a Party's customer if the Proprietary Information concerns a specific, identifiable customer of a Party; and (d) an officer, director, stockholder, owner or employee of an affiliate of a competitor of a Party's customer if the Proprietary Information concerns a specific, identifiable customer of a Party; provided, however, that no expert shall be disqualified on account of being a stockholder, partner, or owner unless that expert's interest in the business would provide a significant motive for violation of the limitations of permissible use of the Proprietary Information. For purposes of this Protective Order, stocks, partnership or other ownership interests valued at more than $10,000 or constituting more than 1% interest in a business establishes a significant motive for violation.

8. If an expert for a Party, another member of the expert's firm or the expert's firm generally also serves as an expert for, or as a consultant or advisor to, a Restricted Person, said expert must: (1) identify for the Parties each Restricted Person and each expert or consultant; (2) make reasonable attempts to segregate those personnel assisting in the expert's participation in this proceeding from those personnel working on behalf of a Restricted Person; and (3) if segregation of such personnel is impractical, the expert shall give to the producing Party written assurances that the lack of segregation will in no way jeopardize the interests of the Parties or their customers. The producing Party retains the right to challenge the adequacy of the written assurances that the nonproducing Party or its customers' interests will not be jeopardized. No other persons may have access to the Proprietary Information except as authorized by order of the Commission.

9. A qualified "Reviewing Representative" for "HIGHLY CONFIDENTIAL" material may review and discuss "HIGHLY CONFIDENTIAL" material with his or her client or with the entity with which he or she is employed or associated, to the extent that the client or entity is not a "Restricted Person," but may not share with or permit the client or entity to review the "HIGHLY CONFIDENTIAL" material, provided, however, that counsel for the Bureau of Investigation and Enforcement ("I&E"), Office of Consumer Advocate and Office of Small Business Advocate may share Proprietary Information with the I&E Director, Consumer Advocate and Small Business Advocate, respectively, without obtaining a Non-Disclosure certificate from these individuals, provided, however, that these individuals otherwise abide by the terms of the Protective Order.

10. Proprietary Information shall be treated by the nonproducing Party and by the Reviewing Representative in accordance with the certificate executed pursuant to Paragraph

12(a). Information deemed Proprietary Information shall not be used except as necessary for the conduct of this proceeding, nor shall it be disclosed in any manner to any person except a Reviewing Representative who is engaged in the conduct of this proceeding and who needs to know the information in order to carry out that person's responsibilities in this proceeding. For I&E, the I&E Prosecutor may afford access to Proprietary Information made available by Duquesne Light only to I&E's assigned and identified internal expert(s) who are full-time I&E employees and therefore subject to the terms of this Protective Order by virtue of the signature of the I&E Prosecutor affixed to his executed Non-Disclosure Certificate. Prior to making the provided Proprietary Information available to its full-time employed expert as provided above, the I&E Prosecutor shall notify said internal expert of the existence of the Protective Order and shall provide a copy of it to that expert with an admonition that he or she is bound by its provisions for the duration of the proceeding. Said I&E Prosecutor is responsible for ensuring that each and every full-time employed expert provided with Proprietary Information complies with all terms and conditions of the Protective Order.

11. Reviewing Representatives may not use information contained in any Proprietary Information obtained through this proceeding to give any Party or any competitor of any Party a commercial advantage. In the event that the nonproducing Party wishes to designate as a Reviewing Representative a person not described in Paragraph 6 above, that Party shall seek agreement from the Party producing the Proprietary Information. If an agreement is reached, that person shall be a Reviewing Representative pursuant to Paragraph 6 above with respect to those materials. If no agreement is reached, the nonproducing Party shall submit the disputed designation to the presiding Administrative Law Judge for resolution.

12. (a) A Reviewing Representative shall not be permitted to inspect, participate in discussions regarding, or otherwise be permitted access to Proprietary Information pursuant to this Protective Order unless that Reviewing Representative has first executed a Non-Disclosure Certificate set forth in Appendix A hereto, provided that if an attorney qualified as a Reviewing Representative has executed such a certificate, the paralegals, secretarial and clerical personnel under the attorney's instruction, supervision or control need not do so. A copy of each Non-Disclosure Certificate shall be provided to counsel for the Party asserting confidentiality prior to disclosure of any Proprietary Information to that Reviewing Representative.

(b) Attorneys and outside experts qualified as Reviewing Representatives are responsible for ensuring that persons under their supervision or control comply with this Protective Order.

13. A producing Party shall designate data or documents as constituting or containing Proprietary Information by stamping the documents "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL." Where only part of data compilations or multi-page documents constitutes or contains Proprietary Information, the producing Party, insofar as reasonably practicable within discovery and other time constraints imposed in this proceeding, shall designate only the specific data or pages of documents which constitute or contain Proprietary Information. The Proprietary Information shall be served upon the nonproducing Party hereto only in an envelope separate from the nonproprietary materials, and the envelope shall be conspicuously marked "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL."

14. The nonproducing Party will consider and treat the Proprietary Information as within the exemptions from disclosure provided in Section 335(d) of the Public Utility Code, 66 Pa. C.S. § 335(d), and is within the definition of "confidential proprietary information" in the

Pennsylvania Right to Know Law, Act of February 14, 2008, P.L. 6, 65 P.S. §§ 67.101-67.3104, effective January 1, 2009, until such time as the information is found to be non-proprietary. In the event that any person or entity seeks to compel the disclosure of Proprietary Information, the nonproducing Party shall promptly notify the producing Party in order to provide the producing Party an opportunity to oppose or limit such disclosure.

15. Any public reference to Proprietary Information by a Party or its Reviewing Representative shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information to fully understand the reference and not more. The Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

16. Part of any record of this proceeding containing Proprietary Information, including but not limited to all exhibits, writings, testimony, cross examination, argument and responses to discovery, and including references thereto as mentioned in Paragraph 15 above, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information is released from the restrictions of this Protective Order, either through the agreement of the Parties or pursuant to order of the Administrative Law Judge, the Commission or appellate court.

17. The nonproducing Party shall retain the right to question or challenge the confidential or proprietary nature of Proprietary Information. If a nonproducing Party challenges the designation of a document or information as proprietary, the Party providing the information retains the burden of demonstrating that the designation is appropriate.

18. Each Party shall retain the right to question or challenge the admissibility of Proprietary Information; to object to the production of Proprietary Information on any proper

ground; to refuse to produce Proprietary Information pending the adjudication of the objection; and to seek additional measures of protection of Proprietary Information beyond those provided in this Protective Order.

19. Within thirty (30) days after a Commission final order is entered in the above-captioned proceeding, or in the event of appeals, within thirty (30) days after appeals are finally decided, the nonproducing Party, upon request, shall either destroy or return to the producing Party all copies of all documents and other materials not entered into the record, including notes, which contain any Proprietary Information. In the event that the nonproducing Party elects to destroy all copies of documents and other materials containing Proprietary Information instead of returning the copies of documents and other materials containing Proprietary Information to the producing Party, the nonproducing Party shall certify in writing to the producing Party that the Proprietary Information has been destroyed.

Dated: _____ _____

Administrative Law Judge

APPENDIX A

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

GUALBERTO CARHUASLLA AND LISA FEDORKA-CARHUASLLA, Complainants, v. DUQUESNE LIGHT COMPANY, Respondent.	: : : : : : : : : :	No: C-2021-3028698

NON-DISCLOSURE CERTIFICATE

TO WHOM IT MAY CONCERN:

The undersigned is a Reviewing Representative of _____ a Party to this proceeding ("Party"), and is not, or has no knowledge or basis for believing that he/she is a "Restricted Person" as that term is defined in Paragraph 7, page 4 of the Protective Order executed on behalf of the Party with regard to the above-referenced proceeding. The undersigned has read and understands the Protective Order in the above-referenced proceeding, which Protective Order deals with the treatment of Proprietary Information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Protective Order.

_____
SIGNATURE

_____
PRINT NAME

_____
ADDRESS

_____
EMPLOYER

DATE: _____

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

GUALBERTO CARHUASLLA AND LISA FEDORKA-CARHUASLLA, Complainants, v. DUQUESNE LIGHT COMPANY, Respondent.	: : : : : : : : :	No: C-2021-3028698

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Joint Motion for a Protective Order upon the participants listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant):

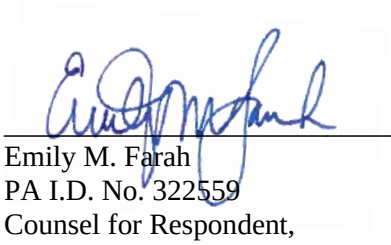
VIA ELECTRONIC MAILING ONLY

William C. Kaczynski, Esquire
202 Foxbury Drive
Pittsburgh, PA 15205-9798
Kazlawpgh@aol.com
(Counsel for Complainants)

Gualberto Carhuaslla and Lisa Fedorka-Carhuaslla
6366 Monitor Street
Pittsburgh, PA 15217
gualbertocd@yahoo.com

The Honorable Katrina Dunderdale,
Administrative Law Judge
Piatt Place Downtown
301 Fifth Avenue #220
Pittsburgh, PA 15222
kdunderdal@pa.gov

Dated this 14th day of December, 2021



Emily M. Farah
PA I.D. No. 322559
Counsel for Respondent,
Duquesne Light Company